



## Area Planning Committee (South and West)

**Date** Thursday 18 April 2019  
**Time** 2.00 pm  
**Venue** Council Chamber, Spennymoor - Council Offices,  
Spennymoor

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. The Minutes of the Meeting held on 21 March 2019 (Pages 3 - 6)
5. Applications to be determined
  - a) DM/18/02267/FPA - Site of Former Chamberlain Phipps Coatings, Catkin Way, Bishop Auckland (Pages 7 - 34)  
Erection of 75 dwellings (resubmission of DM/17/00466/FPA)
  - b) DM/18/02313/OUT - Kays Hall Farm, The Green, Evenwood, Bishop Auckland (Pages 35 - 52)  
38 no. residential units, access & public open space (Outline all matters reserved)
  - c) DM/19/00197/FPA - Crawley Edge, Crawleyside Bank, Crawleyside, Bishop Auckland (Pages 53 - 64)  
Erection of 1 detached, 3-storey house with integral garages
  - d) DM/18/02721/OUT - Land to the South of Sudburn Avenue, Staindrop (Pages 65 - 80)  
Outline application for up to 50 no. dwellings, all matters reserved except access
6. 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  
10 April 2019

To: **The Members of the Area Planning Committee (South and West)**

Councillor J Clare (Chairman)

Councillors J Atkinson, D Bell, L Brown, J Chaplow, E Huntington,  
K Liddell, J Maitland, G Richardson, J Shuttleworth, K Thompson,  
F Tinsley and S Zair

**DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Spennymoor - Council Offices, Spennymoor on **Thursday 21 March 2019 at 2.00 pm**

**Present:**

**Councillor J Clare (Chairman)**

**Members of the Committee:**

Councillors J Atkinson, D Bell, L Brown, E Huntington, K Liddell, J Maitland, G Richardson, J Shuttleworth, K Thompson and F Tinsley

**1 Apologies for Absence**

Apologies were received from Councillors J Chaplow and S Zair.

**2 Substitute Members**

There were no substitute Members in attendance.

**3 Declarations of Interest (if any)**

There were no declarations of interest.

With regards to item number 5a) Land to the north of 4 to 16 Tudhoe Lane, Spennymoor, Co Durham, the Chairman noted that Councillor Thompson was a Member for the Spennymoor area and a Spennymoor Town Councillor, however Councillor Thompson did not feel it necessary to declare an interest on the basis that he had not expressed an opinion on the application and would only make a decision on it following the presentations to the Committee.

**4 Minutes**

The minutes of the meeting held on 24 January 2019 were agreed as a correct record and signed by the Chairman.

Prior to business, it was with great sadness that the Chairman reported the death of the former Chairman, Councillor Henry Nicholson, a valued and respected Member of the Committee.

**6 DM/18/03610/FPA - Land to the north of 4 to 16 Tudhoe Lane, Spennymoor, Co Durham**

The Committee considered a report of the Senior Planning Officer with regards to an application for 3 no. dwellings on Land to the North of 4 to 16 Tudhoe Lane, Spennymoor (for copy see file of minutes).

The Senior Planning Officer gave a detailed presentation of the application site, which included site location plan, site layout, aerial photographs and photographs of the site.

Councillor Grayson, Local Member, spoke in support of the development. The Applicant had satisfied highway concerns by creating a safe access and there was no impact on heritage as the conservation area was over 130m away and the nearest listed building 200m from the site. The gifting of land to the Church Hall was a one-off and would benefit the whole community.

Councillor Grayson asked Members to consider that he had not received any correspondence from local residents in objection to the plans, but had spoken to some who were happy with the proposal.

The Solicitor – Planning and Development, referred to the gift of land and advised that this was a voluntary contribution and the Committee could not afford any weight to it when considering the decision.

The Agent, G Hodgson addressed the Committee, confirming that the 3 dwellings were proposed homes for the Applicant and his family. He was an existing local resident and as well as being the owner of a local business, he jointly owned the Black Horse Pub and employed 25 people in total.

This application had been ongoing for two years as the Applicant had resolved many issues raised during the application process, before the final proposal had been approved by Planners.

He confirmed that the proposed dwellings were of a contemporary design with locally sourced materials and the design was supported by the Design and Conservation Team. The houses would be constructed using modern, efficient methods and an acoustic survey had concluded with no adverse impact.

The Applicant had mitigated noise concerns by agreeing to pay for works to the Church Hall to create a new access which would lead directly to a community garden on the land which would be gifted.

In response to a query from Councillor Tinsley, the Senior Planning Officer confirmed that the distance between the existing habitable windows and the nearest property was in excess of 21m.

Councillor Tinsley then queried the access arrangements to the field on Tudhoe Lane. The Senior Planning Officer confirmed that the access would remain for field maintenance vehicles only and not be associated with the development. With regards to the access to the South, a condition was attached which restricted vehicles associated with the development.

Councillor Atkinson considered the Applicant had gone the extra mile and produced a quality development which he could not find fault with. In response to a query the Solicitor - Planning and Development, confirmed that it would not be reasonable for the Committee to control the use of the gifted land by condition. He clarified with

the Planning Officer that the change of use of this land was part of the current planning application.

Councillor Thompson confirmed that he was minded to approve the application however had a Highways Officer been present, he would have queried the reason for approval when an access route identical was refused. He confirmed that although he was aware the Committee had to judge each individual application on their own merits, they also gained experience from other applications and this one was particularly confusing given they had the same access issues.

The Senior Planning Officer responded that he could not offer an explanation on the other application, however the fact that no Highways Officer was in attendance was an indication that they were very comfortable with the proposal and did not feel the need to offer any further comment.

In response to a question from Councillor Richardson it was confirmed that the access road was 4.1m wide.

Councillor Clare queried the agreement with regards to the proposed field access from the south next to plot no. 1 and queried what would happen when the house was inevitably sold in the future. The Solicitor - Planning and Development, confirmed that this was a matter of private law and not for the Planning Committee to consider.

Councillor Tinsley summed up the objections from the Town Council as being tenuous, they related to highways and access issues which had been approved by the Highways Officer and were not uncommon in the rest of the County. There was no impact on the Conservation Area, no loss of privacy to the south. The development did not encroach into the countryside, it was surrounded by dwellings on three sides and was backland development with no risk of joining Tudhoe Colliery and Tudhoe Village. Councillor Tinsley appreciated that the significant engagement with Officer's which had resulted in a positive application with benefits. He therefore moved the recommendation to approve the application, seconded by Councillor Atkinson.

Councillor Thompson responded to Councillor Tinsley's comments with regards to the Town Council's objections and said that a representative did intend to speak however, they were not able to attend the meeting due to other commitments. He disagreed that the objections were tenuous – the Town Council had formulated their response after receiving many representations from local residents.

**Resolved:**

That the application be APPROVED subject to the conditions outlined in the report.

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/18/02267/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Erection of 75 dwellings (resubmission of DM/17/00466/FPA)</b>
<b>NAME OF APPLICANT:</b>	<b>Gleeson Regeneration Ltd.</b>
<b>ADDRESS:</b>	<b>Site Of Former Chamberlain Phipps Coatings, Catkin Way, Bishop Auckland, DL14 9TF</b>
<b>ELECTORAL DIVISION:</b>	<b>West Auckland</b>
<b>CASE OFFICER:</b>	<b>Laura Eden Senior Planning Officer 03000 263980 <a href="mailto:laura.eden@durham.gov.uk">laura.eden@durham.gov.uk</a></b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site consists of a roughly rectangular shaped parcel of land located within the Woodhouses area of Bishop Auckland. The site extends to approximately 2.35 hectares (ha) in area and comprises previously developed land, formally within industrial use. Concrete hardstandings are present on the site with woodland belts lying to the south and west.
2. A public right of way (Footpath No.15 (Bishop Auckland)) lies adjacent to the northern boundary of the site, along an adopted highway, which provides the sole vehicular access to the site. Existing industrial buildings are located on the northern side of this road and adjoining the development site to the east is another cleared industrial site comprising of a mixture of concrete hardstanding and grassed areas. The industrial estate road links to Greenfields Road further to the east beyond which lies the residential area of Woodhouses. To the south of the site lie the retail stores Pets at Home, Superdrug and Next. To the west lies an area of open space to the rear of Tesco's with agricultural fields beyond. There are no landscape or Heritage Asset designations within or adjacent to the site.
3. The site is located approximately 3.9km to the south east of Witton-le-Wear Site of Scientific Interest (SSSI) and 1.7km to the south of Escomb Pasture Local Wildlife Site. The Grade I listed building of Escomb Church is located 2.7km to the north of the site. Bishop Auckland Conservation Area lies 2.6km to the north west of the site containing the Grade 1 listed building of Auckland Castle. Cockton Hill Conservation Area is located 2.4km to the north west of the site which contains a number of Grade II Listed Buildings. Witton-le-Wear Conservation Area containing the Grade II\* Listed building of Witton Tower is located 5.2km to the north west of the site. The remains of the Stockton and Darlington Railway, a scheduled monument lies 1.55km to the east of the site. There are no landscape designation within or adjacent to the site.

## The Proposal

4. Full planning application is sought for the erection of 75 dwellings. The dwellings would be arranged around a series of cul-de-sacs and shared drives comprising of a mix of 2, 3 and 4 bedroomed semi-detached and detached dwellings. The properties would all benefit from off-street parking and private rear garden areas. Access into the site would be taken off Catkin Way.
5. The application is referred to Committee as the proposals constitute major development comprising of more than 10 dwellings.

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## PLANNING HISTORY

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6. In June 2018, planning permission (DM/17/00466/FPA) was refused for essentially the same development currently proposed as part of this application. The reason for refusal was on highway grounds as detailed below;

*The additional traffic generated by the development would have a severe impact on queuing and delay through the highway network in the Tindale Crescent area and as an appropriate level of contribution to address traffic dispersal has not been secured to mitigate this impact the development would result in a severe residual cumulative impact. This is contrary to WVDLP Policies GD1 (xxi) and T1 (ii) and Paragraph 32 of the NPPF, and when assessed against the development plan and the NPPF considered as a whole, it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.*

7. The applicant is currently in the process of appealing the Council's decision to refuse DM/17/00466/FPA. Whilst the Planning Inspectorate considered the appeal (APP/X1355/W/18/3203980) to be valid as 06/09/2018 an Inspector is yet to be appointed and confirmation of the start date for the production of appeal documentation and when a hearing will take place is awaited.
8. Outline planning permission was granted in 2007 on appeal and again in 2011 for a residential development up to 118 dwellings (Permission No. 3/2011/0272) on land site immediately to the east of the application site. More recently in June 2018 outline approval was granted for 101 residential dwellings with all matters reserved except access (DM/17/00244/OUT). The associated S106 Agreement secured £241,000 for offsite highway mitigation works.

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## PLANNING POLICY

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### NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them,

according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.

11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 5 – Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.
14. *NPPF Part 6 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
18. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

19. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
20. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
21. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

22. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; determining a planning application; flood risk; health and well-being; land stability; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; 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:**

##### **Wear Valley District Local Plan (2007) (WVDLP)**

23. *Policy BE1 – Protection of Historic Heritage* – Sets out that the Council will seek to conserve the historic heritage by maintenance, protection and enhancement of features and areas of particular historic architectural interest or archaeology interest.
24. *Policy BE4 – Setting of a Listed Building* – Sets out that development that impact upon the setting of a listed building and adversely affects it its special architectural, historical or landscape character will not be allowed.
25. *Policy BE5 – Conservation Areas* – Identifies Conservation areas on the proposals map while seeking to protect them from inappropriate development.

26. *Policy BE8 – Setting of a Conservation Area* – Sets out that development which impacts upon the setting of a Conservation Area and which adversely affects its townscape qualities, landscape or historical character will not be allowed.
27. *Policy BE23 – Provision of Public Art*. In appropriate cases, the Council will encourage the provision of works of art as part of development. In considering planning applications the Council will have regard to the contribution which such works make to the appearance of the scheme and to the amenity of the area.
28. *Policy GD1 – General Development Criteria*. All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
29. *Policy H3 – Distribution of Development*. New development will be directed to those towns and villages best able to support it. Within the limits to development of towns and villages, as shown on the Proposals Map, development will be allowed provided it meets the criteria set down in Policy GD1 and conforms to the other policies of this plan.
30. *Policy H15 – Affordable Housing*. The Council will, where a relevant local need has been established, seek to negotiate with developers for the inclusion of an appropriate element of affordable housing
31. *Policy H24 – Residential Design Criteria*. New residential developments and/or redevelopments will be approved provided they accord with the design criteria set out in the local plan.
32. *Policy I5 – Industrial Estates* – Sets out that within designated Industrial Estates proposals for offices and business use (use class B1), general industry (use class B2) and storage and distribution (Class B8) will be permitted in principle
33. *Policy RL5 – Sport and Recreation Target*. For every 1 hectare of land developed or redeveloped for residential purposes, at least 1300 square metres of land should directly be made available on- or off-site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities, including changing rooms, by other agencies. Such land should be located and developed to accord with the provisions of proposal RL1. On sites under 1 hectare (24 dwellings) a proportion of this standard will be expected.
34. *Policy T1 – General Policy – Highways*. All developments which generate additional traffic will be required to fulfil Policy GD1 and provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.

#### **EMERGING PLAN:**

##### The County Durham Plan

35. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' stage CDP was subject to consultation in summer 2018. On the 16<sup>th</sup> January 2019, Cabinet approved the 'Pre Submission Draft' CDP for consultation. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

36. *Highway Authority* – The level of traffic generated from the site, in combination with that from other proposed developments in the area has been modelled and highway improvement works to alleviate pressures at the junction Maude Terrace/Greenfields Road are required. A contribution of £241,000 has been costed to deliver these wider capacity improvements which would need to be secured by a S106 agreement. It is however advised that residual impacts would result in increased queues and delays despite the mitigation, this would however not amount to a severe cumulative highway impact. The internal layout is considered to be acceptable. Conditions are required to be imposed to secure adoptable footpath linkages along Greenfields Road in order for future occupants to be able to access the local bus stop services and surrounding amenities.
37. *Coal Authority* – Raise no objection to the proposed development and no longer requests the inclusion of a site investigation condition on any permission issued. However, further detailed consideration of ground conditions, foundation design and gas protection measures are likely to be required as part of any subsequent Building Regulations application.
38. *Northumbrian Water Limited* – No objection subject to a condition being imposed to secure the implementation of the drainage strategy
39. *Drainage and Coastal Protection* – No objection subject to a condition being imposed to secure the implementation of the drainage strategy

### INTERNAL CONSULTEE RESPONSES:

40. *Spatial Policy* – Advise that the starting point for determining the acceptability of planning proposals is the Development Plan, in this case the WVDLP. The land is designated as a general industrial estate. The scheme would therefore conflict with Policy I5 however it is considered that this policy can be afforded reduced weight as it has previously been established through an employment land review that the land is not needed for future employment purposes. The site is located within the ‘settlement limits to development’ for Bishop Auckland as defined by Policy H3 of the Plan. The policy deals with housing development on non-allocated site within towns and villages such as Bishop Auckland and permits housing within defined ‘limits to development’ provided it accords with other relevant policies in the plan. Whilst the development would glean in principle support from this policy it is acknowledged it is not based on up-to-date evidence. On this basis, the application should be subject to the planning balance exercise outlined in Paragraph 11d of the NPPF.
41. *Landscape* – Whilst the proposals would have no significant landscape or visual impacts given the proposal relates to the redevelopment of former industrial land concerns are expressed in relation to the lack of permeability, connections to pedestrian routes and the integration of trees.
42. *Arboriculture* – The woodland belt around the southern boundaries will be incorporated into gardens. There are concerns that this is unrealistic and that post development these trees will be removed. The applicant is requested to reconsider the design.
43. *Archaeology* - Raise no objection due to the previously developed nature of the site.

44. *Design and Conservation* – Raise no objection on heritage grounds however offer some comments in relation in the lack of distinctive design and potential loss of the strong green edge to the southern boundaries.
45. *Ecology* – The submitted Preliminary Ecological Appraisal report is sufficient to inform the application and that no further surveys are required. No objection is raised on the basis of the information submitted.
46. *Environment, Health and Consumer Protection (Air Quality)* – No objections are raised subject to a condition relating to a dust action plan. The development will not have a significant effect on air quality and there is no requirement to undertake further assessment.
47. *Environment, Health and Consumer Protection (Pollution Control)* – No objections subject to a condition to secure a construction management plan.
48. *Environment, Health and Consumer Protection (Contaminated Land)* – No objection subject to the imposition of a condition.
49. *Housing Delivery* – Identify that 15% affordable housing should be provided on the site with an appropriate mix of affordable (social) rent and intermediate tenure. There is also a requirement for 10% of all the private and intermediate properties to be for older people.
50. *Public Rights of Way* – Identify that a public right of way passes the north part of the site within the adopted highway (Footpath No.15 Bishop Auckland) and another follows the field edge towards the commercial and retail area of St Helen Auckland (Footpath No.14 Bishop Auckland). Whilst the proposal would have no direct effect on the public footpaths the development will place additional pressure on the network therefore a contribution of £16,500 is sought.
51. *School Places Manager* – It is considered that the development is likely to produce 23 primary pupils and 9 secondary pupils. There is sufficient capacity at both the local primary and secondary schools to accommodate the pupils generated by the development.

#### **EXTERNAL CONSULTEE RESPONSES:**

52. *Durham Dales, Easington and Sedgfield Clinical Commissioning Group* – No comments received
53. *Police Architectural Liaison Officer* – There are no issues with the overall layout of the site from a 'Design out Crime' perspective. However, there is concern that there is no public open space or children's play space and that the driveways are largely comprised of loose aggregate.

#### **PUBLIC RESPONSES:**

54. The application has been publicised by way of press notice, site notice, and individual notification letters. No representations have been received.

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

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OSZ6MMGDGGL00>

## **APPLICANTS STATEMENT:**

55. The Site provides a sustainable development opportunity and would contribute to the provision of a mix of housing size, types and affordability in the area, particularly promoting family housing and appropriate dwellings which allow people to stay in their local community. The site provides ready access to local amenities, schools and employment sites and is considered sustainable.
56. The development of this site for residential development would see significant regeneration on a site that has sat vacant for many years and has become a haven for antisocial behaviour and fly-tipping. It is a brownfield site with significant abnormal costs associated with its development, however once completed it will transform the area and provide a choice of family homes for local purchasers.
57. This planning application has considered all relevant planning policy matters in respect of the proposal bringing forward residential development. At a national, regional and local planning policy level, there remains a priority for development in urban areas to which this site would accord. The site lies within a residential area in close proximity to services and facilities including access to sustainable travel options including bus services. The viability of the site has been scrutinised and it has been determined by both a Gleeson viability assessment and further Council assessment that no affordable housing or open space contributions can be provided due to the associated abnormal costs of developing the site. The proposal will integrate well into the locality through the design proposals and density accords with National Planning Policy.
58. All criteria required to be complied with in Policy requirements have been taken into account through the evolution of the scheme, resulting in a well-designed proposal that responds to the specifics of the site, both in terms of layout but also the design of the elevational treatment. It must also be noted that the proposals aim to deliver quality new homes to local people in addition to providing much needed new housing in this location. The applicants have undertaken considerable dialogue with architects, local residents, consultants and relevant officers at the Council to ensure that the scheme not only delivers high quality design, but also responds to the aspirations of the local community. Indeed, the proposals have been amended several times during the planning submission, to take into account the comments made.
59. Development of this site will bring a number of benefits to Bishop Auckland including around £90K of additional Council Tax per annum and New Homes bonus payment to the Council of around £523K over a 6 year period. The scheme will also provide a number of jobs and apprenticeships to local people, as well as safeguarding many current jobs.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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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 advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, highway safety and access, infrastructure and open space provision, affordable and accessible/adapted housing, impact on the character and appearance of the surrounding area, layout and design,

ecology, residential amenity, flooding and drainage, heritage and archaeology, other considerations, viability and planning obligations.

## The Principle of the Development

### The Development Plan

61. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Wear Valley Local Plan (WVDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF.
62. The WVDLP was adopted in 1997 and was intended to cover the period to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. However due weight should be given to them, according to their degree of consistency with the NPPF.
63. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-
  - c) approving development proposals that accord with an up to date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
    - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
64. WVDLP Policy I5 designates the site as an industrial estate (Greenfields Industrial Estate). Within the estate, Policy I5 sets out that proposals for offices and business use (use class B1), general industry (use class B2) and storage and distribution (Class B8) will be permitted in principle. The proposed residential use would therefore not conform to the allocation in the WVDLP.
65. However, in accordance with advice in paragraph 120 of the NPPF, the appropriateness of retaining sites for employment uses within the County has been tested through Employment Land Reviews (ELRs) with the most recent version published in 2018. The document concluded that there was a significant oversupply of employment land across the County albeit noting that in Bishop Auckland and the surrounding areas the overall vacancy rate of 4.9% indicated a tightening supply. Greenfields Industrial Estate, of which the application forms a part, is identified as being mainly made up of vacant properties and cleared land with alternatives uses already permitted in the form of a Tesco store on the southern portion of the local plan allocation and housing on the land immediately to the east of the application site. The ELR recommended that the site be removed from the employment land portfolio. This has informed the emerging Local Plan and the County Durham Plan Preferred Options (CDP), does not propose to allocate the site for employment purposes. Whilst this cannot currently be given any

weight as the site remains available to be redeveloped for employment uses, the position as evidenced in the ELR 2018 and from consented alternatives uses within the allocation means there are grounds for considering alternative uses on the site on their individual merits. In addition, given the recommendations of the ELR and the more flexible approach promoted in the NPPF it is considered that Policy I5 of the WVDLP does not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to the policy reduced as a result.

66. WVDLP Policy H3 sets out that new housing development should be located in the towns and villages best able to support it, setting out limits of development. The approach of directing housing to the most sustainable settlements that can support it, while seeking to protect the open countryside, is consistent with the NPPF. The NPPF does not prevent a local planning authority from defining settlement boundaries; however, these would need to be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. As Policy H3 is not based on up-to-date evidence of this nature, it is therefore considered out of date for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to the policy reduced as a result.
67. Remaining policies within the WVDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development. As a result the application must be considered in the context of the planning balance at NPPF paragraph 11d.

#### Housing Land Supply

68. Paragraph 73 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
69. Within County Durham all the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Pre Submission Draft' (Jan 2019) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). At this time, the Council is able to demonstrate 5.9 years supply (8,404 dwellings) of deliverable housing land against this figure. The Council also has commitments of an additional supply of 15,946 dwellings beyond the deliverable 5-year supply period.
70. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal.
71. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS

is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

72. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and, as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply of 5.96 years of deliverable housing can be demonstrated. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.

#### Locational Sustainability of the Site

73. WVDLP Policy GD1 amongst its advice states that developments should be located where possible to conserve energy, adequate links to public transport are provided and priority is given to pedestrian and cyclists within the development with links to the network provided where possible. These policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods therefore can be given full weight in considering the application. Specifically, the NPPF sets out at Paragraph 103 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. At paragraph 108 the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst paragraph 110 seeks to facilitate access to high quality public transport.
74. The County Durham Settlement Study 2018 is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. The Bishop Auckland Cluster (comprising Auckland Park, Bishop Auckland, Etherley Dene, St Helen Auckland, Tindale Crescent, West Auckland and Woodhouse Close) has a score of 732.5 therefore is ranked as one of the main towns within the County. Bishop Auckland provides a range of facilities and services including primary and secondary schools, community centres, social/leisure clubs and opportunities, medical care employment areas and local stores/supermarkets and other extensive retail offers.
75. In relation to distances to services and amenities, the site lies within approximately 0.5km of Tindale Crescent retail and employment sites, 0.8km of Woodhouse Community Primary School, 1.3km of Bishop Barrington School (secondary), 2.1km of a GP's surgery, 2.8km from the town centre. When considering these figures, it is noted that the majority of distances are either within 'Preferred Maximum' or 'beyond Preferred Maximum', of the Institution of Highways and Transportation (CIHT) "Providing for Journeys" document and are therefore towards the higher end of distances or beyond, that residents may reasonably be expected to walk. The walking routes into Bishop Auckland are also on adopted well-lit highways with no significant topographical restrictions. In terms of cycle access, the site does perform better, with services in the town centre within a 5 minute cycle ride.
76. The closest bus stop to the development is located on Greenfields Road approximately 230m from the nearest part of the site boundary. Whilst a large proportion of the site would lie within the recommended 400m walking distance criteria to bus stops more southern parts of the site would not. The no.18 service that operates from these stops is relatively weak being a daytime service, running Monday to Saturday on a half hourly basis between Coundon and Bishop Auckland. The services that operate along Maude Terrace C42 and the C130 to the south in the Tindale Crescent area are significantly better however these stops are located in excess of 600m from the site entrance and

therefore a considerable distance away and well outside of the recommended distances.

77. In order to access the bus stop services and surrounding amenities adoptable footway links would be required along the complete eastern site boundary of the adjacent development (DM/17/00244/OUT) with Greenfields Road. A link from Greenfields Road/Catkin Way junction to Greenfields Road bus stop to the north of the site would also be required to prevent pedestrians walking on the carriageway between the stop and the development site. These improvements can be secured by conditions.
78. Two Public Rights of Way (PROW) lie within the vicinity of the site. Footpath no.15 (Bishop Auckland) lies to the north of the site and is within the adopted highway (Catkin Way). It leads onto Footpath no.14 (Bishop Auckland) to the west of the site, the route of which runs through the field before following its edge and provides links towards retail and employment sites within Tindale Crescent. It is not considered that the development would directly affect either of these footpaths although it would lead to increased use.
79. Paragraph 98 of the NPPF outlines that decisions should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users. In order to improve connectivity to local amenities, employment opportunities and better bus service routes and mitigate the impacts arising from increased usage of Public Rights of Way, officers consider Footpath no.14 should be improved. It is suggested that part of the recorded route should be diverted so that it follows the field edge as this would provide more direct routes to the south. An improvement to the surface is also desirable particularly to the southern section of the path. A contribution of £16,500 is required to carry out these routes. However, the applicant has presented a case setting out that the development would not be viable with these obligations imposed.

#### Highway Safety and Access

80. WVDLP Policies GD1, H24 and T1 set out that developments should be served by a safe means of access and development should not create unacceptable levels of traffic which exceed the capacity of the local road network. This policy is 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. Specifically, the NPPF sets out at Paragraphs 108 that safe and suitable access should be achieved for all people. In addition, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
81. The development site sits close to the saturated highways network junction at Tindale Crescent in Bishop Auckland. This development is predicted to send 60 additional two-way traffic movements through Tindale Crescent at the am peak hour, which the Highway Authority advises would be a significant number of vehicles given the over saturation of the junction currently. The resultant loading of more development traffic onto this junction would increase exponentially the queues and delay already experienced to the extent that it would be regarded as a severe impact.
82. It is therefore necessary for the scheme to address capacity limitations at this junction. The mitigation required is in the form of road widening along and layout changes with the traffic light reconfigurations at Maude Terrace/Greenfields Road, at an estimated cost of £241,715.49. 90. There are a number of other housing permissions pending in the nearby area (land to the North of Etherley Moor DM/16/04062/OUT, land at the North of Woodhouses Farm DM/17/01765/FPA; Catkin Way DM/17/00244/OUT) which have all committed to address the operational capacity at Tindale Crescent junction and

other residual impacts on the wider highway network. However, there is no guarantee of the timing of these developments and that any would come forward before this application proposal. Furthermore, even if improvements are made to Tindale Crescent traffic signals through other developments, the Highway Authority advises that there will be both a geographical and temporal dispersion of peak traffic as traffic chooses to redistribute to avoid the signals. Funding will therefore still be necessary to address any cumulative residual issues on the rest of the highway network. The highway contributions secured under individual planning applications would be combined (whilst still complying with The Community Infrastructure Levy Regulations 2010) for the Highways Authority to detail up and deliver appropriate schemes where it considers appropriate.

83. This issue of cumulative impact was fully considered as part of the previous application (DM/17/00466/FPA). The developer put forward a case for a lesser improvement scheme at the junction (approximately £40,000-60,000), but the Highway Authority asserted this would not sufficiently address the overcapacity issues and there would be a severe impact on queuing and delay through the highway network in the Tindale Crescent area. The application was therefore refused and the developer is in the process of appealing this decision.
84. A further Transport Assessment (by a different consultant) supported by data and technical notes has been submitted in support of the current application. This has been fully considered by Highway Authority including the Strategic Traffic Manager, the Highway Development Manager and the Traffic Signals Manager. There is a significant difference in opinion between the Highway and Authority and the Transport Consultant in regard to the base flow data on which analysis has previously been undertaken and secondly the current operation of the junction and its ability to accommodate consented developments following mitigation proposed by the developer.
85. There have been six separate studies of the junction. Notwithstanding the most recent assessment (A. Thompson), the five earlier studies indicate the junction is presently saturated and the addition of any development traffic would require mitigation. Indeed, the developer's initial study (Tim Speed) submitted in support of DM/17/00466/FPA came to the same conclusion. The Highway Authority agree with the conclusion reached, that the junction is saturated and requires mitigation.
86. The most recent assessment (A. Thompson) submitted in support of the current applications suggests the previous five studies were incorrect as base flow data has changed and therefore the mitigation previously identified is no longer required and a lesser scheme can be accepted. The TA states *'the surveys show that there are no longer capacity constraints at the junction'*. The site sits adjacent to a large retail and commercial centre and the Highways Authority have a wealth of evidence to confirm queuing and delay is significant at retail peaks. Local opinion including that of local Council members, The Police and Public transport also confirm this is the case.
87. The lesser improvement scheme has again been considered and there continues to be a difference in opinion regarding the modelling approach. A significant factor which impacts on capacity is the demand from pedestrians through the junction and the lost time to traffic flow created as a result of this demand. The occurrence of this demand and frequency of the call of pedestrian phases clearly impacts on model output. The Transport Consultant has modelled the junction with a less frequent demand than what is considered to take place at peak hours or is likely to take place with future development in place. When the Highway Authority has modelled the junction with the correct pedestrian demand it is shown again to lack sufficient capacity to operate under stable conditions.

88. The Highway Authority consider that the lesser mitigation proposed by the applicant could not accommodate current and committed demands and there would be a severe impact on queuing and delay through the highway network in the Tindale Crescent area. They maintain the Council's previous position to refuse the application on the basis that the lesser mitigation scheme is inadequate.
89. In respect of other highways issues, the Highways Authority is satisfied that the site access arrangements, layout and parking are generally acceptable. There is a need for a new pedestrian footpath along the Greenfields Road boundary, but that could be secured by condition.
90. The developer has reluctantly agreed to move the application forward on the basis of the requested off-site contribution of £241,000 for highway mitigation works. However, it has been advised this decision has been taken purely for contractual reasons, the developer continues to strongly dispute the viability of the contribution or whether it is actually required in light of their additional survey work. As such it is intended to continue to progress the appeal against the Council's decision to refuse DM/17/00466/FPA. The Council will obviously look to defend its position which in light of the above is considered to be reasonable and justified.
91. Overall, on the advice of the Highway Authority, a satisfactory means of access would be created, and while the development would have some impact on the wider highway network, this would not be at a severe level, subject to securing the full mitigation proposed. This residual impact should be taken in to account in the planning balance. The scheme is considered to accord with WVDLP Policies GD1, H24 and T1 in this respect and Part 4 of the NPPF.

#### Infrastructure and Open Space Provision

92. Paragraph 94 of NPPF confirms it is important to ensure that a sufficient choice of school places is available to meet the needs of existing and new communities. The School Places Manager has advised that the proposed development is likely to generate an additional 23 primary age school pupils and 9 secondary age school pupils. There is sufficient capacity at both the local primary schools (Cockton Hill Infant School, Cockton Hill Junior School, St. Andrew's Primary School and Woodhouse Community Primary School) and secondary schools (Bishop Barrington School and King James I Academy) to accommodate this need.
93. WVDLP Policy RL5 sets out targets for sporting and/or recreational land as part of the development or alternatively developers are expected to make a contribution to the provision of such facilities. This policy is considered only partially NPPF compliant as the evidence base has now been updated within the Open Space Needs Assessment (OSNA 2018) which is now considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF. 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 five typologies, either within the site, or through a financial contribution towards offsite provision, in lieu.
94. Having regard to the scale of the development it is considered that non-equipped children's play space (82.5sqm), amenity open space and natural green space (2,475sqm) should be provided on-site. The submitted layout does not include any open space provision. The development would generate a required contribution of £136,620 for those typologies not provided on site including a payment to address the shortfall in provision which would normally be expected to be provided on-site. The applicant has sets out that the development would not be viable with this obligation.

95. In terms of existing open space provision it is noted that amenity open space lies within 200m of the site boundary off Greenfields Road, allotments within 650m, parks and gardens within 850m, junior play space within 950m and children's equipped play within 1km which all lie to the north of C130. With the exception of amenity open space all other typologies fall outside the recommended access distance standards. This matter would need to be considered as part of the planning balance exercise.
96. Paragraph 92 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal. The Durham Dales, Easington and Sedgefield Clinical Commissioning Group (DDES CCG) has been contacted in this regard however no response has been received.

#### Affordable and Accessible/Adapted Housing

97. In order to widen the choice of high-quality homes and opportunities for home ownership, Paragraph 64 of the NPPF encourages the provision of affordable housing based on evidenced need. WVLLP Policy H15 also encourages developers to provide an element of affordable housing on specific allocated sites. This site is not identified as being one of those sites, and the policy is only considered to be partially consistent with NPPF. Accordingly, advice within the NPPF should be afforded significant weight with regards to this issue.
98. The evidence base has now been updated within the Council's Strategic Housing Market Assessment (SMHA 2019) which defines the type, tenure and quantity of housing required including that for affordable purposes and older people. It suggests that a proportion of affordable housing of 15% would be required on this site, amounting to 11 units in this case, with a tenure mix of 70% affordable rent and 30% intermediate tenure. It also demonstrates a need to provide 10% of the private and intermediate properties for older person including level access bungalows or Building for Life provision. However, the applicant has presented a case setting out that the development would not be viable with these obligations imposed.

#### Impact on the Character and Appearance of the Surrounding Area, Layout and Design

99. WVDLP Policies GD1 and H24 require development to be designed and built to a high standard and should contribute to the quality and built of the surrounding area. Furthermore, development should be in keeping with the character and appearance of the area, and be appropriate in terms of form, scale, mass, density and layout, to its location. Policy GD1 outlines existing landscape features should be retained and incorporated the design and layout. These policies are considered consistent with the Part 12 of the NPPF which outlines the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and good design is a key aspect of sustainable development. It should be ensured that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, establish a strong sense of place, optimise the potential of the site to accommodate an appropriate mix of development including green and public open space as well as creating accessible development.
100. Concrete hard standings and remnants of the former industrial use occupy most of the site and its present condition the site has an adverse impact on the character and appearance of the surrounding area. Paragraph 118 of the NPPF indicates that substantial weight should be given to the value of using suitable brownfield land within

settlements for homes. The proposal meets these criteria being located within Bishop Auckland and the site is listed on the Council's Brownfield register. The proposals entail the re-development of previously developed land and would result in significant environmental improvement in terms of the overall appearance of the site. These benefits should be afforded substantial weight in the planning balance.

101. An existing woodland belt lies to the southern boundaries of the site and there is a group of young sycamores at the site entrance. The woodland belt makes a positive contribution to the amenity of the surrounding area by creating a green settlement edge and buffer between the retail site to the south. This is intended to be retained as part of the development and a tree protection plan has been submitted in support of the application. Notwithstanding this both the Council's landscape and arboricultural officers have expressed concerns that without adequate management of the woodland belt there is likely to be future conflict with residents as these trees will fall within rear gardens, leading to concerns that they would be removed or damaged post development. Both recommend that the layout is reconsidered to provide a more realistic opportunity for retention of the trees going forward by either keeping them within the public realm or alternatively thinning the tree groups and creating a wider buffer between the trees and properties.
102. The Council's Urban Design officer has expressed some concerns regarding the proposed site layout including the development turning its back on the main vehicular route into Catkin Way, there is a lack of a strong frontage and sense of arrival at the site entrance and more generally that it fails to establish a strong sense of place. The layout is however typical of many modern housing estates and the proposed dwellings would be commensurate in scale and design with the surrounding area. Whilst it is recognised that the incorporation of public open space and the possibility of connections could have improved the layout the developer has sought to maximise the development potential of the site given viability has been sited. Overall it is considered that the internal layout would create a reasonable residential environment.
103. WVDLP Policy BE23 states that the Council will encourage the provision of works of art as part of development. Although the NPPF is silent on public art, it is supportive of ensuring that development is well designed, creates a strong sense of place and responds to local character therefore mirroring the aims of the WVDLP policy. The policy is considered partially consistent with the NPPF and can be afforded weight. Due to the absence of public open space within the development it would not be possible to deliver public art within the development.
104. Overall, it is considered that the layout and overall design could be improved to more successfully incorporate the existing tree belt into the development, create a strong sense of place, a better mix of development so public open space is included as well as improving and maximising connections. It is however recognised that the site in its present condition has an adverse impact on the character and appearance of the surrounding area, with a derelict untidy appearance and the redevelopment of the site would result in a significant improvement to its appearance. A condition can be imposed to protect the existing trees on site during the construction process. Therefore, on balance it is considered that the scheme would be in general accordance with WVDLP Policies GD1 and H24 as well as Part 12 of the NPPF.

#### Residential Amenity

105. WVDLP Policies GD1 and H24 require the design and layout of development to have regard to the amenity of those living or working in the vicinity of the development site. Policy H24 establishes minimum separation guidelines of 21m between walls containing windows to habitable rooms and 15m between windowed elevations and opposing

gable end walls. These policies are considered to be compliant with Paragraph 127 of the NPPF which states that planning decisions should always seek to secure a good standard of amenity for existing and future occupants of land and buildings therefore can be afforded full weight. 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. Part 15 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.

106. Whilst external privacy distances are met, the internal layout falls short in some instances with distances between opposing front elevations being as low as 16m in some cases. However, and overall it is not considered that this would lead to any significant issues in terms of overlooking, overshadowing or overbearing impact.
107. The development would be located in proximity of a number of noise sources including commercial/industrial uses within Greenfield Industrial Estate and at Tindle Crescent. The application is supported by a noise impact assessment which sets out the noise mitigation measures in the form of improved glazing and acoustic boundary treatments for a number of properties within the development closest to these noise sources in order to safeguard the amenity of future residents. Environment, Health and Consumer Protection officers advise that the methodology and conclusions of the report are sound and that subject to implementation of the sound attenuation measures outlined in the report adequate levels of residential amenity would be achieved.
108. The submitted noise report has assessed the impact of the development against the existing noise climate, which includes the two large commercial/industrial buildings to the north of the site which currently operate at a low intensity. Should the intensity of these uses increase or be brought back into use a conflict could potentially rise with the new housing. The buildings have an unrestricted B2/B8 use there would be no planning restriction on the future activities and therefore they would be at risk of restrictions placed upon them through the Environmental Protection Act 1990 (Statutory Nuisance) which Paragraph 128 of the NPPF seeks to avoid. However, as set out above a recently undertaken Employment Land Review proposes to deallocate the site for industrial/commercial purposes and therefore the potential loss/restriction of employment land would not have a wider impact on the provision across the County, although this is still considered an adverse impact in the planning balance.
109. Environment, Health and Consumer Protection officers note the potential for disturbance during the construction period. It is considered that conditions relating to a Construction Management Plan (CMP) and hours of working would provide sufficient mitigation in this case. Whilst a CMP was submitted in support of the application it was not considered sufficient to inform the application.
110. Similarly, they do not consider that the development will have a significant effect on air quality and there is no requirement to undertake further assessment. There would not be an adverse impact on the environment having regard to paragraph 181 of the NPPF.
111. Overall, it is considered that the development would not cause any adverse impact upon the amenity of those living in the vicinity of the development site, and adequate levels of amenity for prospective occupiers can be secured through the imposition of conditions. The development is therefore considered compliant with WVDLP Policies GDP1 and H24 in this respect and Parts 8 and 15 of the NPPF.

## Ecology

112. The site is located approximately 3.9km to the south east of Witton-le-Wear Site of Scientific Interest (SSSI) and 1.7km to the south of Escombe Pasture Local Wildlife Site. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. WVDLP GD1 advises that development proposals should not endanger or damage important national and local wildlife habitats or have a detrimental impact on the ecology.
113. An ecology survey has 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/or the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The report indicates that the development is unlikely to result in negative ecological impacts due to the majority of the site being hardstanding therefore of negligible ecological value with the higher value woodland belt being retained as part of the development albeit it now falling within rear gardens.
114. Policy 170 of the NPPF advises decisions should contribute and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The development has not been considered through a biodiversity impact assessment calculator which would have provided an objective assessment of the likely losses, and hence what is likely to be required to offset this. Mitigation/compensation can be provided on or off site, or a combination of the two. In the absence of this assessment it is difficult to conclusively determine whether net gains would be achieved however the Council's Ecology Section considers the impact is more likely to be neutral. Whilst nothing their disappointed that further ecological enhancements have not been included within the overall site design in accordance with paragraph 170 of the NPPF they concur that the development is unlikely to have negative ecological impacts especially considering the site context and subject to adherence to a sensitive lighting strategy. On this basis the proposal does not conflict with WVDLP Policy GD1 and NPPF Part 15. The apparent lack of net gains is a factor to be considered in the planning balance.

## Flooding and drainage

115. 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.
116. The application is accompanied by a Flood Risk Assessment which highlights that the application site is within Flood Zone 1 with a low flood risk probability. The surface water drainage hierarchy has been reviewed and a discharge to infiltration is unsuitable. It is proposed to discharge surface water to surface water public sewer/watercourse on the western boundary. The Council's Drainage and Coastal Protection officers offer no objections to the development or the overall drainage strategy. Northumbrian Water similarly raises no objections.
117. In relation to foul water, it is proposed to connect to the existing sewerage network, to which Northumbrian Water raise no objections.
118. No objections to the development on the grounds of flood risk or drainage are raised having regards to Part 14 of the NPPF.

## Heritage and Archaeology

119. In terms of archaeology, the NPPF sets out the requirements for an appropriate programme of archaeological investigation, recording and publication to be made. However, given the previously developed nature of the site the Council's Archaeology officers advise that there would unlikely to be any remains of any significant on the site and therefore no further mitigation is required in this respect.
120. The application site is not within, nor contains any heritage assets. The closest asset to the development is the remains of the Stockton and Darlington Railway, a scheduled monument lies 1.6km to the east of the site. Cockton Hill Conservation Area is located 2.4km to the north west of the site which contains a number of Grade II Listed Buildings. Bishop Auckland Conservation Area lies 2.6km to the north west of the site containing the Grade I listed building of Auckland Castle. The Grade I listed building of Escombe Church is located 2.7km to the north of the site. Witton-le-Wear Conservation Area containing the Grade II\* Listed building of Witton Tower is located 5.2km to the north west of the site.
121. It is not considered that there would be any intervisibility between the application site and the aforementioned heritage assets due to the intervening topography, landscaping and existing buildings. As such there would be no direct visual relationship between the site and the proposal would not adversely impact upon their setting or from the significance of these assets. Design and Conservation officers have raised no objections to the proposal. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case it is considered that there would be no harm. This approach reflects the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard must be paid to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
122. It is therefore considered that the proposal would have no adverse impact on heritage assets within the vicinity of the site. The proposals would therefore accord with Part 16 of the NPPF.

## Other Issues

123. Given the sensitive end use of the site a geo-environmental appraisal, remediation strategy and ground gas protection verification plan have been submitted in support of the application. Environmental Health Officers agree with the proposed remediation and gas protection measures, recommendations and additional works. A condition is recommended to secure these works, and updated remediation in the event that unexpected contamination is found and the submission of a Phase 4 verification report. This will ensure that the site is suitable for its intended use taking account of any risks arising from contamination. The proposal would accord with Paragraph 178 of the NPPF.
124. The application site lies with the Coal Authority's Coalfield Area of high risk. Paragraph 170 of the NPPF sets out that unstable land should be remediated and mitigated where appropriate. In this instance, the Coal Authority have raised no objection to the current resubmission directing the Planning Authority to their consultation response (21/12/2017) in respect of application DM/17/00466/FPA. This response confirms that the applicant's technical consultant provided additional information to The Coal Authority confirming that the site is safe and stable subject to the site being constructed with a piled foundation solution and that no further intrusive site investigations are

required. The Coal Authority are satisfied with these recommendations however note that further, more detailed considerations of ground conditions, foundation design and gas protection measures are likely to be required as part of any subsequent Building Regulations application.

## Viability and Planning Obligations

125. Paragraph 57 of the NPPF advises that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker. The viability of the scheme is questioned with an appraisal having been submitted to consider this. In these circumstances the developer will be required to demonstrate to the Council's satisfaction that this is the case.
126. Advice has been sought on this matter from the Council's Assets and Spatial Policy officers, who have considered in detail the submitted development appraisal for the site, including baseline costs against industry standards and reviewing the likely income generated from the development. Having tested these assumptions, once the amount paid for the site and development costs are taken from expected sale values, excluding any affordable housing provision, the viability of the site is considered marginal, and well below the 17-20% acceptable range of return. Having regard to the advice within the NPPF, it is accepted that the development could not mitigate its impact in relation to open space and recreation provision, enhance public rights of way and access including taking opportunities to provide better facilities for users or deliver affordable housing provision whilst remaining viable.
127. The failure of the development to mitigate its impacts in relation to open space and recreation facilities in addition to public rights of way are considered adverse impacts which need to be weighed in the planning balance. The lack of affordable housing would fail to address an identified need for affordable housing and accessible/adapted housing.

## Planning Balance

128. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. No NPPF policies that protect areas or assets of particular importance provide a clear reason to refuse the application and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

## *Benefits*

129. The development would assist in maintaining housing land supply however this at a time when the Council can demonstrate 5.96 years of deliverable housing land supply (8,404 dwellings) against an objectively assessed need and a further 15,946 committed dwellings beyond the five-year period. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced.
130. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area.
131. The development would result in the positive re-use of previously developed land which is listed on the Council's Brownfield register. In its current form the site has an adverse

impact on the character and appearance of the surrounding area and it is unlikely to come forward for any alternative employment use. The development of the site would result in significant environmental improvement, this benefit and the reuse of brownfield land should be afforded substantial weight in the planning balance.

### *Adverse Impacts*

132. The development would increase pressures on existing open space and recreational facilities in the area, in conflict with the OSNA and the NPPF.
133. It fails to take opportunities to mitigate the impact to or enhance existing public rights of way and access including taking opportunities to provide better facilities for users in conflict with the NPPF.
134. The proposal would fail to address an identified need for affordable housing and accessible/adapted housing in conflict with the NPPF.
135. Notwithstanding the above, and mindful of the significant highways contributions required in this instance, the scheme could not bear the costs of additional contributions required to mitigate the impact of the development.
136. The development would result in a residual impact on the wider highway network through the increase in traffic, however, financial contributions to provide highway improvements as mitigation would reduce this impact and a severe cumulative highway impact would not arise.
137. The development could prejudice the use of the adjacent industrial units should their use intensify. However, it is proposed in a recent employment land review to deallocate these sites for employment purposes.
138. In the absence of a biodiversity impact assessment it is difficult to conclusively determine whether net gains would be achieved. The Council's Ecology Section considers the impact is more likely to be neutral.

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## **CONCLUSION**

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139. The development plan policies which are most important for determining the application are out-of-date therefore the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF.
140. It is identified that the development would result in harm through increase pressures on open space and recreational facilities in the area in addition to the public right of way network, it fails to address an identified need for affordable housing and accessible/adapted housing, would result in a residual impact on the highway network, could prejudice the future use of two existing industrial units and is unlikely to have resulted in neutral rather than net gains in biodiversity. However, due to the viability position of the site and the benefits of the development including the re use of brownfield land in a sustainable location that would result in a significant environmental improvement for the purposes of Paragraph 11d ii, this harm would not significantly and demonstrably outweigh the recognised, social and economic benefits of new housing even when considering the Council's housing land supply position. The NPPF policy presumption in favour is a material consideration of sufficient weight to outweigh the conflict with relevant WVDLP policies.

141. Paragraph 56 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contribution towards offsite highway mitigation works is considered to be in accordance with these tests.
142. The proposal has generated no public interest, with no representations having been received.

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## RECOMMENDATION

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

- £241,000 for offsite highway mitigation works

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

Plan	Drawing No.	Date Received
SURFACE FINISHES PLAN	16197-C801	26/07/18
201 DWELLING TYPE	201/1F	26/07/18
202 DWELLING TYPE	202/1F	26/07/18
301 DWELLING TYPE	301/1G	26/07/18
304 DWELLING TYPE	304/1E	26/07/18
307 DWELLING TYPE	307/1B	26/07/18
309 DWELLING TYPE	309/1E	26/07/18
310 DWELLING TYPE	310/1D	26/07/18
311 DWELLING TYPE	311/1A	26/07/18
313 DWELLING TYPE	313/1	26/07/18
314 DWELLING TYPE	314/1	26/07/18
403 DWELLING TYPE	403/1H	26/07/18
PLANNING LAYOUT	GH21:L:01D	26/07/18
LOCATION PLAN	GH21:L:02	26/07/18
SOFT LANDSCAPING LAYOUT	GH21:L:03C	26/07/18
BOUNDARY TREATMENT LAYOUT	GH21:L:04D	26/07/18
TIMBER FENCE	SD100-D	26/07/18
POST AND WIRE FENCE	SD103-B	26/07/18
STANDARD SINGLE GARAGE	SD700-A	26/07/18
STANDARD DOUBLED GARAGES	SD701-B	26/07/18
STANDARD TERRACED GARAGES	SD703-B	26/07/18
GARAGE DRIVE DETAILS	SD712-G	26/07/18
Engineering Plan	16197-C001-B	09/08/18

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies BE1, BE4, BE5, BE8, GD1, H24 and T1 of Wear Valley Local Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

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

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policy GDP1 of the Wear Valley District Local Plan Part 15 of the National Planning Policy Framework. This is required as a pre-commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

4. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, have been protected in accordance with the details contained within the Tree Survey ref. EES16-198 by Elliott Environmental Surveyors Ltd dated 8<sup>th</sup> March 2017 and BS 5837:2012. Protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area having regards to Policy GD1 of Wear Valley Local Plan and Part 12 of the National Planning Policy Framework.

5. Prior to the commencement of construction at damp proof course or above, samples of the external walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: To ensure high quality design to comply with Policy GD1 and H24 of the Wear Valley District Local Plan and Part 12 of the National Planning Policy Framework.

6. Prior to the occupation of the first dwelling hereby approved, full engineering details of a new adoptable standard pedestrian footway extending south from the Catkin Way junction, along the full length of Greenfields Road to where the footpath commences outside no.49 Greenfields Road shall be submitted to and approved in writing by the Local Planning Authority. The footpath shall thereafter be completed in accordance with the approved details prior to the occupation of the 30th dwelling hereby approved.

Reason: In the interests of highway safety and accessibility in accordance with Policies GD1, H24 and T1 of the Wear Valley District Local Plan and Part 9 of the National Planning Policy Framework.

7. Prior to the occupation of the first dwelling hereby approved, full engineering details of a new adoptable standard pedestrian footway extending 45m from Catkin Way to the north bound bus on Greenfields Road shall be submitted to and approved in writing by the Local Planning Authority. The footpath shall thereafter be completed in accordance with the approved details prior to the occupation of the 30th dwelling hereby approved.

Reason: In the interests of highway safety and accessibility in accordance with Policies GD1, H24 and T1 of the Wear Valley District Local Plan and Part 9 of the National Planning Policy Framework.

8. All sound attenuation measures detailed in the noise assessment by LA Environmental Consultants reference GH/CW/002 dated 18th July 2017 shall fully implemented prior to the first occupation of any of the dwellings and permanently retained thereafter.

Reason: To protect the residential amenity of future residents from the adjacent noise sources to comply with Policy GD1 of the Wear Valley Local Plan and Part 15 of the NPPF.

9. The development shall be carried out in line with the drainage scheme detailed in the Flood Risk Assessment Reference: RO/FRA/16197.1 Version 2 dated January 2016 and drg. no. C801 (surface finishes plan).

Reason: To prevent the increased risk of flooding from any sources in accordance with Part 14 of the NPPF.

10. The development shall take place in accordance with the ecological enhancement recommendations detailed within the Preliminary Ecological Appraisal, Ref EES16-198 Version no.1 v.1 dated 26<sup>th</sup> January 2017.

Reason: To minimise impacts on biodiversity and to preserve nature conservation interests in accordance with Part 15 of the National Planning Policy Framework.

11. The development shall be carried out in line with the lighting scheme detailed in the Outdoor Lighting Report Reference: OP87646-LD9116 dated 13<sup>th</sup> September 2017.

Reason: To conserve protected species and their habitat in accordance with part 15 of the National Planning Policy Framework.

12. The full scheme, including completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a or b are not required.

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

#### Completion

- (a) During the implementation of the remedial works as detailed in Sirius remediation strategy C4961B Rev A dated July 2017 and the Sirius letter on ground gas protection verification plan dated 8th November 2017 if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a revised Phase 3 Remediation Strategy shall be prepared. 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 Part 14 of the National Planning Policy Framework.

13. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 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 0730 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 Policy GDP1 of the Wear Valley District Local Plan Part 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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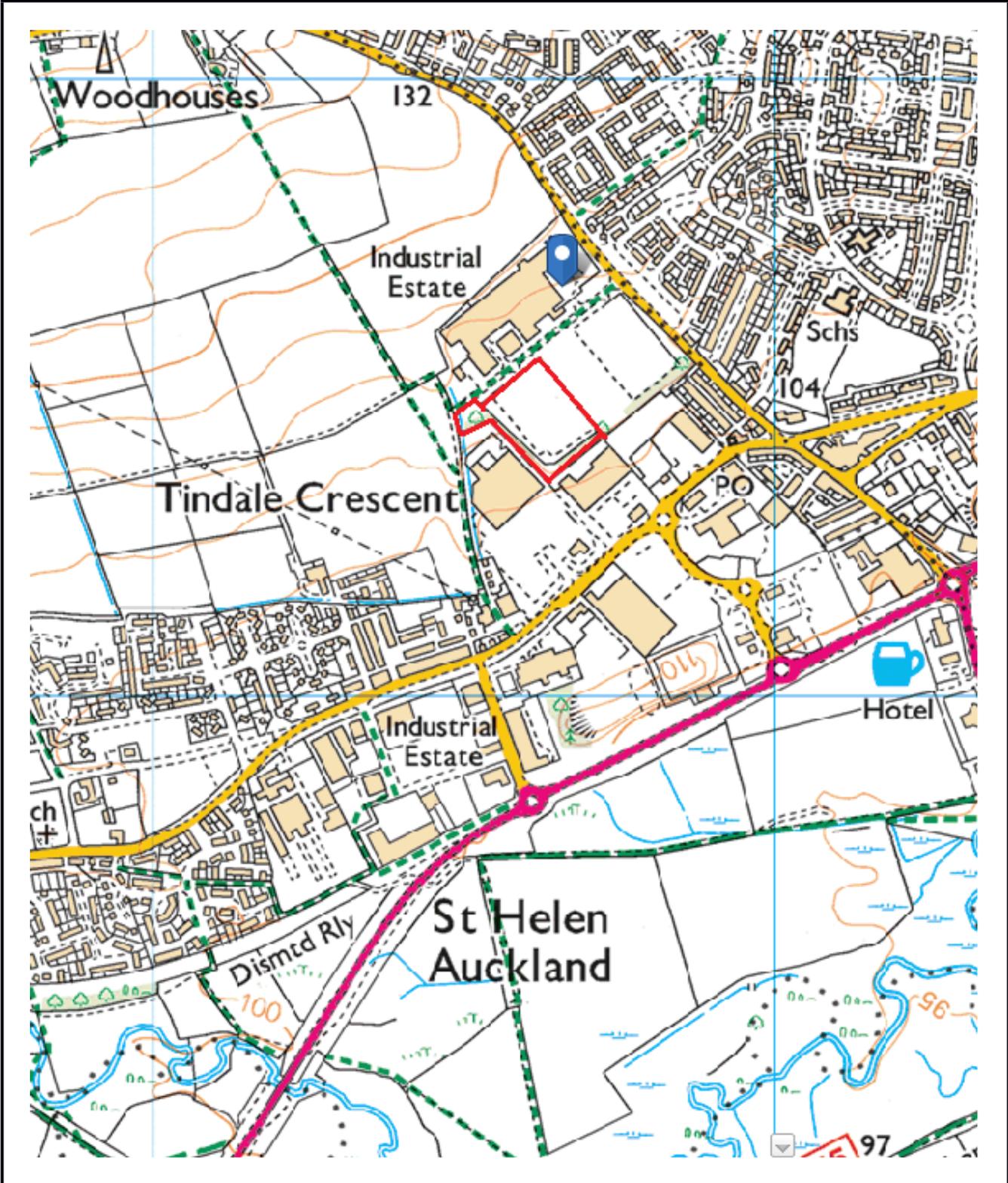
The Local Planning Authority in arriving at its recommendation to approve this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2018)
- National Planning Practice Guidance notes.
- Wear Valley District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMA, County Durham Settlement Study and OSNA
- DCC Sustainable Urban Drainage Systems Adoption Guide 2016
- Statutory, internal and public consultation responses



**Planning Services**

Ref: DM/18/02267/FPA  
 Erection of 75 dwellings (resubmission of DM/17/00466/FPA)  
 Gleeson Regeneration Ltd.  
 Site Of Former Chamberlain Phipps Coatings,  
 Catkin Way, Bishop Auckland, DL14 9TF

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**Comments**

**Date** 18<sup>th</sup> April 2019

**Scale** Not to Scale

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# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/18/02313/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	38 no. residential units, access & public open space (Outline all matters reserved)
<b>NAME OF APPLICANT:</b>	Mr John Linsley
<b>ADDRESS:</b>	Kays Hall Farm The Green Evenwood Bishop Auckland County Durham DL14 9QR
<b>ELECTORAL DIVISION:</b>	Evenwood
<b>CASE OFFICER:</b>	Tim Burnham Senior Planning Officer 03000 263963 <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The 1.55-hectare application site comprises of the former Kays Hall Farm, and associated land to the south west of the Village Green in Evenwood. Residential property lies to the south east at Neville Close and to the north west at Alpine Terrace. The site is not in current agricultural use. It sits at a slightly higher level than the adjacent village green
2. Outline planning permission is sought for a residential development of 38no. dwellings, access and public open space. All matters are reserved for future consideration at this stage although indicative details have been submitted relating to housing layout and access. These indicate that housing would be provided at both ends of the site separated by a central area of public open space. A new adoptable highways access would run across the southern end of the Village Green, from the C30a road and joining the application site on its south eastern corner.
3. The application is reported to the Planning Committee as it constitutes a proposal for major development.

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### PLANNING HISTORY

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4. Planning approval was previously granted in 2012 on the north western part of the site for the conversion of existing farm buildings into 9 dwellings. This permission has since expired and most of the buildings which previously occupied this part of the site have been demolished.

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# PLANNING POLICY

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## NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
6. *NPPF Part 5 - Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
7. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
8. *NPPF Part 9 - Promoting sustainable transport.* Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised. In assessing applications for development it should be ensured that, among other things, safe and suitable access to the site can be achieved. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
9. *NPPF Part 12 - Achieving well-designed places.* The creation of highquality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
10. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
11. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

12. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

*The above represents a summary of those policies considered most relevant in the Development Plan*

#### **LOCAL PLAN POLICY:**

13. The following saved policies of the Teesdale Local Plan are relevant to the application:

14. *Policy GD1: General Development Criteria:* All new development and redevelopment within the district should contribute to the quality and built environment of the surrounding area and includes a number of criteria in respect of impact on the character and appearance of the surrounding area; avoiding conflict with adjoining uses; and highways impacts.

15. *Policy ENV1: Protection of the Countryside.* This policy restricts the type of development that would be permitted in the Countryside. Tourism and recreation developments would be considered acceptable where compliant with other policy and where they do not unreasonably harm the landscape and wildlife resources of the area.

16. *Policy ENV8: Safeguarding plant and animal species protected by law:* Development should not significantly harm plants or species protected by law and where appropriate adequate mitigation measures should be provided

17. *Policy ENV10: Development Affecting Trees or Hedgerows:* Development will only be permitted where it avoids unreasonable harm to or loss of: Any tree or hedgerow protected by a preservation order; or A tree within a conservation area; or Any trees, tree belts or hedgerows which do, or will when mature, contribute significantly to any of the following A. Landscape diversity B. The setting of nearby existing or proposed buildings C. A protected species habitat D. Visual amenity.

18. *Policy ENV15 Development Affecting Flood Risk:* Development (including the intensification of existing development or land raising) which may be at an unacceptable risk of flooding or may increase the risk of flooding elsewhere will not be permitted. Where appropriate, new development should incorporate a sustainable drainage system in order to manage surface water run-off.

19. *Policy BENV11: Archaeological Interest Sites.* Before the determination of an application for development that may affect a known or potential site of archaeological interest, prospective developers will be required to undertake a field evaluation and provide the results to the planning Authority. Development which would unacceptably harm the setting or physical remains of sites of national importance, whether scheduled or not, will not be approved. Developments which affect sites of regional or local importance will only be approved where the applicant has secured a scheme of works which will in the first instance preserve archaeological remains in situ or where this is not possible by excavation and record.

20. *Policy H1A: Open Space within Developments*: In new residential development of 10 or more dwellings, open space will be required to be provided within or adjacent to the development.
21. *Policy H14: Provision of Affordable Housing within Residential Developments* The local planning authority will, in appropriate circumstances as identified by a needs assessment of the district, seek to negotiate with developers for an element of affordable housing to be included housing developments.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3271/Teesdale-Local-Plan>*

## **RELEVANT EMERGING POLICY:**

### **The County Durham Plan -**

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. *Highways Authority*: No objections. Full engineering details will need to be supplied in due course in relation to the estate road.
24. *Northumbrian Water*: No objections provided the development is carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy.
25. *Coal Authority*: No objection, satisfied that the site is or can be made safe and stable for development.
26. *Evenwood and Barony Parish Council*: Object to the application and raise concerns about highways safety at the access point for the new road and general highway safety issues. Compensatory village green within the application site is not considered to be appropriate and there are also concerns over boundary treatment, and removal of a lime tree near to the access road.

### **INTERNAL CONSULTEE RESPONSES:**

27. *Education*: There are enough school places available, no contributions are required.
28. *Design and Conservation*: There are concerns regarding the need for a new vehicular access through the village green which would have a significant impact on the historic plan form of this part of the village.

29. *Archaeology*: No objections. The applicant has submitted an interim report detailing the works carried out to assess the archaeological potential of this site which has been confirmed as very low. A condition is required to ensure that details of the work undertaken is submitted for the County Durham Historic Environment Record.
30. *Housing*: The Strategic Housing Market Assessment (SHMA) sets out the affordable housing requirement across the County, the West delivery area has an affordable housing requirement of 15%, equating to 6 affordable units across this development.
31. *Drainage and Coastal Protection Team*: No objections to the principle of the drainage scheme proposed but the SuDS system on the site would require further development.
32. *Ecology*: No objections subject to additional bat surveys being undertaken, the provision of mitigation within the development and biodiversity improvements both on and off the site.
33. *Landscape*: The revised plans for the access road show the mature lime tree situated on the Village Green being retained. This tree is a positive feature in the vicinity and its retention and protection is important. There are concerns that development of the site would limit views that are currently available from the green out towards the countryside.
34. *Landscape: Trees*: It should now be possible to retain the prominent lime tree (T29) which is close to the access road for the development subject to receiving further details which could be submitted via condition. Concern expressed that T22, sycamore is in reasonable condition and should be retained.
35. *Environmental Health (Noise)*: No objection but a condition should be attached requiring the submission of a construction management plan.
36. *Environmental Health (Contaminated Land)*: No objection, but a contaminated land condition is required.
37. *Planning Policy*: The competing benefits and harm should be weighed up when coming to a decision on the scheme.
38. *Public Rights of Way*: There are no recorded rights of way within the site that would be directly affected by development. Any Section 106 agreement should include contributions towards the maintenance and enhancement of the nearby footpath network.

#### **PUBLIC RESPONSES:**

39. The application has been publicised by way of neighbour notification letter, press and site notice. Letters of objection and concern have been received from 11 addresses in the area. These can be summarised in relation to 3 main areas.
40. Highways – concern expressed in relation to highways safety of the new access road, the potential for increased traffic, congestion and related impacts particularly in relation to the safety of users of the village green.

Village Green – concerns voiced about the impact the development and the access in particular would have on the village green. Concerns that a section of the village green would be lost, and the historic layout of the green would be altered. Open

space proposed within the development would not provide a suitable alternative and the development to the west of the green would alter its character and remove its open aspect. Concerns were also expressed in relation to the loss of the prominent lime tree.

Impact of development on nearby property – concerns raised relating to impact on privacy, outlook, loss of light, overshadowing and loss of view.

Further objections put forward suggest that the new properties are not needed and that the development will have a negative impact on property value. Concern is also expressed in relation to the impact of the development on local wildlife and ecology habitats.

*The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>*

#### **APPLICANTS STATEMENT:**

41. Outline planning permission is being sought for residential development on land at Kays Hall Farm Evenwood which lies on the western edge of the village. As Members will be aware Evenwood is classified as forming part of the 'Ramshaw Cluster' in the Council's Settlement Hierarchy. Evenwood is by far the largest settlement in that cluster and has a good range of local services and a number of significant local employers, such as the CA Group who are continuing to invest in village. It is a sustainable local settlement on which other nearby settlements also rely.
42. Like all rural settlements however it is at risk from population decline which in turn would lead to a reduction in the number/ vitality of existing shops and services, and its attractiveness to businesses, that would directly affect the population as a whole. It is vitally important therefore that the Council takes positive steps to support new housing development in the village which will help to retain and even grow the local population and secure the long-term sustainability of the village. Granting planning permission for this housing development at Kays Hall Farm will help to deliver this objective.
43. The application site comprises the site of the former farmhouse, (now demolished), farmyard and outbuildings, and a small field to the south. In total the site extends to approx. 1.5ha.
44. The Council has previously granted planning permission for housing development on the northern part of the site when the farm house and outbuildings were still standing. The application site lies within the urban area of Evenwood and does not project into the open countryside. The site is bounded to the north and south by housing development and the village green to the east, which itself is already enclosed by housing on three sides.
45. It is estimated that the site will have a capacity of approx. 38 dwellings and that these will comprise a mix of two three and four bed properties of which 15% will be affordable in line with current policy. House designs will be traditional in character and reflect the local vernacular.
46. The submitted Illustrative Layout plan shows that the development will be accessed from the south east and that it is anticipated that housing on the site will be split into

two areas (North and South) separated by a large central green wedge that retains a visual link through the site to the surrounding countryside and provide for appropriate SUDS measures. Housing will face onto the village green and the central open space to best 'frame' these open areas, in line with best urban design practice thereby providing an attractive and welcoming residential environment and complimenting the existing pattern of development around the Green.

47. Access to the site will be follow the route of the exiting track that crosses the Green, at its southern end. The track will be improved to adoptable standards, and a safer junction will be created onto Raby St/Evenwood lane. Revised designs for this road, submitted in response to feedback following the public consultation exercise ensure that it will avoid the mature line tree that lies close to the main road. Further pedestrian/cycle access will be available at the north end of the site
48. The applicant has secured the consent of the Church Commissioners, who are the owners of the Village Green, to upgrade the access road to adoptable standards. The land take required to achieve this improved link, will be compensated for through the dedication of an equivalent area of land along the eastern boundary of the application site as Village Green, meaning there will be no overall loss of Village Green.
49. Specialist reports submitted with the application demonstrate that the site is: of low ecological, arboricultural and archaeological value; is not at risk of flooding; will not increase flood risk elsewhere; can be drained; and that that the proposed access will be safe
50. Overall, we believe the current proposals represent a sympathetic and proportionate response to the context of the site; the future housing needs in Evenwood, and the need to support the vitality and viability of this important rural settlement.
51. The proposal accords with relevant, saved local plan policy, guidance in NPPF on housing development in rural settlements, and the emerging policies in the County Durham Plan – specifically Policy 6.
52. It is clear that this development is sustainable and will have a number of social, economic and environmental benefits and that these significantly outweigh concerns about the development. As such planning permission should be granted.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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53. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact on the character and appearance of the area, highways issues, ecology, flooding and drainage and affordable housing and open space.

### Principle of Development

### Policy Context

54. Given the age of the Teesdale Local Plan its housing policies cannot be considered as up to date, and the emerging County Durham Plan is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

55. This engages Paragraph 11 of the NPPF which requires that housing applications should be considered in the context of the presumption in favour of sustainable development. For decision taking this means either:

56. Approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

### Housing Land Supply

57. On the 13th June 2018, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the Government's standardised methodology for calculating OAN, which is now reflected in paragraph 60 of the NPPF, and formally endorses the use of 1,368 dwellings per annum (dpa) as the OAN. The Council is now able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

58. Although the supply has not yet been established in a recently adopted plan, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.

59. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

### Location

60. Evenwood is grouped together with Ramshaw in the County Settlement Study and classed as a local service centre due to a reasonable range of services and facilities being available and accessible. On this basis there is no conflict with the housing location aims of the NPPF.

## Impact on the Character and Appearance of the Area and Amenity

61. The application site is technically located within the countryside under the Teesdale Local Plan, however, the site falls between residential development to the north west and south east and is not in current agricultural use and has a different character to the open countryside to the south and west and the village green to the north and east. The site contains an open sided hay barn and the remnants of previously demolished farm buildings. Residential development would not be out of keeping with the character or appearance of the area and the site is well related to the Evenwood settlement, representing appropriate infill between existing areas of development.
62. As the application is in outline, the submitted layout plan is being treated as indicative, but it nevertheless demonstrates that the proposed development could be accommodated on the site. As such while public concern in relation to impact on amenity to nearby property is noted, this would be a matter which would be addressed at reserved matters stage along with finer details such as boundary treatment etc. An indicative separation distance of 12mtrs (likely blank side gable to elevation containing habitable windows) is shown on the south eastern side of the site adjacent to the rear of the nearest properties on Neville Close. This distance would be in line with generally accepted separation standards, but can be addressed finally in a reserved matters application. The application site is also situated to the north west of Neville Close, which would limit the impact on these properties.
63. The application proposes an adoptable access to serve the site which would be taken from the C30a and enter the main development site at its south eastern corner. The access would cross part of the southernmost section of the Evenwood village green.
64. The village green is a prominent and historic landscape feature in the centre of Evenwood. The main section sits to the west of the C30a comprising mown grass intersected by tracks and pathways. The Green is shown on the first edition OS Maps and is considered a non-designated heritage asset in its own right, its significance derived through its evidential, historical, aesthetic and communal value. It reflects the historic plan form of the village. Its importance to the village has been borne out through the consultation response on the scheme.
65. The NPPF at paragraph 197 requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account when determining an application. It advises that in weighing applications that directly or indirectly affect 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.
66. The access would change the character of this part of the village green. The adoptable access would replace a track which runs across the green, however the appearance of this access would be much more formal and although details are indicative at this stage, it would likely be slightly raised as the area proposed for the access sits within a dip in the landscape. This would have a slight urbanising effect on the southern end of the green.
67. However, given the access relates to a small section of the green overall, it is considered that the harm to its significance would be limited, due to the extensive village green that would remain unaltered. The historic plan form of the village would remain clearly legible.

68. The village green would also lose its rural backdrop as a result of the development limiting views out across the green towards the countryside and landscape comments in this respect are noted. Nevertheless, the application does take account of wider landscape issues raised and through provision of open space on the central part of the site seeks to retain some views outwards from the green towards the countryside. However, the layout is indicative, and this could be given further consideration at reserved matters stage. It is felt that an acceptable layout could be achieved. Although some tree removal is proposed within the application site, the Mature Lime Tree, which is a prominent landscape feature adjacent to the proposed access road, can be retained as part of the scheme. This serves to address significant concern that was previously expressed in relation to its potential removal.
69. Accordingly, there is no conflict with Teesdale Local Plan Policy GD1, ENV1 or NPPF Part 16 in terms of landscape impact.
70. Separate consent would be required for development on a registered village green and there is no guarantee such consent would be given. However, this is a matter for the applicant to resolve outside of the planning process.

## Highways

71. The application proposes an adoptable access road to serve the site which would be taken from the C30a and enter the main development site at its south eastern corner. Indicative details of this access have been supplied.
72. The local concerns over the highway safety aspects of the proposed development are noted, however The Highway Authority is satisfied that the access proposed would be suitable to serve the development and that the traffic generated would not exceed local capacity.
73. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Given that the proposals are accepted by the Highways Authority the application is in accordance with Teesdale Local Plan Policy GD1 and Part 9 of the NPPF in respect of Highways Safety.

## Ecology

74. The site consists mainly of semi improved neutral grassland with rank and ruderal vegetation, which is a relatively common habitat, with no significant plant communities present. The site as a whole is of relatively limited ecological interest but is of some value to local biodiversity.
75. Potential impacts on bats do however need to be carefully considered. Two Mature Ash Trees which are proposed for removal have a medium/high bat roost potential due to cavities within their structure. Consequently, parts of the site could also be used for bat commuting routes. All British bat species are European protected species and are afforded protection under both the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981.
76. Circular 06/2005 states that it is essential that the presence or otherwise of protected species and the extent to which they may be affected by development is established before planning permission is granted. The submitted ecology report has been completed outside of the bat survey season. Therefore, further bat surveys in relation

to these higher risk trees are required. These would be covered by a condition specifying that no works should be carried out to these trees until the surveys have been undertaken and any relevant actions have been taken as a result of these surveys.

77. Given that the scheme is in outline with all matters reserved it has flexibility both in terms of timescale and in terms of layout. This will allow sufficient time to complete the necessary surveys and determine whether a Natural England License would be required prior to the removal of the trees. If for any reason the trees were of such ecological importance that their removal could not be justified, arrangements would have to be made to retain them within a final layout.
78. Circular 06/2005 states that additional surveys can only be covered by a condition in exceptional circumstances. Given the above and the wider benefits associated with the application, exceptional circumstances which justify conditioning additional survey work in this case are considered to be in evidence.
79. The NPPF at Paragraph 170 seeks to provide net gains for biodiversity. Some improvements are proposed on site, including the creation of hedgerows and a small woodland/wetland. However, it is felt that these would not on their own provide the level of biodiversity benefit that is required to offset the overall losses associated with the proposals.
80. The Ecology section have advised that in order to compensate for the remaining losses, 1ha of species-rich grassland will need to be created offsite. A financial contribution of £13,326 is sought which can be used by the Council towards biodiversity enhancements, these will be delivered in the vicinity of the development where opportunities are available.
81. Mitigation measures are proposed on the site including the provision of bat roost boxes within the development, the installation of a barn owl nest box and provision of a detailed lighting strategy.
82. Overall, it is felt that the final development can be made acceptable in Ecology terms. While some survey work remains outstanding in relation to impacts on bats, the outcome and requirements could be accommodated on the site at reserved matters stage. The enhancement features also have the potential to provide a net gain in biodiversity compared to the existing site conditions in accordance with NPPF paragraph 170(d). There is no objection from the Council's Ecology Section.
83. On this basis, the development would accord with Policies GD1 and ENV8 of the Teesdale Local Plan and part 15 of the NPPF.

#### Flooding and Drainage

84. The application site is located within Flood Zone 1 with a low flood risk probability. It is proposed that the majority of the surface water attenuation will be accommodated within a detention basin.
85. There are no objections from the Council's Drainage and Coastal Protection Team although they feel the drainage strategy could be improved through the provision of permeable drives and access ways, and through the provision of swales, small basins and filter drains along with the detention basin. Further drainage details are therefore requested via condition and these features would only be appropriate to finalise once the final layout was presented.

86. Foul water and some surface water runoff would be disposed of to the existing sewerage network, to which Northumbrian Water raise no objections.

87. The development would therefore satisfy Teesdale Local Plan policies GD1 and ENV15 in respect of flood risk and drainage provisions. Accordingly, the proposal would also be consistent with Part 14 of the NPPF in these respects.

#### Affordable Housing and Open Space

88. In line with saved Policy H14 of the Teesdale Local Plan there is a need for the provision of affordable housing in the area, equating in this case to the delivery of 6 affordable units on the development. This Policy is consistent with the NPPF in respect of delivering a wide choice of high-quality homes and to create sustainable communities.

89. The applicant is willing to enter into a S106 agreement to secure the provision of affordable housing and this would be required to be provided at an 80:20 ratio for Affordable social rented housing and intermediate tenure.

90. Policy H1A seeks the provision of open/play space within developments of 10 or more dwellings. This is in accordance with the aims of NPPF Part 8, which recognises the important role planning can play in facilitating social interaction and creating healthy communities through delivery of social and recreational facilities.

91. The development of 38 family homes would increase the need and use of open space and recreation facilities. It is proposed to provide amenity/natural greenspace on site. This would be open and publicly accessible and would provide alternative public open space in compensation for that lost due to the creation of the access road. An offsite contribution of £60,102 towards the maintenance or improvement of open/recreation space in the locality is proposed. This can be secured through the S106 agreement and conditions.

#### Other Issues

92. Investigations at the site have confirmed that the archaeological potential of the site is low. However, a condition requires that the findings of the investigations are logged with the Historic Environment Record. The Noise Action team have requested that a construction management plan be submitted due to the close proximity of the site to other residential property. Concerns relating to loss of property value cannot be afforded weight in the decision-making process. Concerns as to whether additional housing is required in Evenwood are noted and the application has been determined in line with the current housing land supply position.

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## **CONCLUSION**

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93. The NPPF states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF.

94. The proposal would provide social and economic benefits by adding 38 dwellings to the mix and supply of housing, but in light of the Council's healthy land supply, this factor is attributed less weight than would be the case if there had been a shortfall in housing land supply.

95. Affordable Housing would be provided which would be a significant social benefit. There would be economic benefits through the support for local services and facilities which would arise from the development. There would be further economic benefits associated with the construction process although these would be temporary.
96. There would be some visual improvement, particularly at the north west end of the site which hosts the existing and former farm buildings, and this can also be afforded weight.
97. The ecological enhancements and open space provision/contributions are required to mitigate the impacts of the development and therefore these are neutral factors not benefits.
98. In line with NPPF paragraph 197, a balanced judgement has been made in relation to impact on the village green which is a non-designated heritage asset. Due to the small area of the green that would be affected, the scale of harm to the significance of the heritage asset is considered to be limited.
99. Having considered all matters, there are no adverse impacts that would significantly and demonstrably outweigh the benefits, and no specific policies in the NPPF indicate that the development should be restricted. When assessed against the development plan and the NPPF considered as a whole, the overriding consideration is that the scheme would represent sustainable development. The application is therefore recommended for approval.

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## **RECOMMENDATION**

That the application be **APPROVED** subject to the completion of a S106 Agreement to secure 6 affordable homes, the on-site provision of a minimum of 1260m<sup>2</sup> amenity/natural greenspace, £60,102 towards the maintenance or improvement of open/recreation space in the locality, £13,326 towards off-site biodiversity enhancement and the following conditions:

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

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

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

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

3. The development hereby approved shall be carried out in strict accordance with the following approved plans in respect of those matters not reserved for later approval or otherwise required by any conditions:

Revised Site Location Plan rec. 19<sup>th</sup> March 2019

Proposed Layout SK01(excluding detailed housing layout) rec. 31<sup>st</sup> July 2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Teesdale Local Plan Policies GD1, ENV1, ENV8, ENV10, ENV15, BENV11, H1A, H14 and NPPF Parts 5, 8, 9, 12, 14,15 and 16.

4. Prior to the submission of reserved matters, a copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy shall be deposited at the County Durham Historic Environment Record.

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

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

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 1 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

#### Pre-Commencement

(a) A Phase 1 Preliminary Risk Assessment (Desk Top Study) is required to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.

(b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.

(c) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

#### Completion

(d) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.

(e) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

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

6. The details to be submitted for reserved matters approval in accordance with condition 1 shall include full engineering details of the design and construction of the estate road and associated footways, accesses, parking, lighting and highway drainage. The access road shall be completed in accordance with the approved details.

Reason: In the interests of Highway Safety and to comply with Policy GD1 of the Teesdale Local Plan.

7. The details to be submitted for reserved matters approval in accordance with condition 1 above shall include provision for a minimum of 1260m<sup>2</sup> of amenity open space/semi natural greenspace and include details of the timing of provision and management arrangements. Thereafter the development shall take place in accordance with the approved details, timings and management arrangements.

Reason: To ensure the appropriate provision of open space to serve the development in accordance with Policy H1A of the Teesdale Local Plan and NPPF Part 8.

8. Notwithstanding those already submitted, the details to be submitted for reserved matters approval in accordance with condition 1 above, shall include a detailed scheme for the disposal of foul and surface water from the development. Thereafter the development shall take place in accordance with the approved drainage details.

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

9. The development shall take place in accordance with tree protection measures, including protective fencing, within the Arboricultural Impact Assessment and tree protection plan by All About Trees Ltd rec. 02nd January 2019. The approved protective fencing shall be erected before commencement of development and retained throughout the construction period and no storage shall take place inside the protective fencing.

Reason: To minimise the impact of the development upon existing mature trees in accordance with Policies GD1 and ENV10 of the Teesdale Local Plan.

10. The details to be submitted for reserved matters approval in accordance with condition 1 above shall include an Arboricultural Method Statement and watching brief relating to T29 (Lime). The Method Statement shall include details of the implementation, supervision and monitoring by a suitably qualified person of the excavation, decompaction and reinstatement of the ground around T29, as well as the contact details for the person who will be overseeing the protection of trees during construction works. The RPA shall be fenced using post and rail fencing for the duration of development. Development shall thereafter be carried out in accordance with this method statement.

Reason: To minimise the impact of the development upon existing mature trees in accordance with Policy GD1 and ENV10 of the Teesdale District Local Plan.

11. The details to be submitted for reserved matters approval in accordance with condition 1 above shall include details of the provision of ecology enhancement measures to include hedgerows, woodland and a wetland, the provision of 7 integrated bat roosts, the provision of a barn owl nest box and the provision of a detailed lighting strategy in order to limit impact on any existing bat flightpaths, including details of the timing of provision and management arrangements. Thereafter the development shall take place in accordance with the approved details which shall be retained for the lifetime of development.

Reason: To conserve protected species and provide ecological enhancement in accordance with Policy ENV8 of the Teesdale Local Plan and Part 15 of the NPPF.

12. The details to be submitted for reserved matters approval in accordance with condition 1 shall include 2no. dusk and 1no. dawn bat surveys which shall be carried out by a suitably qualified person following the Bat Conservation Trust Bat Surveys - Good Practice Guidelines (2nd Edition 2012) and the results of the survey along with a schedule and implementation timetable for any mitigation measures shall be submitted to and approved in writing by the local planning authority. All recommendations and mitigation measures agreed shall be implemented in accordance with the agreed schedule and timetable. Notwithstanding the details shown on the AIATPP REV A by All About Trees Ltd rec. 02nd January 2019, neither T23 nor T25 shall be removed until the necessary surveys have been carried out in accordance with the above schedule and any mitigation measures agreed.

Reason: To conserve protected species and their habitat in accordance with Policy ENV8 of the Teesdale Local Plan and Part 15 of the NPPF.

13. In view of the proximity of the proposed development to nearby residential premises the applicant shall prepare and submit a Construction/Demolition Management Plan (CDMP) to the local planning authority for approval. The CDMP shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall include:

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

- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 'Code of practice for noise and vibration control on construction sites' 2014.
- Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.
- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council's accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

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

Reason: In the interests of amenity in accordance with Policy GD1 of the Teesdale Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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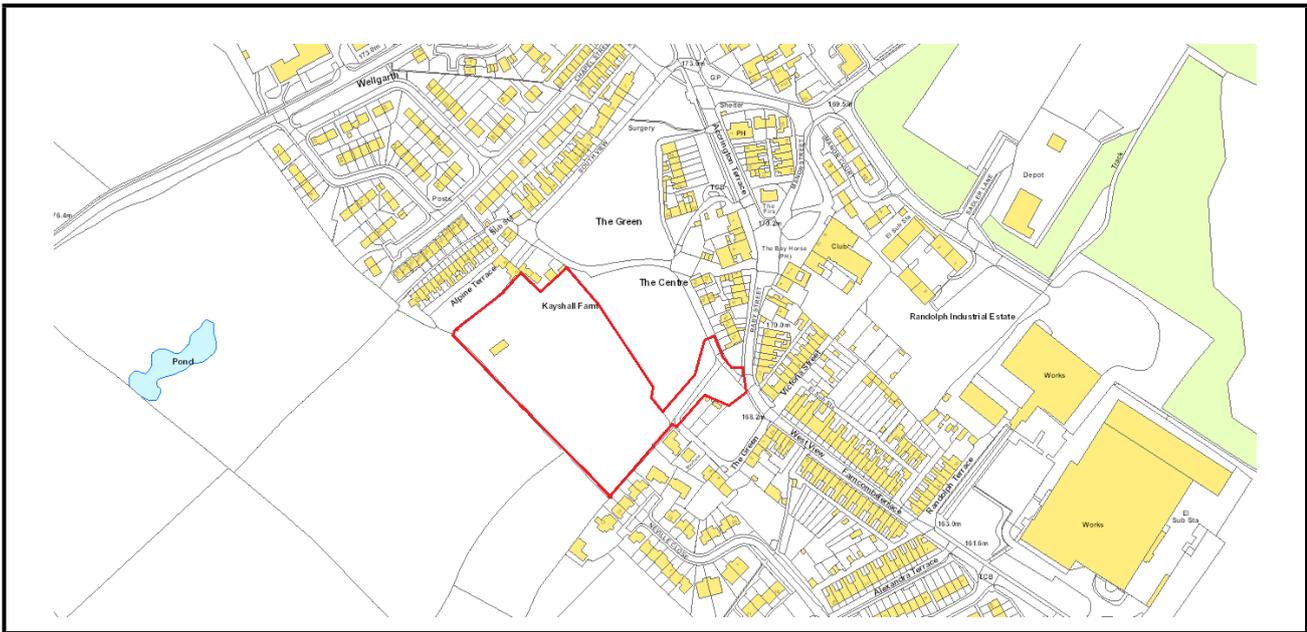
In arriving at the decision to recommend approval of the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant, and carefully weighing up the representations received to deliver an acceptable development.

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents;  
 The National Planning Policy Framework (2012)  
 National Planning Practice Guidance Notes  
 Teesdale Local Plan  
 The County Durham Plan (Submission Draft)  
 County Durham Settlement Study 2012  
 All consultation responses received



**Planning Services**

38 no. residential units, access & public open space (Outline all matters reserved)

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18<sup>th</sup> April 2019

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION No:	DM/19/00197/FPA
FULL APPLICATION DESCRIPTION:	Erection of 1 detached, 3-storey house with integral garages
NAME OF APPLICANT:	Mr & Mrs Michael Leatherland
ADDRESS:	Crawley Edge Crawleyside Bank Crawleyside Bishop Auckland DL13 2DX
ELECTORAL DIVISION:	Weardale
CASE OFFICER:	Tim Burnham Senior Planning Officer 03000 263963 <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. Crawley Edge is located in countryside on the hillside at Crawleyside Bank, in a prominent position, high above Stanhope. It is within the area of High Landscape Value (AHLV) and close to the North Pennines Area of Outstanding Natural Beauty (AONB).
2. The application proposes the erection of a three storey detached dwelling on the land immediately to the SW of the existing property. The land appears to be a former railway cutting, but more recently has been laid to grass. The proposed dwelling would be built to 'Passivhaus' standards and in a distinctly modern design utilising a mixture of stone, render and cedar boarding with roofing materials detailed as single ply membrane and grey concrete tiles. Access would be taken from the B6278 (Crawleyside Bank) at the existing access serving Crawley Edge.
3. This application is a resubmission of the same proposal (DM/16/01460/FPA) that was dismissed at appeal by The Planning Inspectorate in January 2017 following delegated refusal. This time it has been referred to the planning committee at request of Cllr Shuttleworth.

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### PLANNING HISTORY

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DM/16/01460/FPA: Erection of 1no. detached dwelling: Refused 20.09.2016 – APPEAL DISMISSED 21.02.2017

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## NATIONAL POLICY

4. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
5. *NPPF Part 5 - Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
6. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
7. *NPPF Part 9 - Promoting sustainable transport.* Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised. In assessing applications for development it should be ensured that, among other things, safe and suitable access to the site can be achieved. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
8. *NPPF Part 12 - Achieving well-designed places.* The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
9. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
10. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

## LOCAL PLAN POLICY:

11. The following policies of the Wear Valley Local Plan are relevant to the application; however, in accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight.
12. *Policy GD1: General Development Criteria:* All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
13. *Policy ENV1: Protection of the Countryside:* The District Council will seek to protect and enhance the countryside of Wear Valley. Development will be allowed only for the purposes of agriculture, farm diversification, forestry or outdoor recreation or if it is related to existing compatible uses within the countryside as defined in other Local Plan policies.
14. *Policy ENV2: The North Pennines Area of Outstanding Natural Beauty:* Priority will be given to the protection and enhancement of the landscape qualities of the North Pennines Area of Outstanding Natural Beauty as identified on the Proposals Map, when considering proposals for development. Development which adversely affects the special scenic quality and the nature conservation interest of the AONB will not be permitted.
15. *Policy ENV3: Areas of Landscape Value:* Development will not be allowed which adversely affects the special landscape character, nature conservation interests and appearance of the Area of Landscape Value identified on the Proposals Map.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3271/Teesdale-Local-Plan>

## RELEVANT EMERGING POLICY:

### The County Durham Plan -

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

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

16. *Highway Authority:* Crawleyside is a very small settlement in Weardale. It has no school or convenience shop, or indeed any retail offer. It is just under 1km steeply uphill from the western end of Stanhope, via Crawleyside Bank, which has a gradient in places of 17%, or 1 in 6. The nearest bus stop with scheduled service is in Stanhope, 870m downhill to the A689 from the application site. DCC and IHT Guidance is that maximum walking distance to a bus stop should not exceed 400m.

Sustainability is the cited 'golden thread' within the NPPF. New build dwellings should be in close proximity to community, education, and shopping facilities where realistic opportunities exist for sustainable travel modes rather than place reliance on the private motor car. The combination of lack/dearth of such facilities, distance and topography of the intervening land to the nearest settlement, and no scheduled bus service, strongly suggests the application site is not sustainable.

The 85th percentile B6278 traffic speeds through Crawleyside settlement are just under 40mph. Sight visibility of and for B6278 traffic, from the proposed access to be utilised, are impaired by the boundary treatment, particularly the high wall to the north east. When measured from the 2.4m guidance setback from the B6278 carriageway edge this latter high boundary wall restricts sight visibility of south west bound B6278 traffic to that commensurate with 10mph traffic speeds only, i.e. substantially less than actual vehicle speeds. It is suggested this too should weigh against the application.

### INTERNAL CONSULTEE RESPONSES:

17. *Design and Conservation:* As part of the planning process the former railway cutting and associated structures which cross the site have previously been identified as a non-designated heritage asset. But, for seeking to use their presence to support the application and designate the land as brownfield no further narrative is offered on the impact of this proposal on the non-designated asset or its setting. Further commentary and appraisal of such matters should be required in accordance with Section 16 of the NPPF.

The intention of the design element of these comments is not to critique the design of the building in full but rather to comment on appropriateness in context. The resultant design draws heavily on the emphasis placed on sustainability, I believe to the detriment of designing in context for the site. The result in relation to the site and its surroundings is a solution which is uncomfortable, jarring and of insufficient quality to overcome these shortcomings. Materials appear to have been driven by local availability and design in general draws little from the positives of the local vernacular. Whilst it would not be appropriate to stifle good design, such design needs to be appropriate. This rural location on the boundary of an area of outstanding natural beauty does not lend itself to the approach taken. Whilst design is subjective I note that the design and access statement is almost silent on the relevance of the design to the site and its surroundings.

As the site adjoins the boundary of the North Pennines AONB which benefits from a building design guide which actively encourages the development of high-quality sustainable architecture it is difficult to see why such advice has not been used to influence the development of this proposal.

Overall it has been proven that appropriate modern architecture can work in the context of this site, thus I would not seek to impose a pastiche solution, however, I believe the current proposal fails to respect the site constraints and so would be harmful to the local environment.

18. *Landscape*: The site is within an Area of High Landscape Value. Visibility into the site is possible from the B6278 road that passes the site to the north, and also at distance of over 1000 metres from the other side of the valley. From the latter viewpoint the site would be seen in the context of the built forms of Crawleyside above it on the valley side and the proposals are unlikely to have a significant effect on the landscape.

In views from the road immediately to the north west of the site there are glimpsed views down Weardale across the site that would be lost. However these views are seen in the context of Crawleyside, above, and the highway escape lane at the roadside, and cannot be regarded as particularly precious.

I do not, therefore, have a problem in visual terms with the principle of a dwelling on this site. While several of the boundary treatments appear to be in place, and are appropriate in terms of materials and design, I would like clarification of the boundary treatments for the whole site, should the application be approved.

19. *Ecology*: I have viewed the eDNA report for GCN (E3 Ecology, July 2016) and am satisfied with the results. I have no objections to the proposals subject to the conditioning of the Method Statement which is appended to the GCN report.

#### **PUBLIC RESPONSES:**

20. The application was publicised by site notice and press notice. No public responses have been received.

*The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>*

#### **APPLICANTS STATEMENT:**

21. The dwelling we have proposed for this site has the highest possible sustainability credentials with both the owners and the Designer being former winners of national awards for eco-homes. This exemplary new dwelling would be only the second Band A passive house in County Durham and very close to a zero-carbon home. The design and the sustainability credentials are exceptional by both local and national standards and the applicants' current home would be released to the market where there is a recognised demand for high quality, detached homes.
22. Since our application to develop this residential site was refused in September 2016, there have been some significant changes in attitudes to rural housing developments and to sustainable transport arrangements, both public and private. Subtle changes in the wording of Para 78 in the NPPF 2018 give more emphasis to the encouragement of developments in one village which may support services in a nearby village. There is an inevitable and regrettable decline in public transport services in rural areas, due to subsidy cuts, and the scheduled bus services in Weardale do not currently provide

a comprehensive and viable alternative to private car use. We acknowledge that, in rural areas, there is a greater reliance on the private motor car but within ten years most vehicles will be electric and there may be no bus service at all in Upper Weardale. This new dwelling will be exceptionally energy-efficient as well as being equipped to embrace sustainably sourced vehicle charging technology.

23. The location of the site on the edge of the hamlet of Crawleyside, an established residential area which lies within half a mile of Stanhope, was described as “isolated” in the previous planning refusal, solely because it is more than 400m from the nearest stop on a scheduled bus service. This definition of the applicants’ site’s location has been refuted in writing by the Leader of Durham County Council, Cllr Simon Henig. In the Braintree DC Appeal Court judgement in March 2018, the meaning of the term “isolated” in relation to its use in NPPF has been clarified and its previous interpretation declared as being incorrect. This decision also acknowledged that “sustainable transport options are likely to be more limited in rural areas”. We therefore consider that our proposals are sustainable, in the broadest sense of the word and provide the applicants with an opportunity to provide, for themselves, an exceptional, energy-efficient, accessible, new home.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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24. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance are whether the proposal would be a suitable location for housing having regard to the accessibility of services and facilities by sustainable transport modes and in conjunction with national planning policy; the effect of the proposal on the character and appearance of the area; and highway safety.

### Policy Context

25. The site is located outside of the settlement boundary for Stanhope as defined in the Wear Valley Local Plan (LP). However, given the age of the local plan its housing policies cannot be considered up to date.

26. This engages Paragraph 11 of the NPPF, which requires that housing applications should be considered in the context of the presumption in favour of sustainable development. For decision taking this means either:

approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

## Housing Land Supply

27. On the 13th June 2018, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the Government's standardised methodology for calculating OAN, which is now reflected in paragraph 60 of the NPPF, and formally endorses the use of 1,368 dwellings per annum (dpa) as the OAN. The Council is now able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
28. Although the supply has not yet been established in a recently adopted plan, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.
29. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

## Principle of Development

30. Crawleyside is a very small hamlet, which is identified as a tier 6 settlement within the County Durham settlement study because of its lack of any basic services and facilities. As noted previously by the Inspector, it is located approximately 1km from the services in the centre of the market town of Stanhope, but the steep incline of Crawleyside Bank would be such a deterrent for pedestrian and cycle movements, that neither would be a realistic option for residents of the proposed dwelling who may wish to use these modes of transport. He also noted that the "dial a ride" local bus service would not provide a reasonable alternative to a reliance on the private car due to it not being available in the evenings and weekends and the relative inconvenience of these "first come first serve" modes of transport compared to private car travel. These conclusions have again been shared by the Highway Authority on this resubmission.
31. Regard has been given to the applicant's arguments that the environmental benefits of a Passivhaus in minimising energy consumption and CO<sup>2</sup> emissions would exceed the occupant's CO<sup>2</sup> emissions from car travel, or that low emission vehicles could be used, but this was also raised and considered during the previous appeal, albeit in less detail. It is acknowledged that Passivhaus standard can create buildings that use significantly less energy than standard buildings in the UK. However, the Inspector made it clear in the previous appeal that whilst there may be very few energy efficient

buildings of this nature in County Durham, the Passivhaus standard is not a new, innovative or truly outstanding concept. Other Inspectors have come to the same conclusion on appeals in other parts of the country, noting that the NPPF already supports the move to low carbon and expects new development to take account of things like landform, layout and orientation to minimise energy consumption and therefore such approaches are not uncommon requirements.

32. Moreover, Passivhaus has been around since before the NPPF and is not one of the special circumstances listed to overcome development in unsustainable locations. Nor are low and zero emission vehicles. If this would have been the case it would open the door to housing in any remote location contrary to the aims of the NPPF. Furthermore, it is noted that the proposed dwelling would likely give rise to multiple car ownership with garaging included for three cars and a motorhome. Even if all the occupiers' vehicles were low emission, there is no way to ensure this would remain the case in perpetuity and therefore it is not a factor which can be given any weight. A dwelling would also generate other vehicle trips from deliveries and visits with no control possible over their environmental credentials.
33. Regard has also been given to the applicant's reference to the 'Braintree' judgement in which the court considered the interpretation of the term 'isolated' as used in paragraph 55 of the NPPF (now paragraph 79). It is acknowledged that the previous refusal made reference to the term 'isolated' and that this site would not be regarded as isolated in the context of the meaning given to the term 'isolated' in that judgement.
34. It is also acknowledged that whilst paragraph 103 of the NPPF accepts that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, for the reasons above, even allowing for such variations, it is once again considered that most journeys to and from the property would be made by private vehicle, which is the least sustainable mode of transport and contrary to the aims of the NPPF in respect of managing growth to promote sustainable transport.
35. Therefore, whilst having regards to all additional matters raised in this resubmission, there is still no reason to take any different view to that taken previously by the Council, and supported by the Planning Inspectorate, that the proposal would conflict with key aims of the NPPF, particularly Section 9 which seeks to actively manage patterns of growth and promote sustainable modes of travel like walking, cycling and public transport. There is also conflict with Wear Valley Local Plan Policy GD1, which among other things encourages access to public transport and priority to pedestrians and cyclists.

#### Character and appearance

36. Crawley Edge, as its name suggests, lies on the edge of the built development on Crawleyside Bank, facing the open countryside above Stanhope and in a sensitive landscape. The proposed dwelling would sit beyond the existing boundary wall of Crawley Edge and as such would extend the existing development distinctly outwards beyond the existing built development and into the surrounding countryside where it would be highly visible on the hillside.
37. Whilst this would not necessarily result in a visual intrusion into the landscape, given it would still be viewed closely in relation to the existing development and the confines of the former railway cutting, its visual impact would nevertheless be exacerbated by its design and materials, which depart significantly from the traditional vernacular appearance of development in the area. It is acknowledged that the existing dwelling Crawley Edge does too, but not as severely, as it utilises a pitched slate roof and

stone walls, which still respect the form and traditional characteristic of the area. It is also a lot less visible than the proposed dwelling would be.

38. The Design and Conservation Section did not comment on the previous application because they were not consulted, but that does not mean they cannot comment on the resubmission as it is a new application. They note that the former railway cutting and associated structures which cross the site have previously been identified as a non-designated heritage asset, but the proposal does not take into account any impact on the heritage value of this structure. Furthermore, whilst not completely dismissing the potential for appropriate modern architecture in the context of this site, it is considered that the proposed dwelling design, driven by its sustainability aims, rather than the positives of the local vernacular and setting, would be inappropriate in this particular context. This is evident in the design and access statement, which is almost silent on the relevance of the design to the site and its surroundings.

39. It is therefore considered that the proposed dwelling would be of an inappropriate design that would not fit well within its context and surroundings and would result in harm to the character and appearance of the area. This would in turn have a negative impact on the qualities of the Area of High Landscape Value, which is derived partly by the quality and character of the traditional building vernacular. Accordingly, there is conflict with Wear Valley Local Plan policies GD1 and ENV3. Policy GD1 requires new development to be in keeping with the character and appearance of the area, and designed to be appropriate in terms of form, mass, scale, layout, density and materials to the town or village in which it is to be situated. Policy ENV3 does not allow development which adversely affects the special landscape character and appearance of the Area of Landscape Value. There is also conflict with NPPF paragraph 127, which among other things seeks to ensure developments are visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting.

#### Highway safety

40. The proposed dwelling would take its access from the existing Crawley Edge access onto the B6278. The Highway Authority advises that sight visibility at this access is severely impaired by the high wall to the north east, to the extent that visibility of south west bound B6278 traffic would be commensurate with safety standards of 10mph traffic speeds only, which is considerably below the 85th percentile B6278 traffic speeds of just under 40mph through Crawleyside.

41. It must therefore be considered that the access provides substandard visibility for the new dwelling and as such there is conflict with Wear Valley Local Plan Policy GD1 and NPPF paragraph 108, which both require development to have safe access.

42. Whilst it is acknowledged that this is an existing access and therefore the same applies to the existing dwelling, the proposal would materially increase the use of the access. The recent changes to the NPPF lower the bar for refusals on highway safety grounds and no longer requires there to be a severe cumulative impact, which prevented refusal on these grounds previously. Paragraph 109 now states development should be refused if there would be an unacceptable impact on highway safety, which the Highway Authority advice indicates is the case.

#### Other issues

43. Two ponds in and near the site were tested for Great Crested Newts, but were found to be unsuitable. No further valuable ecological features were identified. The Ecology

section has raised no objections. Therefore, in paying regards to the requirements of the Habitats Directive, the risk to protected species is considered to be low.

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## CONCLUSION

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44. As the housing policies of the Wear Valley Local Plan are out-of-date the application should be decided within the planning balance, meaning that planning approval should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
45. The NPPF identifies three strands of sustainable development – social, economic and environmental, which must be sought jointly and simultaneously.
46. The contribution to housing supply is a benefit of the scheme, but the provision of one dwelling would make a very limited contribution in the grand scheme of the Council's housing supply, particularly as the Council is now able to demonstrate in excess of 5 years supply of deliverable housing land against the Government's standardised methodology for calculating OAN, which is now reflected in paragraph 60 of the NPPF. Similarly, any social and economic benefits from the provision of one house, including support for local services and the construction process would be equally modest and as such is afforded very limited weight.
47. Building to Passivhaus standard would create a dwelling with excellent energy efficiency, which is an environmental benefit of scheme. However, even if this would help towards ameliorating the CO<sup>2</sup> emissions from car travel associated with the dwelling, it would not be sufficient to outweigh the proposals conflict with other key environmental aims of the NPPF, particularly in terms of actively managing patterns of growth to promote sustainable transport like walking, cycling and public transport, with their associated effects on reducing pollution and health benefits. Furthermore, the adverse environmental impacts of the development on the character and appearance of the area and highway safety would also significantly outweigh any Passivhaus benefits.
48. Therefore, for the reasons given, and having regards to all matters raised, it is concluded that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. As a result, the development is not considered to be sustainable development.

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## RECOMMENDATION

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

- 
1. The proposal, by reason of its location, would result in most journeys to and from the property being made by private vehicle, which is the least sustainable mode of transport and contrary to the aims of the NPPF, particularly Section 9, in respect of

managing growth to promote sustainable transport, as well as saved Policy GD1 of the Wear Valley Local Plan in this same respect.

2. The proposal by reason of its design, would not fit well within its context and surroundings and would result in harm to the character and appearance of the area and the Area of High Landscape Value. This is contrary to saved policies GD1 and ENV3 of the Wear Valley Local Plan, as well as NPPF paragraph 127.
3. The proposal by reason of the severely impaired visibility at the B6278 access point and material increase in the use of this access, would have an unacceptable impact on highway safety. This is contrary to saved Policy GD1 of the Wear Valley Local Plan, as well as NPPF paragraphs 108 and 109.
4. Consequently, these adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme when assessed against the development plan and the NPPF considered as a whole.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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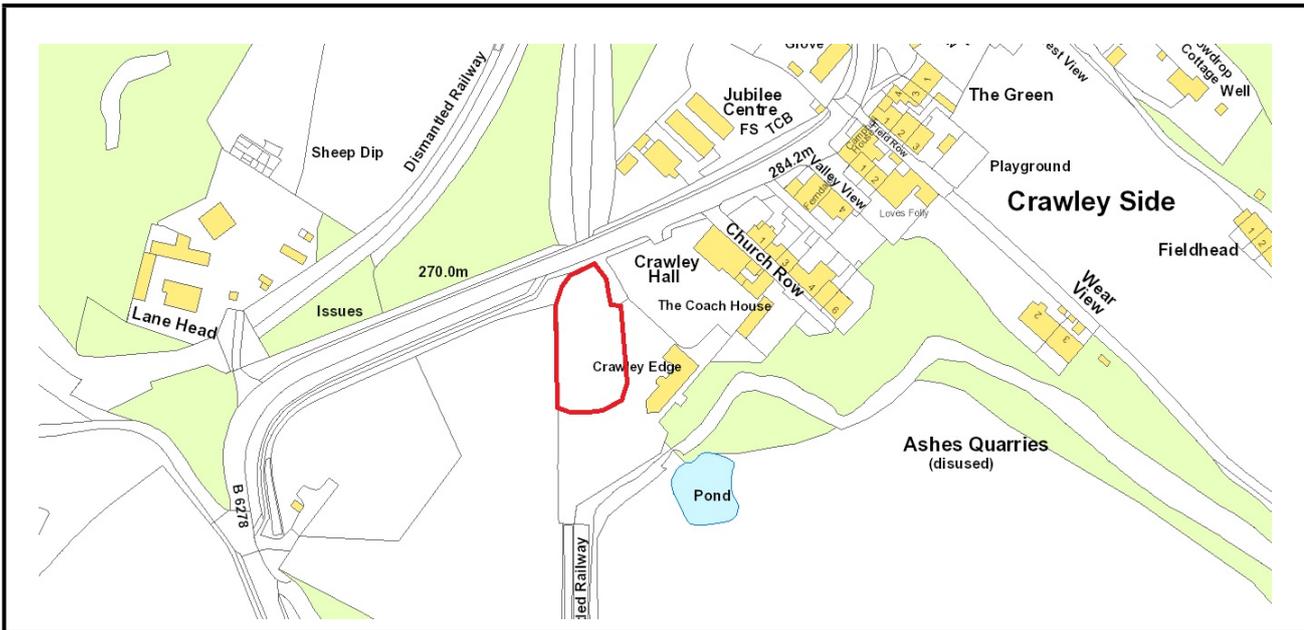
The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in the balance of all considerations, the issues of concern could not result in a positive outcome being achieved.

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents  
The relevant planning history and similar appeals  
The National Planning Policy Framework (2018)  
Wear Valley Local Plan  
The County Durham Plan (Submission Draft)  
County Durham Settlement Study 2012  
All consultation responses received



**Planning Services**

Erection of a detached, 3-storey house with integral garages

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18<sup>th</sup> April 2019

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:	DM/18/02721/OUT
FULL APPLICATION DESCRIPTION:	Outline application for up to 50 no. dwellings, all matters reserved except access
NAME OF APPLICANT:	James Trotter
ADDRESS:	Land to the South Of Sudburn Avenue Staindrop DL2 3JY
ELECTORAL DIVISION:	Barnard Castle East
CASE OFFICER:	Tim Burnham Senior Planning Officer 03000 263963 <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application site is agricultural land to the south of Sudburn Avenue and to the east of the Cleatlam Lane industrial site (former Staindrop depot). It is bordered to the east and south by open countryside and falls within the Area of High Landscape Value (AHLV) designation of the Teesdale Local Plan. Public Right of Way 11 Staindrop passes diagonally through the south east corner of the site.
2. The application is in outline with only access not reserved, for the erection of up to 50no. dwellings. As such, other than the access, the submitted housing layout plan is being treated as indicative. The development would be served by a new access onto Cleatlam Lane through the fields to the south of the industrial site.
3. The application is brought to the planning committee as it represents major development.

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### PLANNING HISTORY

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4. There is no planning history relating to the development site.

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### PLANNING POLICY

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#### NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed

development that conflicts should be refused, unless other material considerations indicate otherwise.

6. *NPPF Part 5 - Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
7. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
8. *NPPF Part 9 - Promoting sustainable transport.* Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised. In assessing applications for development it should be ensured that, among other things, safe and suitable access to the site can be achieved. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
9. *NPPF Part 12 - Achieving well-designed places.* The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
10. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
11. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
12. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

*The above represents a summary of those policies considered most relevant in the Development Plan*

## LOCAL PLAN POLICY:

13. The following saved policies of the Teesdale Local Plan are relevant to the application; however, in accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight.
14. *Policy GD1: General Development Criteria:* All new development and redevelopment within the district should contribute to the quality and built environment of the surrounding area and includes a number of criteria in respect of impact on the character and appearance of the surrounding area; avoiding conflict with adjoining uses; and highways impacts.
15. *Policy ENV1: Protection of the Countryside:* Within the countryside development will be permitted for the purposes of agriculture, rural diversification projects, forestry, nature conservation, tourism, recreation, local infrastructure needs and an existing countryside use where there is a need on the particular site involved and where a proposal conforms with other policies of the plan. To be acceptable proposals will need to show that they do not unreasonably harm the landscape and wildlife resources of the area.
16. *Policy ENV3: Development Within or Adjacent to an Area of High Landscape Value:* The proposals map defines an area of high landscape value where the distinctive qualities of the countryside are worthy of special recognition. Development will be permitted where it does not detract from the area's special character and pays particular attention to the landscape qualities of the area in siting and design of buildings and the context of any landscaping proposals such development proposals should accord with policy GD1.
17. *Policy ENV8: Safeguarding Plant and Animal Species Protected by Law:* Development should not significantly harm plants or species protected by law and where appropriate adequate mitigation measures should be provided.
18. *Policy ENV10: Development Affecting Trees or Hedgerows:* Development will only be permitted where it avoids unreasonable harm to or loss of: Any tree or hedgerow protected by a preservation order; or A tree within a conservation area; or Any trees, tree belts or hedgerows which do, or will when mature, contribute significantly to any of the following A. Landscape diversity B. The setting of nearby existing or proposed buildings C. A protected species habitat D. Visual amenity.
19. *Policy ENV12: Protection of Agricultural Land:* Development of the best and most versatile agricultural land will not be permitted unless opportunities have been assessed for accommodating development need on previously developed sites, on land within the boundaries of existing developed areas, and on poorer quality farmland.
20. *Policy ENV16: Development Affecting Flood Risk:* Development (including the intensification of existing development or land raising) which may be at an unacceptable risk of flooding or may increase the risk of flooding elsewhere will not be permitted. Development in high risk flood areas will only be permitted as an exception where there are no reasonable opportunities to develop in a lower risk area. Applications will be considered against the criteria in the sequential test set out in paragraph 30 and table 1 of ppg25. All applications for development in flood risk

areas and/or where the development would result in an increased risk of flooding elsewhere will be accompanied by a flood risk assessment as outlined in ppg25, appendix f. Developers will be required to fully fund the provision and future maintenance of flood mitigation and defence measures required as a result of their proposals, including any consequent works to prevent additional flood risk to other land/properties. Where appropriate, new development should incorporate a sustainable drainage system in order to manage surface water run-off.

21. *Policy BENV11: Archaeological Interest Sites.* Before the determination of an application for development that may affect a known or potential site of archaeological interest, prospective developers will be required to undertake a field evaluation and provide the results to the planning Authority. Development which would unacceptably harm the setting or physical remains of sites of national importance, whether scheduled or not, will not be approved. Developments which affect sites of regional or local importance will only be approved where the applicant has secured a scheme of works which will in the first instance preserve archaeological remains in situ or where this is not possible by excavation and record.
22. *Policy H1A: Open Space within Developments:* In new residential development of 10 or more dwellings, open space will be required to be provided within or adjacent to the development.
23. *Policy H14: Provision of Affordable Housing within Residential Developments* The local planning authority will, in appropriate circumstances as identified by a needs assessment of the district, seek to negotiate with developers for an element of affordable housing to be included housing developments.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3271/Teesdale-Local-Plan>*

## **RELEVANT EMERGING POLICY:**

### **The County Durham Plan -**

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

24. *Staindrop Parish Council:* No objections. The only issue the Parish Council would wish to raise relates to play provision for children at the west end of the village where the development will be located. There is currently a play area at the eastern end of Staindrop, but this is some distance away and during the local consultation

on the development, the Parish Council asked the developer to consider provision of a play area/equipment on a triangle of land at the south-eastern end of the development. The Parish Council would ask whether there is scope for some Section 106 monies to be allocated specifically for this purpose at this location.

25. *Highway Authority*: No objections to the principle of development. The applicant proposes traffic calming and speed limit alterations as part of the proposal, on the C44 highway. It must be stressed that the scheme proposed is indicative only and while the principle of a scheme is acceptable to the highway authority it would be required to be subject to the Council's detailed design and consultation, being separate to the planning process. Any improvement scheme would form part of the S106 agreement. The access would create a wider C44 highway verge which would have to be dedicated to the Council as public highway. It is considered that a replacement hedge boundary should be planted a minimum of 1m inbound of the sight visibility chord to the south, to cater for future lateral growth. Street lighting along the C44 would require improvement.

26. *Northumbrian Water*: No objection but we note that the adjacent sewer network does not have capacity to accommodate the additional flows which would be generated at the present time. A drainage condition could be applied, and Northumbrian Water would be able to carry out further assessment work to inform subsequent investment to enable a foul drainage strategy to be agreed for the site.

#### **INTERNAL CONSULTEE RESPONSES:**

27. *Spatial Policy*: The site contributes positively to the setting of the settlement and the proposal would represent an inappropriate encroachment into the countryside. The planning application site adjoins a site in use for employment and the proposed residential use may impact on / or restrict business operations for reasons of amenity. There would also be benefits from the development in terms of employment during the construction process and benefits in terms of supporting local services as well as the provision of affordable housing. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13th June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The publication of the updated NPPF in July confirms its appropriateness for use. Against the 1,368dpa figure, the Council is able to demonstrate in excess of 6 years supply. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.

28. *Design and Conservation*: The site lies some distance south of the Staindrop Conservation Area. It will be important to ensure that the long-distance views of the conservation area are not impacted upon, particularly from Cleatlam Lane. It should be clearly demonstrated that there will be no such harm.

29. *Landscape*: Object to Development. The site is within an Area of High Landscape Value. It is visible from the C44 that passes the site to the west and from footpath 11 which crosses the south east corner of the site. The most problematic landscape impact results from taking the access from the C44 through an adjoining field and

into the site to the south of the industrial estate. The position of the main access to the site would create a suburban junction in what is currently countryside and will result in the removal of significant numbers of mature trees (Ts21-27, as detailed in the Senior Tree Officer's comments) and significant lengths of hedgerow. This will result in the character of the countryside in the immediate vicinity being irrevocably changed from a narrow, gently winding country lane whose line does not appear to have changed since the medieval, or early post medieval, enclosure of the fields on either side to become the approach to a modern housing development.

30. *Landscape (Trees)*: The loss of trees proposed would be detrimental to the visual amenity of the area. The development would entail the likely loss of a significant mature oak at the entrance to Staindrop and the loss of 5no. young but established ash trees along the roadside to allow for the visibility splay.
31. *Drainage and Coastal Protection*: Whilst the swale and basin are accepted as the preferred method of transmittance and storage, the transmittance is only for a small proportion of the site. It is advisable that the layout be amended to provide more swales or filter strips. The final design should provide water quality improvement through permeable paving etc.
32. *Ecology*: Providing the recommended habitat creation is included in the overall site design as proposed there should be an overall net gain in biodiversity. The habitat creation needs to be conditioned and the detailed proposals and future management could be agreed at reserved matters stage.
33. *Noise Action Team*: The Apex Acoustics Noise report and addendum demonstrates that there will be an exceedance in terms of the BS4142 assessment however the levels do comply with the BS8233:2014 standards. The exceedance in terms of BS4142 however is over a short time period. This however has been assessed during a period where the commercial units were not fully operational. The assessment can only be undertaken taking account of existing noise levels however there could be an impact on the future growth of the industrial estate should the development proceed. The development is unlikely to cause a statutory nuisance however there could be an adverse impact on future residents as a result of the commercial activities and this residential development could restrict further growth potential of the commercial area.
34. *Archaeology*: This site has been subject to field evaluation which has identified archaeological remains of potential Romano-British date. Accordingly, a condition for archaeological work should be put on any condition granted, to secure further investigation and recording of these remains.
35. *Contaminated Land*: Contaminated land condition required.
36. *NHS*: No contributions required.
37. *DCC Education*: There are sufficient primary and secondary school places available to accommodate pupils that are likely to be generated by the development.
38. *Affordable Housing*: Affordable housing should be provided as 20% of the development in this area. This should be delivered as a mix of tenure with 80% for affordable rent and 20% for affordable home ownership. There is a requirement to provide 10% of the private and intermediate properties for older people.
39. *Public Rights of Way*: The development if carried out as per the indicative proposals would require the diversion of footpath 11 which runs across the south eastern

corner of the site. In addition, para 98 of the NPPF states that planning decisions along with protecting rights of way should also enhance them. With this in mind, the Rights of Way Section have requested a financial contribution for improvements to the Public Rights of Way network and other public access in the vicinity to be included within any S106 agreement.

#### **PUBLIC RESPONSES:**

40. The application has been publicised by way of site notice, press notice and neighbour notification letters.
41. Three letters of objection have been received. In summary, the main points of concern are in relation to highway safety, drainage and flooding, loss of green space, construction disturbance, loss of privacy and light, and the effect of loss of view on property value.

*The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>*

#### **APPLICANTS STATEMENT:**

42. The current outline application seeks approval for the erection Of Up To 50 No. Dwellings with All Matters Reserved Except Access. The site is largely located within the existing development limits of Staindrop and the proposals will provide a major and much-needed boost to the housing supply within County Durham, thereby helping the County meet the housing needs of both present and future generations. It will also result in material benefits that positively address all three dimensions of sustainable development (i.e. social, economic and environmental) identified in the NPPF, on the basis it will result in the delivery of:
- Development that will meet a wide range of local housing needs and include 20% affordable housing in line with County target;
  - Development that will help sustain population levels in the village and thereby support the long term vitality and viability of local shops, pubs, schools and community facilities;
  - Development that will have economic benefits in terms of providing employment throughout construction and beyond for local tradespeople;
  - Improved highway safety terms including 20mph zone outside the school;
43. Prior to the submission of a planning application, the developer engaged in extensive pre-application discussions with Officers over the acceptability of the proposals. This established that there were no objections in principle for residential development in Staindrop. The application site at Cleatlam Lane is without doubt the most suitable site for residential development in Staindrop and there are no realistic alternatives.
44. With the principle established, the suite of supporting/technical documents (covering matters such as drainage/flood risk, ecology, highways etc.) submitted as part of the application confirmed that the proposals will not conflict with any relevant NPPF or saved Local Plan policies, subject to mitigation measures where appropriate.

45. Despite the fact that officers have raised concerns with the development relating to landscape, trees and amenity, they take the view that various harms they have identified (above) with development this site outweigh the benefits and so are recommending refusal. This is a marginal and overly negative call.
46. All planning applications require various competing factors to be balanced. We consider their 'objections' are 'overplayed' and that the 'balance' is firmly in favour of development.
47. With this in mind, we respectfully urge the members to resolve to grant planning permission accordingly, subject to any conditions deemed appropriate on this occasion.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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48. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the general principle of development, impact on the character and appearance of the area, impact on designated heritage assets, whether the development is compatible with nearby industrial uses, and whether the scheme makes suitable provision for affordable housing, open space and public right of way improvements.

### Policy Context

49. Given the age of the Teesdale Local Plan its housing policies cannot be considered as up to date, and the emerging County Durham Plan is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.
50. This engages Paragraph 11 of the NPPF which requires that housing applications should be considered in the context of the presumption in favour of sustainable development. For decision taking this means either:
- approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i. the application of policies in the Framework (NPPF) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework (NPPF) taken as a whole.

## Housing Land Supply

51. On the 13th June 2018, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the Government's standardised methodology for calculating OAN, which is now reflected in paragraph 60 of the NPPF, and formally endorses the use of 1,368 dwellings per annum (dpa) as the OAN. The Council is now able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
52. Although the supply has not yet been established in a recently adopted plan, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.
53. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

## Location

54. Staindrop is classed as a tier 3 local service centre in the County Settlement Study on account of its reasonable range of services and facilities, including schools. Regular bus services are also available from Staindrop to Barnard Castle and Darlington.
55. Occupants of development on the application site would not be wholly reliant on private car travel to meet daily education, shopping, employment and leisure facilities and services. As a result, there is no significant conflict with the housing location aims of the NPPF.

## Impact on the character and appearance of the area

56. The site is agricultural land that falls within the Area of High Landscape Value (AHLV) designation within the Teesdale Local Plan. Saved Policies GD1 and ENV3 of the Teesdale Local Plan require among other things, that new development does not unreasonably harm the rural landscape of the area and qualities of the AHLV. Policy ENV10 does not permit development which causes unreasonable harm to or loss of any trees, tree belts or hedgerows which contribute significantly to any of the following: Landscape diversity; the setting of nearby existing or proposed buildings; a protected species habitat or visual amenity. Despite the age of these policies, they are consistent with NPPF paragraphs 127 & 170 in respect of ensuring good design and protection of the countryside, and can therefore be given significant weight.

57. The overriding character of Staindrop is an attractive rural village with a predominantly linear character, although the more modern post war residential development at its western end is not entirely in keeping with this character and has been excluded from the Conservation Area, along with the high school.
58. The surrounding countryside, which includes the application site, is nevertheless very important to the rural character and identity of the village. It frames views of the Conservation Area from a network of public footpaths crossing the fields to the south of the village, and from Cleatlam Lane leading into the village. Footpath no.11 passes diagonally through the south eastern corner of the application site before branching off at various points further to the north. It is an attractive pasture landscape comprising a mosaic of small hedgerow-enclosed fields, which in their own right, and given their value to the setting and character of the village, including the Conservation Area, can be regarded as a valued landscape. The County Durham Landscape Character Appraisal identifies this as the Tees Lowland landscape character area. The landscape strategy for this area is to maintain and strengthen the rural character of the landscape between towns and villages and includes aims to enhance and restore characteristic features of the landscape including old hedges and mature hedgerow trees.
59. Furthermore, the Cleatlam Lane approach into Staindrop has an attractive, intimate, rural character, largely as a result of its close framing by mature roadside hedgerows and trees on both sides. There is a large mature Oak tree within the eastern highway verge outside the industrial site, which is a notable landscape feature that makes an important contribution to the character of the lane and general amenity of the area in its own right.
60. The hedgerow to the south of the industrial site is part of a much longer historic field boundary, which preserves an intact historic field pattern and provides clear and strong definition to the southern extent of the village. It too is therefore an important landscape feature.
61. Whilst the main development as proposed would benefit from some containment by the industrial estate to the west and existing residential development to the north, it would take its access from a new estate road breaking through the southern hedgerow and across the adjoining field south of the industrial site. Not only would this be a harmful southern encroachment beyond the strong existing field boundaries, but it would also necessitate considerable clearance of roadside hedges and trees at the site entrance onto Cleatlam Lane to achieve suitable visibility and footpath linkages. This includes loss of the large Oak tree to the north.
62. The loss of these important landscape features and creation of a large suburban style estate access would decimate the rural character of the lane at this point, causing significant harm to the character and appearance of the area and qualities of the AHLV designation. The mitigation planting would take a significant period of time to mature, but even at maturity would not replicate the close intimate character of the lane and overcome the suburban character of the new access road. The Landscape and Tree Sections both object strongly on these grounds.
63. It is therefore concluded that the development would unacceptably harm the character and appearance of the area and unreasonably harm the rural landscape. It would thus conflict with the landscape strategy for the area and policies ENV3, ENV10 and GD1 of the Teesdale Local Plan. There is also conflict with the aims of the NPPF (paragraphs 127 & 170) in respect of ensuring development is well designed, contributes positively to and protects the intrinsic character and beauty of the countryside and valued landscapes.

## Designated heritage assets

64. Staindrop Conservation Area sits further to the north and derives some of its significance from an architecturally and historically rich townscape focused around the linear village green. As noted above, a degree of its significance is also obtained from its wider rural setting.
65. The development would result in the effective loss of an area of countryside to housing, extending the built-up area of Staindrop, as apparent from within and outside the Conservation Area. However, notwithstanding the landscape harm identified in the section above, the component of Conservation Area setting lost would only be limited in scale in the context of the Conservation Area's overall setting and considering the extent of modern built up areas within the current north and west aspect of the application site. As such, the harm would be classed as less than substantial, which NPPF paragraph 195 requires to be weighed against the public benefits of the proposal.

## Compatibility with nearby industrial uses

66. The application site immediately adjoins the former Staindrop Depot, which now hosts a range of established industrial buildings and is allocated in the Teesdale Local Plan under Policy ECON1 for uses including B2 General Industrial use. Teesdale Local Plan policy GD1(d) requires that development does not disturb or conflict with adjoining uses. This policy is consistent with the NPPF paragraph 170, which seeks to prevent both new and existing development from contributing to or being put at risk from or be adversely affected by unacceptable levels of noise pollution. NPPF paragraph 182 states that planning decisions should ensure that new development can be integrated effectively with existing businesses. It states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established and that where the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed. In addition, the Planning Practice Guidance states that noise needs to be considered when new developments would be sensitive to the prevailing acoustic environment. Local Plan Policy GD1 can therefore be given significant weight.
67. Most of the buildings on the industrial site are located around the perimeter of the site, particularly down its western boundary, which is shared with the application site. These smaller units are hard up against the boundary. It is possible that not all units are currently in active industrial use, but it is understood that they have in the recent past been used as small workshops, including joinery, paint spraying, vehicle repairs and commercial vehicle storage and are still capable of use. The largest current user occupies the building near the entrance as a vehicle repair and MOT garage. Its doors and extensive yard faces east towards the application site.
68. Whilst the submitted site layout is indicative, the purpose of such details is to demonstrate that the quantum of development being applied for can be accommodated on the site in an acceptable manner. In this case the application is seeking permission for up to 50 dwellings on the site, 13 of which would be backing directly onto the adjacent industrial site and buildings. This means that at least 25% of the proposed dwellings would sit cheek-by-jowl with an industrial site that can be used at any time for potentially noisy and odorous B2 General Industrial uses, which are not subject any working hour restrictions. As such there is considerable potential for conflict to arise between the industrial uses and dwellings through noisy and

odorous activity on the industrial site. Given the density proposed, it would be difficult to accommodate that number of dwellings in a significantly different form and therefore it is not a matter that can simply be left to detailed application stage to address.

69. The application was accompanied by a noise assessment, which noted that due to the rural location, the background noise levels are very low. However, it concluded that despite recording day time noise from drilling, metallic clanking, hammering and use of a wheel nut gun associated with the garage, the noise levels measured did not exceed 10dB higher than the background noise level and therefore the site was suitable for residential development.
70. However, the noise assessment was only carried out over a 24hr period when not all units were occupied or operational and as such, it represents only a very short snapshot in time. Use of the units could change at any time and even existing site activities could vary significantly from day to day, which is difficult to measure and predict. In respect of the existing garage, noise would be likely to be greater on occasions when the garage doors, which face east towards the development site, were open. None of the units have any restrictions on operating hours and could operate into the evening when lower background noise levels would intensify the impact of noise. As such there is considerable uncertainty over the potential unrestricted noise impacts of a fully operational site, not just now, but in the future too. The application does not even propose any mitigation measures to guard against future impacts.
71. Furthermore, even at an apparent current low occupancy, there were still noise instances recorded from the garage of more than 5dB higher than the background noise level, which the Environmental Health Section advise is an indication of an adverse impact, bordering on a significant adverse impact, particularly in the absence of any mitigation. The Council's Technical Advice Note on Noise (TAN-N) suggests commercial noise +5dB above background noise during the day is unacceptable in line with BS4142 assessment. Whilst the applicant has questioned the relevance of BS4142, an Inspector concluded in a recent appeal at Dovecot Hill in Bishop Auckland, that BS4142 is the primary standard in relation to noise sources in cases like this.
72. Even though noisy incidents would most likely be intermittent, the types of noise from existing operations alone is of an impulse, tonal and intermittent nature, that will at times be clearly identifiable and exceeding the Council's TAN thresholds. Even if mitigation had been proposed in the form of upgraded glazing and mechanical ventilation systems giving residents the option of closing windows, this could not be enforced and as such, relying on the need for residents to close their windows would represent a significant observed adverse effect. Accordingly, it is considered that conditions could not be used to secure appropriate mitigation to overcome the impacts. Complaints from future residents are likely, which could result in restrictions being placed on operations at the industrial site and would limit potential for expansion or industrial redevelopment, which is precisely what the NPPF seeks to avoid.
73. Having regard to all these factors, it is considered that the proximity of the proposed dwellings to the adjacent industrial site would be likely to lead to a conflict between the uses, which would harm the living conditions of future residents, lead to potential constraints on existing businesses and their ability to expand, and reduce the attractiveness of the industrial estate to future investors. Accordingly, there is significant conflict with Teesdale Local Plan policy GD1(d) and paragraphs 170 and 182 of the NPPF.

## Affordable housing

74. In line with Policy H14 of the Teesdale Local Plan and the advice of the Council's Housing Section, a minimum of 20% Affordable Housing would be required on the site to be split (80% - 20%) between affordable rent and affordable home ownership. This is in accordance with the aims of NPPF paragraph 50 to deliver a wide choice of homes and widen opportunities for home ownership to create sustainable, inclusive and mixed communities. The applicant states they are willing to make affordable housing provision to be secured by Section 106 agreement.

## Open space

75. In line with Policy H1A of the Teesdale Local Plan, developments of 10 or more dwellings should make appropriate provision towards open space. This is in accordance with the of NPPF Part 8, which recognises the important role planning can play in facilitating social interaction and creating healthy communities through delivery of social and recreational facilities.

76. The applicant has indicated that they would be willing to make an offsite financial contribution towards provision or maintenance of open space in the locality. As noted by the Parish Council, the nearest play area is on the other side of the village at Stangarth Lane, which is approximately 1500mtrs walk from the application site along public highway. The scheme should therefore be making some play provision within the site, but with the number of dwellings proposed and drainage requirements this is unlikely to be possible if left to detailed application stage. As such it cannot be said at this stage that the proposal makes sufficient provision for open space.

## Public rights of way

77. While it is likely that the route of PROW 11, which crosses through the site at the SE corner, could be accommodated within the development, the NPPF at para. 98 advises that planning decisions should protect and enhance public rights of way and access.

78. Even without diverting the PROW, the development would alter its character and lead to some diminishment of the experience of the route. Furthermore, the development would lead to an increase in the use of the PROW and wider network. The Rights of Way Section are therefore justified in their request for a financial contribution for improvements to the Public Rights of Way network and other public access in the vicinity to be included within any S106 agreement.

## Other Issues

79. Objectors have expressed concerns over highway issues in the area however, the advice from the Highway Authority is that safe access could be achieved, and the highways network is considered capable of hosting the level of vehicular movements that the development is likely to generate. Traffic calming and speed limit alterations are also proposed on the C44 Cleatlam Lane, which the Highways Authority have noted is acceptable in principle, although it would be subject to the Council's detailed design and consultation and would have to be secured through a S106 agreement.

80. Other concerns were also expressed over flood risk and sewerage capacity on the site. A drainage strategy has been devised involving the use of a basin in the south

east corner of the site and the use of a swale to drain the access road. The drainage and coastal protection team have accepted that the basin and swale are the preferred method of transmittance and storage, however they note that the transmittance is only for a small proportion of the site and therefore the layout would have to be amended to provide more swales or filter strips. Given the outline nature of the application this should be possible to solve through a detailed design. Northumbrian Water have noted that there is not the existing capacity for foul sewerage facilities to serve the site. However, were the development to proceed they have suggested that provision for extra capacity could be made.

81. The site has been subject to an Archaeological field evaluation, which has identified archaeological remains of potential Romano-British origin. However, the Archaeology Section have advised that a condition for further archaeological work could be attached to any approval, to secure further investigation and recording of these remains.
82. In ecological terms the application site is not of high value and there is limited potential for the site to host protected species. The Ecology Section is satisfied that a comprehensive landscaping scheme including new tree and hedge planting would be able to provide a net gain in biodiversity as required by the NPPF.
83. The land is classed as Grade 2 very good quality agricultural land. The loss of Grade 2 agricultural land is a disbenefit of the scheme, but given the small proportion of land affected, is not sufficient to warrant refusal in itself against Teesdale Local Plan Policy ENV12 but can be taken into account in the overall planning balance.

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## **CONCLUSION**

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84. As the housing policies of the Teesdale Local Plan are out-of-date the application should be decided within the planning balance, meaning that planning approval should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework (NPPF) taken as a whole.
85. The public benefits of the proposal have been carefully considered and would include the provision of new homes, although the boost to housing supply as a benefit of this development is clearly less given the Council's healthy land supply position and as such is only given moderate weight.
86. The potential support for local services and facilities is a significant benefit of the scheme, which would contribute to the social aspect of sustainability. There would be some economic benefits arising through the construction process, but they would be temporary and therefore can only be given moderate weight. The provision of some affordable homes would be a social benefit.
87. There is currently no mechanism to secure the proposed traffic calming measures, but in any event they would be mitigation and are therefore a neutral factor, not a benefit. Similarly, biodiversity enhancements, open space provision and public rights of way improvements are mitigation features, not benefits.
88. Whilst the harm to the setting of Staindrop Conservation Area would be limited, there would be serious negative environmental effects in terms of the impact on the

character and appearance of the area and rural landscape from the harmful landscape effects of the new access arrangements. Furthermore, the proximity of the development to the adjoining unrestricted industrial premises is likely to result in residents being adversely affected by the activities in the industrial premises. As a result, the existing businesses are also likely to be hampered in their ability to carry out their day to day activities and to expand or redevelop without additional burdens, in the form of noise and operational controls, being placed upon them. The proposal is also likely to reduce the attractiveness of the industrial estate to future investors. Consequently, the proposal would result in significant dis-benefits in environmental, economic and social terms. The loss of Grade 2 agricultural land is a dis-benefit, but is not significant and is therefore only given limited weight.

89. When considered having regard to the Framework as a whole, these factors lead to a conclusion that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The development should not therefore be considered to be sustainable development.

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## **RECOMMENDATION**

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

1. The access arrangements and associated works to achieve visibility would result in serious negative effects on the character and appearance of the area and rural landscape, which is designated as an Area of High Landscape Value. This is contrary to Teesdale Local Plan Policies GD1 (a, b & i), ENV3, ENV10 as well as paragraphs 127 & 170 of the NPPF.
2. The proximity of the development to the adjoining unrestricted industrial premises is likely to result in residents being adversely affected by the activities in the industrial premises. As a result, the existing businesses are also likely to be hampered in their ability to carry out their day to day activities and to expand or redevelop without additional burdens, in the form of noise and operational controls, being placed upon them. This conflict between uses is contrary to Teesdale Local Plan Policy GD1 (d) as well as paragraphs 170 & 182 of the NPPF.
3. Consequently, the proposal would result in significant dis-benefits in environmental, economic and social terms. It is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme when assessed against the development plan and the NPPF considered as a whole.

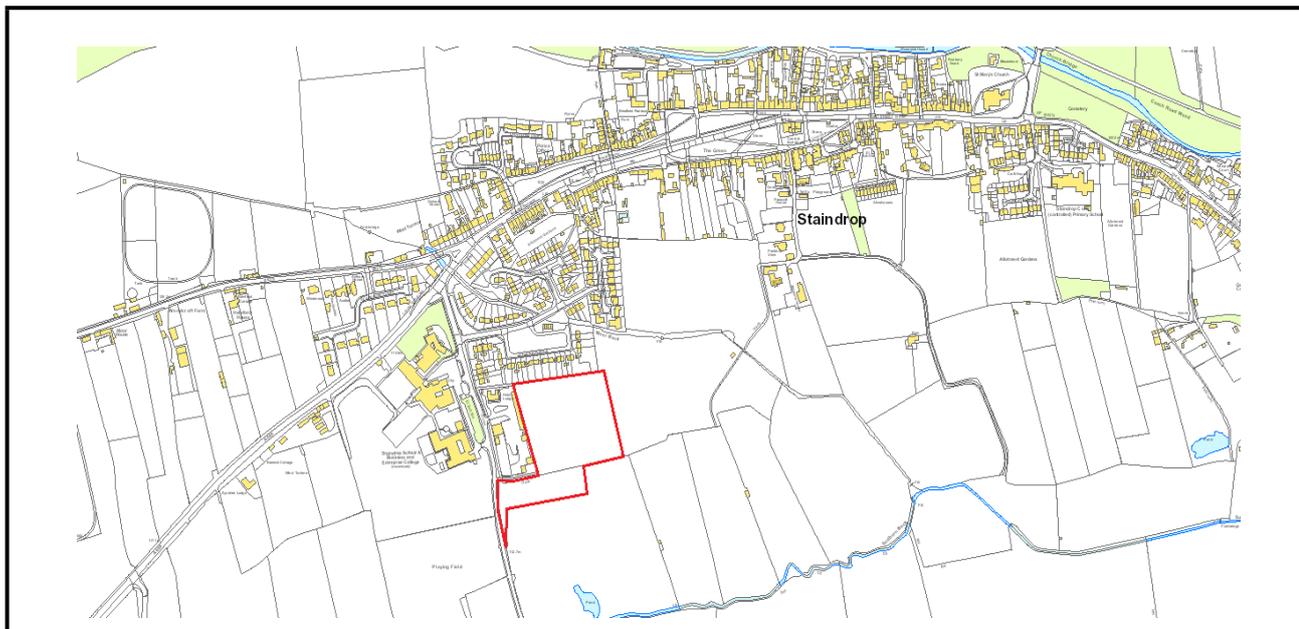
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## **STATEMENT OF PROACTIVE ENGAGEMENT**

The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in the balance of all considerations, the issues of concern could not result in a positive outcome being achieved.

## BACKGROUND PAPERS

Submitted application form, plans supporting documents  
 The National Planning Policy Framework (2018)  
 National Planning Practice Guidance Notes  
 Teesdale Local Plan  
 The County Durham Plan (Submission Draft)  
 County Durham Settlement Study 2012  
 County Durham Landscape Character Assessment  
 County Durham Technical Advice Note on Noise (TAN-N)  
 All consultation responses received



### Planning Services

Outline up to 50 no. dwellings, all matters reserved except access

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18<sup>th</sup> April 2019