



Area Planning Committee (Central and East)

Date Tuesday 11 June 2019
Time 1.00 pm
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 14 May 2019 (Pages 3 - 30)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/18/02947/OUT - Land Adjoining Snook Acres, Front Street, Witton Gilbert, DH7 6SY (Pages 31 - 54)
Outline application for 26 Dwellings with some matters excluding Access and Layout reserved for future consideration.
 - b) DM/18/03882/OUT - Howarth Raw Timber & Logs, Edderacres Plantation, Castle Eden, TS27 4TF (Pages 56 - 70)
Outline Planning Permission for a rural workers dwelling with all matters reserved.
 - c) DM/18/03785/FPA - Land to the rear of 63 Crossgate, Durham, DH1 4PR (Pages 71 - 94)
Erection of 4 dwellings.
 - d) DM/19/00397/FPA - Land South of West Wynd, Stockton Road, Seaham, SR7 0PB (Pages 95 - 104)
Domestic Garage.

- e) DM/19/01182/FPA - 3 Witton Garth, Peterlee, SR8 1NF
(Pages 105 - 112)
First floor front extension and attached garage.
 - f) DM/19/00846/OUT - Land adjacent The Elms, High Hesleden (Pages 113 - 124)
Outline application with all matters reserved for a proposed single storey dwelling and demolish existing structures with associated access works.
 - g) DM/19/00855/FPA - Land at Flass Bungalow, Flass Vale, Durham, DH1 4BN (Pages 125 - 140)
Erection of 1 no. detached bungalow.
- 6. Planning Development Management Performance Summary 2018/19 (Pages 141 - 144)
 - 7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
3 June 2019

To: **The Members of the Area Planning Committee (Central and East)**

Councillor J Clark (Chair)
Councillor A Laing (Vice-Chair)

Councillors G Bleasdale, D Brown, I Cochrane, K Corrigan,
B Coult, M Davinson, D Freeman, A Gardner, K Hawley,
S Iveson, R Manchester, J Robinson, P Taylor and
J Shuttleworth

Contact: Martin Tindle

Tel: 03000 269 713

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber - County Hall, Durham** on **Tuesday 14 May 2019** at **1.00 pm**

Present:

Councillor K Corrigan (Chair)

Members of the Committee:

Councillors H Bennett (substitute for J Clark), G Bleasdale, I Cochrane, K Corrigan (Vice-Chairman), M Davinson, D Freeman, K Hawley, P Jopling, R Manchester, L Pounder (substitute for A Laing), J Robinson and O Temple

Also Present:

Councillors L Brown, A Hopgood and M Wilkes

1 Apologies for Absence

Apologies for absence were received from Councillors D Brown, S Iveson and P Taylor.

2 Substitute Members

Councillor H Bennett substituted for Councillor J Clark and Councillor L Pounder substituted for Councillor A Laing.

3 Minutes

The minutes of the meeting held on 9 April 2019, subject to the removal of reference to Members having visited the site at Minute 5a, were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

There were no declarations of interest submitted.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

a DM/19/00324/AD - 20-29 Claypath, Durham, DH1 1RH

The Senior Planning Officer, Colin Harding, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer, CH advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for 3 no. vertical halo illuminated signs and 1 non-illuminated vertical sign and was recommended for approval.

The Senior Planning Officer, CH asked Members to recall that the application had been deferred at the last meeting, the Committee having raised issues in relation to the number of signs and the illumination. It was noted there were additional photographs and visualisations, showing the new proposals and similar styles of such halo illuminated signage, and an approximation of such signage at night.

The Senior Planning Officer, CH noted that representations were as set out in the updated report, with the City of Durham Parish Council objecting in terms of the number of signs, stating there should be two, not illuminated and the sign should be in line with other Purpose-Built Student Accommodation (PBSAs) and have an actual name and that name should be the prominent aspect. He added that there had also been objections received from the St. Nicholas Community Forum and the City of Durham Trust.

The Senior Planning Officer, CH reminded Members that the application was advertising consent, and therefore the relevant considerations were in terms of impact upon amenity and upon public safety. He noted Officers felt the signage was appropriately designed and located and would not impact upon amenity. He added there had been no objections from the Highways Section or Durham Constabulary in terms of public safety.

The Chair thanked the Senior Planning Officer, CH and asked Parish Councillor Roger Cornwell, representing the City of Durham Parish Council to speak in relation to the application, noting he had accompanying slides which would be displayed on the projector screens.

Parish Councillor R Cornwell explained that the objections from the Parish Council remained in relation to the amended application.

He noted that while the Council's Street Naming and Numbering Team had confirmed that the building was formally named 20-29 Claypath, this would not appear on any of the proposed signage.

Councillor J Robinson entered the meeting at 1.15pm

He added that it was felt that a name with local significance, and smaller mention of the brand of the student accommodation, similar to other PBSAs across the City would be more appropriate. He reiterated that the Parish Council felt two non-illuminated signs would be sufficient, adding that once students had moved in to the accommodation they would know where they lived.

Parish Councillor R Cornwell noted the application was within the Durham City Centre Conservation Area, and in the context of listed buildings nearby. He added that the Parish Council felt the application was contrary to saved City of Durham Local Plan Policies E21, E22, E23 and Q16, noting the application would: not preserve and enhance the historic setting; not enhance or preserve the Conservation Area; not safeguard listed buildings and their setting; and would be detrimental to visual amenity or highways safety. He asked the Committee to refuse the application

The Chair thanked Parish Councillor R Cornwell and asked Mr James Taylor of Lichfields to speak on behalf of the applicant.

Mr J Taylor thanked the Committee for the opportunity to speak and noted apologies he been unable to attend the previous Committee, his colleague A Willis having spoken at the last meeting. He explained that the revised application had taken on board the comments made by the Committee at the last meeting, with the removal of the illumination of the sign adjacent to Christchurch, the remainder to have the accent lighting as previously proposed. He added that the two-metre-deep recesses meant that two of the signs would only be visible if viewed head on, with the gable signage being designed for waymarking.

Mr J Taylor noted a proposed use for the building at 17 Claypath for a hotel and added that there would be the context of individual bedroom spaces that would be lit in that building and the PBSA. He referred Members to a slide within the Officer's presentation, noting the similar signage at Riverwalk, and added that he would be happy for a condition in terms of the Case Officer setting the level of lighting. He added the subtle effect, being a halo onto warm bricks, would not be cold. He explained that the issue raised relating to the name of the property were not relevant in terms of the application, and that the address of the property was 20-29 Claypath. He concluded by asking the Committee to agree with the Officer's recommendation to approve the application.

The Chair thanked Mr J Taylor and asked Councillor J Robinson if he felt he could make a decision upon Item 5a, Councillor J Robinson noted as he had arrived after the presentations had begun he would not vote on this application. The Chair asked Members of the Committee for their comments and questions.

Councillor D Freeman explained he was a Member of the City of Durham Parish Council, however, was not a member of their Planning Committee and had no input into their comments on the application. He noted that he had agreed with the views put forward by Committee Members at the last meeting, in terms of the number of proposed signs and whether there was a need for illumination. He added that the changes made by the application had result in no reduction in the number of signs, still four, and three of those remained as illuminated signs. He explained he felt that the illuminated signs as proposed, relating to the brand of student housing, was advertising for that brand, akin to supermarket signage with company logos.

Councillor D Freeman added he felt that there had been a missed opportunity in respect of having a name for the building in keeping with the local area and that the changes to the application since the last meeting were not sufficient and therefore he would not support the application.

Councillor M Davinson noted the discussions that had taken place at the last meeting and added that the applicant had made some concessions. He noted that Members had attended the site and that given the depth of the recesses on the front of the building, he did not feel those signs to not present any issues. He added that those on the gable ends would be much more visible when going up or down the street, and he whilst understood the concerns raised by objectors. Councillor M Davinson explained he could not see where the Committee could reasonably object to the application such that any appeal against the decision could be dismissed. Councillor M Davinson added he felt the application was now the best that would be put forward in this regard and proposed that application be approved in line with the Officer's recommendation within the report. Councillor P Jopling seconded the proposal.

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report.

b DM/19/00178/FPA - Land to the North of St Godric's Close, Newton Hall

The Senior Planning Officer, Barry Gavillet, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for 17 bungalows with associated infrastructure and was recommended for approval subject to conditions and a Section 106 (s106) Legal Agreement.

The Senior Planning Officer, BG referred Members to slides showing the Council owned site, current utilised for grazing and recreation, albeit not regularly. He highlighted the access to the site would be shared with the nearby day centre and school there was a construction management plan that would ensure there was not conflict with those facilities.

Members noted the proposed site layout plan and elevations, with a central open space within the development and the Senior Planning Officer, BG highlighted that there were no issues in terms of amenity impact within the site or to others nearby. In terms of responses from consultees, the Senior Planning Officer, BG noted no objections, with services noting requirements for a s106 Legal Agreement in terms of facilities and services within the Framwellgate and Newton Hall Electoral Division: healthcare; provision or enhancement of play facilities; education provision; and provision of 25 percent affordable housing on site for affordable rent. The Senior Planning Officer, BG noted that in discussions as regards the affordable provision, it was noted that 100 percent would be affordable and following considerations of viability some reduction in the financial contributions for the other elements had been agreed

The Chair thanked the Senior Planning Officer, BG and asked Local Member, Councillor A Hopgood to speak in relation to the application.

Councillor A Hopgood thanked the Chair and Committee and noted it was with pleasure she was able to speak at Planning Committee in support of an application. She noted that the scheme was an excellent example of where developers work with Local Members and deliver what is needed in an area. She explained that Local Members and residents had wished for bungalows and that was what the scheme would deliver. Councillor A Hopgood highlighted that there had been no objections from the public and that from public consultation and a number of queries to date that people would be very interested in living in the properties once completed.

Councillor A Hopgood noted she was very supportive of the scheme, however, she asked that if Members were minded to approve the application that they would propose that the condition in relation to start times for work be amended to 8.00am. She concluded by noting the scheme was for all bungalows, all affordable, with the properties adapted or ready to be adapted for needs as required and therefore she fully supported the application.

The Chair thanked Councillor A Hopgood and asked Local Member M Wilkes to speak in relation to the application.

Councillor M Wilkes thanked the Chair and Committee for the opportunity to speak in support of the application. He explained that the scheme represented a marvellous opportunity to provide much needed provision of bungalows, adding that Believe Housing, formerly the County Durham Housing Group, should be applauded for working with Local Members and residents to bring forward such a scheme. He added a local letting policy would be beneficial and help local people to be able to stay in their area and highlighted the adaptability and versatility of the designs would benefit occupants going forward. He concluded by asking the Committee to approve the scheme.

The Chair thanked Councillor M Wilkes and asked Mr P Glover, agent for the applicant to speak in support of the application.

Mr P Glover noted that the Officer and Local Members had set out the case for the application and that he would only briefly add that the scheme represented an excellent opportunity to develop an unused area of land, providing a scheme of bungalows that were all wheelchair adaptable, future proofing the scheme for occupiers. He added that as all single storey buildings there was minimal impact upon amenity and that 17 properties on the site represented a relatively low-density development. He asked that the Committee approve the application as per the Officer's report, as supported by the Local Members.

The Chair thanked Mr P Glover and asked the Senior Planning Officer, BG if he had any comments in terms of the points and issues raised by the speakers.

The Senior Planning Officer, BG noted that he felt the amended start time of 8.00am would be acceptable and asked if the applicant could respond in relation to the point raised regarding a local lettings policy. Mr T Winter, Development Manager, Believe Housing noted he would be happy regards such a policy, akin to policy in place for a development at Pity Me.

The Chair thanked the speakers and asked Members of the Committee for their comments and questions.

Councillor J Robinson noted the comments from Local Members, the proposed amended start time of 8.00am for works and local lettings policy and added he felt the scheme was a “win, win” for the area and proposed that the application be approved.

Councillor M Davinson thanked the Senior Planning Officer, BG for the inclusion of a construction management plan and seconded the proposal for approval, subject to the 8.00am works start time.

RESOLVED

That the application be **APPROVED** subject to completion of a s106 legal agreement, the conditions as set out within the report, noting an amendment in relation to an 8.00am start time for works.

c DM/19/00053/FPA - Site of Former Eden Community Primary School, Robson Avenue, Peterlee

The Senior Planning Officer, Barry Gavillet, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for 67 dwellings and associated infrastructure and was recommended for approval subject to conditions and a s106 Legal Agreement.

The Senior Planning Officer, BG referred Members to slide showing that the site was cleared, with grassed areas and some hardstanding. He explained the site was fenced off and had not been used for some time and was surrounded by existing housing. He noted the sustainable location, within close proximity to Peterlee town centre with all the associated services, amenities and transport links.

The Senior Planning Officer, BG noted no objections from the Highways Section and no objections from internal consultees. He noted no objections from Northumbrian Water Limited, subject to a condition, and no objections from the National Health Service (NHS) subject to a financial contribution regarding healthcare. The Senior Planning Officer, BG noted the inclusion of contributions in terms of ecology, play provision and healthcare, and 10 percent affordable housing on site. He added that while 10 percent was within the s106, the developer was seeking to provide 100 percent affordable housing at the site.

The Senior Planning Officer, BG noted some clarifications in relation to the report: that paragraph 28 should be disregarded as this had been included in error; amendments to Condition 8 in relation to drainage; and minor amendment to elevations, gable windows being removed, path widths and for these to be reflected in amended plans.

The Chair thanked the Senior Planning Officer, BG and asked the Committee Services Officer to read out a statement on behalf of Local Member, Councillor A Laing in support of the application.

“My apologies that I can’t be at the Central and East Planning Committee this afternoon. I would like to fully support the proposal for a new development on the former Eden Community Primary School. This land has stood empty for nine years. As in the report, there are a number of facilities in the area which are very accessible. I would like to support the Officer’s recommendation of approval, but can I also add there are 19 bungalows being planned as part of the scheme and it also has 100 percent affordable housing. Thank you for your time”.

The Chair thanked the Committee Services Officer and asked Mr P Hacking, agent for the applicant to speak in support of the application.

Mr P Hacking thanked Members and noted the proposed development would deliver 67 affordable dwellings, with 25 rent to buy, 42 affordable rent, including 19 bungalows, with two of those being disable compliant to the highest accessibility standards. He noted the Strategic Housing Land Availability Assessment (SHLAA) had identified the need for bungalows, with the other properties to be two and three bedrooms.

Mr P Hacking noted the financial contributions as set out within the report, regarding open space, ecology and healthcare. He added there had been dialogue with the Planning Department and amendments had been made to the application over time to improve the scheme. He asked Members to note the traditional design in sympathy with the area, with render and vertical features to provide some variety. Mr P Hacking noted the stand off distances at the south-east of the development ensured privacy for the existing development. He added there would be dual-frontage properties at the junction and prominent plots, with no blank gables, and back to back plots with 1.8 metre fencing for gardens.

Mr P Hacking noted no objections from the Highways Section in terms of the application, with all properties having in-curtilage parking provision and with additional visitor parking provided within the development. He added that a transport assessment had noted no negative impact from the scheme. He noted that landscaping had been accepted by Officers and noted trees that would be retained in the north-west corner of the site.

Mr P Hacking concluded by noting the scheme was policy compliant, would provide much need accommodation, bungalows and financial contributions for he local area and asked that Members agree the application as per the Officer's recommendation.

The Chair thanked Mr P Hacking and asked the Committee for their comments and questions.

Councillor J Robinson noted this was another well worked scheme, involving Local Members and giving much needed affordable housing. He noted paragraph 82 of the report stated, "no adverse impacts from the proposed scheme" and therefore proposed the application be approved as set out within the report. Councillor H Bennett seconded the proposal.

Councillor O Temple asked for clarification in relation to the density of the housing proposed on the site, asking if an average of 22 dwelling per hectare was correct for the County. The Senior Planning Officer, BG noted the average was around 30 per hectare and that for this site it was 38.2 per hectare. Councillor O Temple noted that if the development had been within his area he would have opposed the application, noting some separation distances were also less than recommended within guidance. He noted however there was support from the Local Member and understood their comments.

RESOLVED

That the application be **APPROVED** subject to completion of a s106 legal agreement, the conditions as set out within the report, and with the amendments as set out by the Officer.

d DM/19/00371/FPA - Corner House, Potters Bank, Durham

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer, JJ advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from C3 dwelling to HMO Sui Generis (Student Accommodation) and was recommended for approval.

The Planning Officer, JJ referred Members to site plans, noting the prominent location on the busy junction of the A167 and Potters Bank and the site having garden and driveway areas.

She explained as regards proposed elevations, noting that the existing balcony area to the rear would be removed. Members noted current and proposed floor plans, moving from four bedrooms as existing to seven as proposed, four downstairs, three upstairs. She added that this would represent largely internal works and the removal of the balcony as previously stated and a two-metre-high boundary fence with the adjacent property, "Russet Grey".

The Planning Officer, JJ noted no objections from the Highways Section, noting the application site was in a sustainable location. She explained objections had been received from the City of Durham Parish Council, noting their comments in relation to how the percentage of student Houses in Multiple Occupation (HMO) was calculated, with the Council's Spatial Policy Section noting an 8.8 percent figure, below the ten percent threshold set out within the Council's Interim Policy on student Accommodation.

The Planning Officer, JJ noted no objections from Environmental Health and the HMO Licensing Officer noting the requirements in terms of the appropriate licence. She explained there had been a number of letters of objection from the public, as set out within the report, with issues raised including: loss of a family home; impact upon the community balance; existing student provision already in the area in terms of large PBSAs at Mount Oswald and Sheraton Park; and that a number of properties within 100 metres were used as student HMOs.

The Planning Officer, JJ noted Members were familiar with the methodology in respect of the HMO density calculation and that the figure provided by Spatial Policy was 8.8 percent. She added that Officers felt the proposals were acceptable and the letting agent had noted they would monitor and enforce the letting agreement, provide maintenance and liaised with Colleges and Police representatives.

The Chair thanked the Planning Officer, JJ and asked Local Member, Councillor L Brown to speak in relation to the application.

Councillor L Brown thanked the Chair and noted she was at Committee as County Councillor for the Neville's Cross Ward and wished to object to the conversion of Corner House from C3 to C4 use, noting the Interim Policy on Student Accommodation on which she based her objection stated that:

"changes of use from any use to:

- *A Class 4 (House in Multiple Occupation) where planning permission is required; or*
- *A House in multiple occupation in a sui generis use (more than six people sharing)*

will not be permitted if more than 10% of the total number of properties within 100m of the application site are already in use as HMOs or student accommodation exempt from Council Tax charges”

Councillor L Brown added that confusingly there were three different figures quoted as percentages of student housing within 100 metres of this property. She noted the applicant had stated the percentage was zero, however this was the figure for the narrow postcode in which the property falls and was not the relevant figure for planning purposes. She noted that Planning Officers had given the figure as 8.8 percent extracted from a single source of data on September 1st last year in the middle of the summer vacation. Councillor L Brown added that Council tax exemptions would have expired on or around the 30th June for students who had graduated, and their replacements were unlikely to have claimed exemptions until October. She noted a more accurate reading would have been obtained by using figures from the more up to date register published in April this year which includes new registrations arising from the updated HMO legislation.

Councillor L Brown explained that a third figure had been obtained by a door knocking exercise within 100 metres of the property. She noted this had been carried out by a local resident and this was then repeated during which she was accompanied by a local Parish Councillor, who was also a Trustee of the Neville's Cross Community Association. Councillor L Brown noted this was to check that the findings were accurate and explained that their findings revealed that out of 45 properties within a 100-metre radius of the site, ten were occupied by students, suggesting a percentage of 22%. She noted this figure disregards those properties which are renting out rooms to students.

Councillor L Brown noted that there was a potential discrepancy in the latter two figures which was very worrying if it were repeated throughout the City. She noted Officers had been made aware of the problem with the figures, as it was based on residents' concerns about the accuracy, or otherwise, of the Council's Spatial Policy figures. She added that she felt there was a need to review not only how the Council arrives at its percent figure from a single, now outdated source, but also how to make use of other datasets that were now available. She lamented that it was a sad fact that no one in Durham, neither Officers, residents nor students knew exactly how many student properties there were in the city. She added that it was now one of the priorities of the Parish Council to research the amount of student housing throughout the city and arrive at a realistic total.

Councillor L Brown explained that she felt the nub of the matter on which the Committee must decide; having listened to her address did Members now have reasonable concerns about the accuracy and robustness of the figure that was given in Paragraph 37 of the report?

She noted that if Members were concerned, she would suggest that the application should be deferred to allow the Council's figures to be checked. She explained that the Spatial Policy Team were relying on out of date Council Tax data, she reiterated that she was not saying it was wrong, however, she argued it may be out of date and may only reflect part of the picture. She noted that those who lived in the City knew that some landlords would pay council tax automatically, to save themselves paperwork, and that this had yet to be compared with other sources of data. Councillor L Brown noted she had sight of the list of student properties and visited the area and at least five of them were much closer than 100 metres away. She noted that obviously because of data protection and privacy laws she would not disclose addresses at Committee but would liaise with Officers after Committee to allow them to check residents' figures.

Councillor L Brown noted that as the application was being recommended for approval on the basis of the figures supplied by the Spatial Policy Team as per paragraph 61 of the Officers report she offered it up as a test case. She added that at the risk of repeating herself, she felt that until it could be proved beyond doubt that the student occupation figures in the immediate area were correct, she would ask that the application be deferred or even refused because the data was being challenged.

The Chair thanked Councillor L Brown and asked Parish Councillor R Cornwell, representing the City of Durham Parish Council to speak in relation to the application.

Parish Councillor R Cornwell thanked the Chair and explained that a figure of 8.8 percent HMOs within 100 metres of the application property represented three properties out of a total of 34 within that distance. He added that the Parish Council, using Ordnance Survey data established there were 34 properties within the radius and were confident as regards this. He explained that he believed there were in fact five properties from those 34 that were occupied by students, three being a matter of public record and two known from the door knocking exercise as described previously. Parish Councillor R Cornwell noted that this represented 14.7 percent, above the threshold as set out within the Interim Policy on Student Accommodation. He added that the postcode showing zero percent was not relevant, as the location was previously a shop and the only building to have that particular postcode.

Parish Councillor R Cornwell explained that Council Tax data from September 2018 was not reflective of the numbers currently and he would dispute the figures now, being eight months out of date. He suggested that that if not a current figure then Members may wish to refuse the application, or Spatial Policy could look at the plausible explanation as regards a figure of 14.7 percent.

The Chair thanked Parish Councillor R Cornwell and asked Ms Lucy Szableweska, local resident to speak in objection to the application.

Ms L Szableweska noted as a local resident the first she had known as regards the application was a notice attached to a nearby lamppost. She added that given the number of student properties in the area, and the nearby PBSAs one would assume there was sufficient student accommodation. She explained she was dismayed as regards the potential conversion of the property and could not understand why there would be a loss of housing stock, formerly a family home and a shop among other uses.

Ms L Szableweska noted that students would not have as active a role in the local community as they did not live there permanently. She added that while not against students or student landlords, she felt that within the area there was a disproportionate number of HMOs in the area. She noted several good student neighbours.

Ms L Szableweska noted she felt somewhat in the dark as regards how the figure for number of HMOs within 100 metres was calculated, for example was a property cut in half by a 100 metres radius be counted? She reiterated it was not an issue with students as such, having a friendly relationship with those nearby, reminding them to put out their rubbish bins for example. Ms L Szableweska noted the Raynsford Review of Planning which had noted the break down of communities and a need for a new community covenant. She concluded by asking the Committee to kindly consider the comments made in objection to the application.

The Chair thanked Ms L Szableweska and asked the Principal Planning Officer, Alan Dobie to comment on the points raised.

The Principal Planning Officer noted the issues raised as regards the percentage of HMOs within a 100-metre radius of the property. He reminded Members of the consistent methodology that was used, as set out within the Interim Policy, noting it was robust and at planning appeals Planning Inspectors had agreed. He noted while it had been noted there were several previous and possible uses for the property, the application before Members for consideration was for a HMO. The Principal Planning Officer noted that the Interim Policy on Student Accommodation sought to control the numbers of HMOs and that local plan policies referred to within the report were also those relevant to control and balance communities within the City. He added that as the percentage of HMOs within 100 metres had been calculated to be less than ten percent, and the application was in accordance with planning policy, the recommendation was for approval.

The Policy Team Leader, Spatial Policy, Graeme Smith noted that in terms of the data used, it was as set out within the Interim Policy, paragraph 11 that:

“In order to assess the percentage of HMOs or student exempt properties within 100m of an application for an HMO, the Council will use Council Tax information consisting of those properties with Class N exemption mapped using the Council’s GIS mapping system”.

He noted that therefore it was clear which data was to be used in determining the percentage of HMOs within a 100-metre radius. The Policy Team Leader noted mention of the data used and when it was collated, he added that the timing of when the application was submitted meant that data from September 2018 gave a percentage of 8.8. He noted that using March 2019 data, the most up-to-date, this too gave a figure of 8.8 percent, encompassing the current academic year.

The Policy Team Leader noted the map relating to the National Land and Property Gazetteer (NLPG) was updated weekly and the Council’s Geographical Information System (GIS) was used to give a 100 metre radius buffer and the data set ran against this. He reminded Members that the data from Council Tax was anonymised and given to Planning as a percentage figure. He reiterated the comments of the Case Officer and the Principal Planning Officer as regards other methods and data not being that set out within the Interim Policy and therefore was not that which was used.

The Policy Team Leader noted in more general terms as regards the Interim Policy, that the County Durham Plan was at consultation currently and those who had spoken may wish to comment via that channel.

The Chair thanked Officers and asked the Committee for their comments and questions.

Councillor O Temple noted he felt the Committee was “over a barrel” in terms of the application. He noted the Interim Policy as defined and agreed if judged against that the application would succeed. He added that it raised issue therefore of the policy itself and the issue raised as regards student landlords paying council tax suggested a possible loophole within the policy that was open to abuse, given the relatively inexpensive cost to such landlords. Councillor O Temple noted that unfortunately he would have to vote for the application, however, he noted that the debate had provided impetus in looking at the policies and to see if they were sufficiently robust for the future.

Councillor M Davinson noted he had attended the site visit and the property was on a prominent corner plot near to traffic lights on a busy junction and gateway into the city centre. He asked for clarification in terms of maintaining the garden and hedge through a management plan.

The Planning Officer, JJ reiterated that the letting agent, Harringtons, would deal with any issues at the property and had maintenance teams that could attend 24 hours a day, and carried out quarterly inspection and liaised with the University Colleges and Durham Constabulary.

The Solicitor – Planning and Development, Neil Carter noted that if the question was whether a potential condition on hedge maintenance could be included, then he felt this would not be reasonable, as the Council has separate planning powers for untidy sites. He added that in the context of the planning application it would be unreasonable to condition at that level of detail.

Councillor D Freeman explained he was a Member of the City of Durham Parish Council, however, was not a member of their Planning Committee and had no input into their comments on the application. He noted that the Interim Policy seemed to be full of holes and the figures used seemed to be flawed based upon the experience of people living in the areas where such HMO applications were being submitted. He added he felt it would be better to defer the application in order to look to being able to have more accurate figures as regards HMOs, or not approve this application.

Councillor M Davinson noted he disagreed with Councillor D Freeman and while he noted the Interim Policy may not be perfect, it was the policy in place and unfortunately the Committee had to refer to that. He proposed that the application be approved as per the Officers report. Councillor O Temple seconded the application.

The Solicitor – Planning and Development reiterated that the Interim Policy referred to a specific data set and therefore this was the one to consider in terms of applying the Interim Policy. He endorsed the comments of the Policy Team Manager and the ongoing review in relation to the County Durham Plan.

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report.

e DM/19/00702/FPA - 7 Dryburn Hill, Durham

The Planning Officer, Susan Hyde, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer, SH advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from dwelling (use class C3) to small HMO (use class C4) with 5 bedrooms and associated car parking and was recommended for approval.

The Planning Officer, SH referred Members to aerial photographs of the site and noted the location north of the city centre, towards Framwellgate Moor, with the University Hospital of North Durham (UHND) to the south of the application site. Members were shown proposed elevations of the property and floorplans, with the Planning Officer, SH noting proposed car parking arrangements for five vehicles, with an area of land owned by the applicant that had not been previously fenced off to be used. She added that pedestrian access to cul-de-sac ran alongside the property boundary and that there was a shared access with a neighbouring property at the rear. Members noted the proposed boundary treatments and the location of a bus stop near to the property. The Planning Officer, SH explained that it was proposed for five bedrooms, all en suite, with only minor external alterations, with no proposed extensions to the property.

The Planning Officer, SH noted that the Highways Section had offered no objections to the application and Spatial Policy had noted a figure of 4.8% for HMOs within 100 metres of the property, noting the data used being that from March 2019. She added that Environmental Health had also offered no objections to the application. Members were asked to note that Durham Constabulary had raised objection in terms of change of use of properties, especially within a cul-de-sac having the potential for more anti-social behaviour, though they had clarified that there had been no police complaints within the last 12 months.

The Planning Officer, SH explained that representations had been made by the City of Durham Civic Trust and Local Residents in objection to the application, as set out within the report noting issues including: bins; fencing/boundary treatment; access and impact upon the nearby bus stop; more comings and goings in an area where children play; and whether occupants would be students or those in recovery for substance abuse.

The Planning Officer, SH noted that the application was in line with policy and Officers felt there would not be negative impact upon residential amenity and therefore the application was recommended for approval.

The Chair thanked the Planning Officer, SH and asked Local Member, Councillor M Wilkes to speak in relation to the application.

Councillor M Wilkes thanked the Chair and noted he did not support the application and would ask the Committee to refuse the application for the following reasons. He firstly referred Members to saved Local Plan Policy H9 and also concurred with the comments made on a previous application by Councillor L Brown in terms of the issue of the numbers of HMOs within an area and some not being registered, and the impact upon existing properties within an area. He added that the application area of Durham Moor, while outside of the city centre, was not immune to such issues and he felt that there would be detrimental impact upon the area.

Councillor M Wilkes noted that in the period of the property being empty and with unemptied bins this was in breach of Policy H9, adversely affecting the character of the location.

Councillor M Wilkes added that he felt the application was contrary to Policy T1 in terms of access on to the proposed driveway from the busy, main arterial route, with a nearby bus stop compounding issues. He noted that he did not think drivers on this road would expect cars to be reversing out on to the main road, though this was a possibility in terms of the application as set out. He added that also there would be cars crossing across the pavement and therefore the application was contrary to saved Policy T1 in terms of pedestrian and highway safety.

Councillor M Wilkes noted saved Policy H13 referred to impact upon residential areas and noted there would be reduced garden space and issues with bins as only for five, not six therefore not eligible for additional bins from the Council. He added that Local Members, the Parish Council and residents did not support the application and asked the Committee to refuse the application based upon Policies H9, H13 and T1 of the Local Plan.

The Chair thanked Councillor M Wilkes and asked Mr Kevin McLernon, the applicant to speak in support of his application.

Mr K McLernon thanked the Chair and Committee for the opportunity to speak and noted that the application was from himself and his business partner, not a large company. He explained he had been professional landlords since 1997 and his business partner was a Teacher / Volunteer, and both were responsible people. He wished to clarify that the property was not for use by those recovering from substance misuse or asylum seekers as purported by some people. He reiterated as per the application that the intention was for a high-quality development for local professionals, for example those working at the nearby hospital, Police Headquarters or County Council.

He added that he would be happy for a caveat such that no one under the age of 23 could occupy the property, to allay any doubts as regards the property being used by young students.

Mr K McLernon noted his routine with the properties within his portfolio included a monthly inspection, and he noted in another of his properties he had a tenant for 20 years. He noted the parking provision proposed was acceptable to the Highways Section and that in general those renting in such properties would not have a car, or that the likely total would be for two cars, though provision was made. In reference to comments from Durham Constabulary as regards HMOs and potential increase in anti-social behaviour, he quoted the Police themselves as stating no incidents within the area. He asked that Members of the Committee would take on board the comments he had made and the Officer's recommendation for approval. He noted he was happy to answer any queries from Members of the Committee if appropriate.

The Chair thanked Mr K McLernon and asked the Planning Officer, SH to comments on the issues raised by the speakers.

The Planning Officer, SH noted as regards issues in relation to the Interim Policy, this had been addressed by the Policy Team Leader and Solicitor – Planning and Development. In terms of saved policies, she noted that H9 referred to amenity and that in this case Officers had felt that the alterations were minor and in keeping with the exterior and five residents was not a high number, with many families consisting of four or five people. In terms of Policy T1, the Planning Officer, SH noted that the Highways Section had looked at the proposals and found them acceptable in terms of the access on to the highway, being able to turn within the curtilage to exit the property, and the context of the bus stop nearby. She added that in terms of Policy H13 and character and amenity, Officer felt that a mix of C3 and C4 use class was acceptable, with the density being below that set out within the Interim Policy and therefore the recommendation was for approval.

The Solicitor – Planning and Development noted the suggestion made by the applicant in terms of an age restriction on those that may occupy the property. He advised that this would not meet the necessary tests for imposition notwithstanding the applicant's acceptance of it.

Councillor M Davinson asked which elements as set out in the report represented the objections raised by the Civic Trust, as they seemed to be listed in with residents' comments. The Planning Officer, SH noted they objected primarily on the change of use from C3 to C4 on the basis of increasing studentification within the area.

Councillor J Robinson noted the saved policies referred to within the report and asked as regards residents concerns as regards access and bins blocking a shared right of way. The Chair asked if Mr K McLernon wished to clarify for Members' information.

Mr K McLernon explained that the previous tenant was a family of five and comings and goings had been predominantly from the front of the property, not via the shared access at the rear. He added that he would be more than happy to work with the neighbour in order to minimise any issues relating to the shared access.

Councillor P Jopling proposed that the application be approved, she was seconded by Councillor R Manchester.

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report.

f DM/19/00649/FPA - 51 Whinney Hill, Durham

The Planning Officer, SH, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer, SH advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from a C4 house in multiple occupation to 7-bedroom HIMO with a wrap round single and 2 storey extension and external alterations and was recommended for refusal.

The Planning Officer, SH referred Members to site plans and noted the location of the dwelling within a small cul-de-sac, being an end terrace property. It was highlighted that the adjoining property was in C3 use and that the application property currently was in C4 use, albeit with no extensions. Members noted some single storey extensions to properties within the area and noted the scale of the proposed extensions and the Planning Officer, SH highlighted this on proposed floorplans and elevations.

Councillor G Bleasdale left the meeting at 3.00pm

The Planning Officer, SH noted that in terms of responses from statutory and internal consultees, there had been no objections from the Highways Section, and objections had been received from the City of Durham Parish Council in relation to the Interim Policy, the increase in the number of bedrooms, bin and cycle storage, and impact on local residents.

The Planning Officer, SH added that Spatial Policy had provided a figure for HMOs within a 100 metre radius, 49.2 percent. It was added that Environmental Health had raised no objections to the application, however, had raised concerns as regards the levels of noise and disturbance that individual households may experience. Members noted there had been no objections from the HMO Officer, the Conservation Officer or Durham Constabulary.

The Committee were informed that there had been representations from the City of Durham Parish Council, the Civic Trust and a local resident, the neighbouring C3 property, all objecting to the application. Issues raised included the high levels of noise from the existing HMO being exacerbated by the application, issues with parking in the narrow cul-de-sac, access via communal areas, and a fear that the organisation for seven bedrooms could be altered to fit nine.

Councillor G Bleasdale entered the meeting at 3.06pm

The Planning Officer, SH explained that Officers felt the scale and character of the proposed extension was such that it was not subordinate to the host property and out of keeping with the host property, in addition the change of use to a sui generis use class with seven or more occupants would have a detrimental impact on residential amenity from noise and disturbance. The Planning Officer, SH noted that this would be contrary to saved Policies H9 and H13 and therefore the recommendation was for refusal.

The Chair thanked the Planning Officer, SH and asked Parish Councillor Victoria Ashfield, representing the City of Durham Parish Council to speak in relation to the application.

Parish Councillor V Ashfield thanked the Committee for the opportunity to speak on behalf of the City of Durham Parish Council to object to application. She explained that the City of Durham Parish Council Planning Committee had discussed the application at its meeting on 15 March 2019 and requested that the Clerk object to the proposal. She added that the Parish Council were grateful that the application had come to Committee and wished to add their strong support to the report of the Officer who was recommending refusal.

Parish Councillor V Ashfield noted the objections of the Parish Council included that within 100 metres of 51, Whinney Hill the percentage of student lets was over 50%, well over the acceptable threshold for extensions to HMOs resulting in additional bed-space.

She explained that the Parish Council was aware that the Pre-Submission Draft County Durham Plan Policy on Student Accommodation has abandoned the reference to extensions to existing HMOs with the Parish Council regarding this as retrograde, as the impact of additional people causing noise and disturbance was the same whether they were in a new HMO or an extension to an HMO.

She added that the Parish Council did not believe that the decision of one Inspector should be accepted as sufficient reason to set aside the policy on extensions to HMOs. Parish Councillor V Ashfield noted other Inspectors have given differing advice: extensions will result in more students whether in a new HMO or an extension to an existing HMO.

Parish Councillor V Ashfield noted that the County Council's Interim Policy on Student Accommodation stated that:

"In order to promote the creation of sustainable, inclusive and mixed communities [...], applications for new build HMO and extensions that result in additional bed-spaces [...] will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from council tax charges."

Parish Councillor V Ashfield noted that the previous application was withdrawn following publication of the Planning Officer's report to Committee. The Planning Officer's conclusions at that time were the same as those before Committee now.

She explained that the Parish Council also supports the Planning Officer's other objection (alteration to the character and scale of the host property, contrary to policies H9 and Q9 of the City of Durham Local Plan, 2004 and the NPPF, part 12). Parish Councillor V Ashfield stated that in fact the proposed development would use the entirety of the garden and direct access to the back garden would be impossible and would create difficulties for storage (and timely emptying) of waste and recycling bins.

Parish Councillor V Ashfield referred to the issue of parking and noted that although the Highway Officer has indicated that no further parking permits would be allowed, even if this did not add to the parking congestion on this road it could however create additional pressure on surrounding areas, such as The Hallgarth, where existing residents, including those with Disability Permits, were already having difficulty in being able to park their cars.

Parish Councillor V Ashfield explained that the Parish Council also supported neighbours who have objected on a range of grounds, including: that the new building, being out of keeping with the remainder of the street, would detract from the appearance of the World Heritage area; the additional traffic caused by construction works would create significant difficulties; that for the immediate neighbour at No.52, it would create a real deterioration in their living conditions, the inevitable noise and disturbance brought about by a group of seven students living on the other side of a party wall was hostile to family life and loss of private right of access and reduction of "right to light" would also undermine their living conditions.

Parish Councillor V Ashfield added that the Parish Council noted that there were increasing concerns among permanent residents of the city that it was more and more difficult to bring up young children in safety in the city in the context of the noise and sometimes unfavourable environment of the different lifestyle of student neighbours. Parish Councillor V Ashfield noted that for all those reasons the Parish Council fully supported the Officer's conclusions and grounds for recommending refusal and asked the Committee to refuse this application.

The Chair thanked Parish Councillor V Ashfield and asked Members of the Committee for their comments and questions.

Councillor D Freeman explained he was a Member of the City of Durham Parish Council, however, was not a member of their Planning Committee and had no input into their comments on the application. He noted that he welcomed the Officer's recommendation and fully supported their report. He noted he felt the proposal was an appalling application, with no merit, a three-bedroom family home becoming a monstrosity. He added that should such a proposal be allowed it would feel much larger than a seven-bedroom property and could have internal alterations made such that it would have more bedrooms still. He noted that while Environmental Health had not objected, they had raised concerns for the neighbours in the C3 property should the application be approved. Councillor D Freeman proposed that the application be refused in line with the Officer's report and recommendation.

Councillor J Robinson seconded the proposal made by Councillor D Freeman.

He explained he was familiar with the area and the issues relating to parking and traffic and added that the point made at paragraph 50 of the report in relation to one external door only was also a great concern in terms of fire safety.

Councillor M Davinson noted there would be an escape window, however, he felt this was not the same as having another door as a means of escape in the event of a fire. He added that on visiting the site it had been clear to him that the access utilised by the C3 property next door, allowing them to take their bin around the application property into the cul-de-sac for collection, would be effectively blocked and accordingly he supported colleagues who had proposed and seconded the application for refusal.

Councillor G Bleasdale noted as she had left the meeting for part of the item she would not take part in the vote.

RESOLVED

That the application be **REFUSED**.

g DM/19/00459/FPA - Brancepeth Castle Golf Club, Club House, Brancepeth

The Principal Planning Officer gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the erection of a timber structure on practice range and AstroTurf area and was recommended for approval.

The Principal Planning Officer noted that the proposal was for a timber structure on the existing practice area on existing Golf Club land. He referred Members to photographs and aerial photographs highlighting the relationship of the practice area with the main club and the nearby properties and Brancepeth Village. The Principal Planning Officer noted that the nearest houses were set well behind mature trees.

The Committee noted the design of the proposed structure, being 4 metres high with two tee-off areas and one area for instruction for beginners offering a degree of shelter from the elements. The Principal Planning Officer noted the elevations with the design being relatively unobtrusive.

The Principal Planning Officer noted that there had been no objections from the Highways Section, though there had been objections raised by Brancepeth Village Parish Council in relation to the potential increase in traffic. Members noted there had been no objections from the Conservation Area Officer, Landscaping Officer, Ecology Section or Environmental Health.

In terms of public representations, the Principal Planning Officer noted 27 letters of support for the application, noting the facility would help recruit and retain Members at the Golf Club, and would reflect the same amount of use and noise. It was noted supporters also noted there was no application for floodlighting and there was sufficient parking within the Golf Club.

The Principal Planning Officer noted there had also been 10 letters of objection and four letters of representation. He noted the main issues raised had included: impact on traffic; increased noise; detrimental impact on the character and appearance of the conservation area; precedent in terms of commercial activity in the village; risk from stray golf balls; and that further subsequent applications would look to increase opening times or introduce floodlighting.

The Principal Planning Officer noted that among other relevant saved Local Plan Policies there was a specific policy relating to golf courses, Policy R18. He explained that this stated that development would be permitted provided it could be demonstrated that it did not have an adverse impact on: the openness of the greenbelt or the character or appearance of the countryside; or the natural or historic environment; or existing flora and fauna; or the agricultural viability of the best and most versatile agricultural land; or public rights of way; or residential amenity; or traffic and highway safety.

The Principal Planning Officer noted that as there was already an existing practice range on that location it was not felt that there was impact upon amenity, with the orientation of the proposed structure likely to encourage straight plays, however, this would be an issue for the Golf Club to enforce. He reiterated that Environmental Health had not objected in terms of noise impact. In relation to impact upon the Conservation Area, Area of High Landscape Value and Historic Park and Gardens, the Principal Planning Officer noted the modest structure would only represent a minimal adverse impact, with the Landscape and Conservation Area Officers offering no objections to the proposal.

The Principal Planning Officer explained that the Highways Section had not offered any objections in terms of a potential increase in traffic, and in respect of amended opening times and/or floodlights would be subject to separate applications and for consideration by Committee if appropriate. He added that this application did not include toilet facilities.

The Principal Planning Officer concluded by noting that Officers felt that the application was acceptable in terms of saved Local Policies and National Policies and therefore was recommended for approval.

The Chair thanked the Principal Planning Officer and asked Local Member, Councillor F Tinsley to speak in relation to the application.

Councillor F Tinsley noted both himself and his fellow Divisional Members, Councillor O Gunn had listened to the points raised by all residents on this application. He noted the context, within the beautiful Brancepeth Village, having a unique character which should be protected and preserved. He added it was important that the Committee took the time to consider the issues relating to the Conservation Area and the Historic Park of national significance.

Councillor F Tinsley noted that it was also clear the Golf Club had taken regard of the constraints of the site, with a modest structure being proposed, smaller than a two-bed bungalow. He reiterated as regards the number of letters of both support and objection to the application. He noted that the Golf Club had explained as regards dwindling numbers and that they needed to compete in terms of facilities they offered.

Councillor F Tinsley noted the issues raised by objectors in terms of impact on the Conservation Area and the Historic Park and in terms of residential amenity from noise and stray golf balls. He added that there was not inclusion of floodlighting within the application and he and Councillor O Gunn were glad as they would feel that would be inappropriate. He concluded by noting Local Members felt Brancepeth Village was a beautiful village and wished for it to remain that way.

The Chair thanked Councillor F Tinsley for his comments and asked Councillor O Gunn to speak in relation to the application.

Councillor O Gunn thanked the Chair and noted the area she and Councillor F Tinsley represented, Willington and Hunwick included Brancepeth Village. She reiterated the points made by her fellow Divisional Member, adding that in particular the Castle and St. Brandon's Church were amazing buildings. She noted the views of residents on both sides had been set out within the report and by Councillor F Tinsley and both she and Councillor F Tinsley understood those views. She explained she understood the importance to the Golf Club in being able to retain members and enhancing golfing opportunities. She noted that looking at wider sustainability for the area she was delighted that the golf club was in the top 100 in Britain and Ireland and was the only golf Club within the Electoral Division.

She concluded by asking the Committee to take into account issues raised, such as the impact on the Conservation Area and potential traffic issues and noted she was sure the Committee would bring their experience to bear on the decision.

The Chair thanked Councillor O Gunn and asked Mr Steve Rose, the applicant to speak in support of his application.

Mr S Rose thanked the Chair for the opportunity to speak to Committee and explained he was Chair of the Brancepeth Castle Golf Club's Strategy Sub-Team, and a 30-year member of the Golf Club. He added that Team had been mindful of considering the natural environment when looking to have a structure for the practice ground, which had been in use for 48 years. Mr S Rose noted that most structures of this type were of steel construction and appearance, however, the Team had looked to have a more sympathetic design with timber and appropriate wood stain.

Mr S Rose noted no objections from the Council's Highway Section and added that with dwindling numbers at the club meant that there were 120 less than 10 years ago, giving context in terms of the traffic associated with the Golf Club. He added there had been no formal complaints as regards noise from the practice area. He noted that the Chair and Vice-Chair of the Golf Club were residents of Brancepeth Village and supported the application.

Mr S Rose noted that it was felt the application would benefit the community in offering additional facilities and asked that the Committee approve the application.

The Chair thanked Mr S Rose and asked the Principal Planning Officer to comment on the issues raised by the speakers.

The Principal Planning Officer noted he felt it had been helpful that Local Members had attended to give the views on both sides on behalf of residents. He added that Officers had been very careful in looking at issues such as the impact on the Conservation Area and Officers had worked with the applicant in terms of issues such as the choice of stain to be used, to ensure the structure would blend in.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor J Robinson noted he agreed with the comments made by Councillor F Tinsley as regards potential floodlighting, however as Officers had stated, that would be a separate application should that ever be requested.

Councillor J Robinson noted the condition within the recommendation for a management plan and took comfort that this offered protection in perpetuity and therefore proposed that the application be approved.

Councillor M Davinson noted on the visit to the site that the area where the minibus had parked while Members looked at the practice ground had potential for people to park and noted he felt the Club should put something in place to prevent parking at the bottom of the practice ground. He added that the practice ground appeared to be relatively quiet, however, should the application be approved, and the area become more popular he felt there would need to be a procedure in place to be able to collect the golf balls safely. He seconded the proposal made by Councillor J Robinson for approval.

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

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| APPLICATION NO: | DM/18/02947/OUT |
| FULL APPLICATION DESCRIPTION: | Outline application erection of 25 Dwellings with all matters excluding access and layout reserved for future consideration (Amended Description) |
| NAME OF APPLICANT: | Mr John Holmes, Witton Hall Farm, Coach Lane, Witton Gilbert |
| ADDRESS: | Land adjoining Snook Acres, Front Street, Witton Gilbert, DH7 6SY |
| ELECTORAL DIVISION: | Witton Gilbert |
| CASE OFFICER: | Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application is located on land adjacent to the property know as Snook Acres which is on Front Street Witton Gilbert. The site measures approximately 1.29 hectares and is currently used as a mix of paddock and agriculture. To the north of the site is Front Street highway with residential properties located beyond and to the south the site is framed by the A691 highway and associated structure planting. To the east the site is framed by land associated with a public house and to the west by a paddock which whilst benefits from planning permission for the erection of 14 dwellings. The site is located within the Sacriston Subglacial Channels Local Geological Site.

The Proposal

2. Outline planning permission is sought with all matters excluding access and layout reserved for future consideration for the erection of 25 dwellings at the site (reduced from 26 as originally submitted), on land adjacent to Snook Acres, Front Street, Witton Gilbert.
3. Full details of access and layout are submitted for review in this regard and matters relating to landscape, appearance and scale are all reserved for future consideration. Submitted details identify a layout which takes an access from Front Street to the north west of the site via a shared arrangement with 14 dwellings previously approved to the west of the site and follows broadly to route of the A691 once it enters the site with two short spurs of properties extending northwards off this.
4. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

5. There is no planning history relevant to the current application site although it is noted that planning permission was granted in 2015 at an adjacent site for 14 dwellings (Planning Permission Ref: DM/15/03779/FPA).

PLANNING POLICY

NATIONAL POLICY

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
8. *NPPF Part 5 Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
9. *NPPF Part 6 Building a Strong, Competitive Economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
10. *NPPF Part 8 Promoting Healthy 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
11. *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.
12. *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.
13. *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.

14. *NPPF Part 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
15. *NPPF Part 16 Conserving and Enhancing the Historic Environment*: Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

LOCAL PLAN POLICY:

16. The following policies of the City of Durham Local Plan (CofDLP) are considered relevant to the determination of this application.
17. Policy E7 (Development Outside Settlement Boundaries) advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
18. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
19. Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.
20. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
21. Policy H12 (Affordable Housing) seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. The associated Cabinet approved (December 2006) Supplementary Planning Document advises that 30% of all dwellings on a site providing over 25 dwellings should be provided as affordable units in perpetuity. Affordable Housing is defined in PPS3 as being housing which includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.

22. Policy H13 (Residential Areas - Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
23. Policy E23 (Listed Buildings) seeks to safeguard Listed Buildings and their settings from unsympathetic development
24. Policy T1 (Traffic - General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
25. Policy T10 (Parking - General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
26. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
27. Policy Q8 (Layout and Design - Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
28. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.
29. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
30. Policy U12 (Development near Contaminated Land) states that development will only be permitted adjacent to
31. Policy U13 (Development on Unstable Land) states that development on unstable land will only be permitted if it is proved that there is no risk to the development or its intended occupiers or users.
32. Policy R2 (Provision of Open Space - New Residential Development) states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
33. Policy R11 (Public Rights of Way and Other Paths) states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative route is provided and the proposal accords with policy T21 where possible the existing network or public rights of way and other paths will be extended.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

34. Paragraph 213 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

34. The Highway Authority has no objection to the application after the application was amended to revise the dispersal of visitor parking spaces across the site, provide a shared access arrangement with an adjacent site and appropriate service strips.
35. The Coal Authority has no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a scheme of intrusive investigations which is adequate to properly addresses the ground conditions and the potential risk posed to the development by past shallow coal mining activity, the submission of a report of findings arising from the intrusive investigations and a scheme of proposed remedial works for approval and the implementation of those remedial works.
36. Northumbrian Water Limited offer no objection to the application subject to a planning condition which requires the submission and agreement for a scheme of foul and surface water disposal noting also that a public sewer crosses the site and may be affected by the proposed development.
37. Drainage and Coastal Protection Section offers no objection to the application after the applicant provided additional information with regard to means of foul and surface water drainage and disposal.

INTERNAL CONSULTEE RESPONSES:

38. Spatial Policy Section confirms that the planning application should be assessed in the context of paragraph 11 of the NPPF as the policies which are most important for determining the application are out-of-date. In addition, they confirm that 25% affordable housing provision should be provided across the site and that a commuted sum payment of £43,477 is also required for open space contributions. In addition, the response also confirms that as there are no restrictive policies in the NPPF the tilted balance contained in paragraph 11 of the NPPF is engaged.
39. Housing Development and Delivery Team (Affordable Housing) has advised that 25% affordable housing provision should be provided across the site.

40. Education Authority has advised that existing school places within the locality could accommodate the anticipated increase in the demand for primary and secondary school places.
41. Landscape Section raises no objection to the application after the scheme was amended to remove what was previously identified as plot 18 on the proposed layout.
42. Council Arborist notes that some of the trees identified for removal could be retained and as such the applicant has amended the scheme accordingly. However, concern remains that as those properties across the southern part of the site are south facing structure planting to the north of the A691 would likely come under pressure for heavy pruning to which the Council would not agree as it would be against DCC Corporate Tree Management Policy. In addition comments of the Landscape Officer are also echoed which advise that plot 18 be removed from the scheme.
43. Public Rights of Way Section offers no objection to the application noting that accommodation for footpath 29 across the development site can be achieved either through the retention of the path on its current line and remodel the turning head so it stops short of the path, retain the path on its current line and incorporate into the turning head by, for example installing dropped kerbs and demarcating the route of the path by block paving or similar apply to legally divert the footpath around the turning head and note that a successful diversion could offer the opportunity to erect a physical barrier between the path and the development.
44. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of planning conditions requiring the submission and agreement of noise impact assessment compliant with Professional Practice Guidance on Planning and Noise (ProPG) (2017).
45. Contaminated Land Section has no objection to the application subject to the inclusion of the standard planning condition relating to the need for a contaminated land risk assessment, intrusive site investigations and remediation and verification where need is identified.
46. Ecology Section raises no objection to the application as the applicant has confirmed that a commuted sum of £14, 880 would be provided for offsite biodiversity improvements to offset the net loss to biodiversity.
47. Archaeology Section has no objections to the application.
48. The Council's Drainage and Coastal Protection Section offers no objection to the application subject to a condition to ensure that all driveways are finished in permeable paving and that Suds are provided as per the proposed layout plan.

NON STATUTORY RESPONSES:

49. Police Architectural Liaison Officer raises no objections.
50. City of Durham Trust query the wisdom of development between the established extent of Witton Gilbert and the structure planting which frames the A691.

PUBLIC RESPONSES:

51. The application has been publicised by way of site notice, press notice and notification letters sent to neighbouring properties. One letter of objection has been received which raises the following points of concern;

Highway Safety

In addition, one letter of support has been received which notes the following benefits;

Boost to housing supply which would benefit the village.

A further letter of representation has also been received which although raising no objection to the application notes areas of concern. Those being summarised as;

The extent of the site boundary as shown appears to include land not within the applicants control although it is noted that the application boundary has been amended as a consequence.

Concern that some of the existing outbuildings within the site would be removed to accommodate the development.

Opportunity should be explored to provide additional car parking for three of the existing cottages at Front Street within the proposed development as residents of these units currently have to park on Front Street itself.

APPLICANTS STATEMENT:

52. Our consultant Ryder Architects has worked with planners and agents of Durham County Council and sought advice to establish a positive solution to proposed development at Snook Acres.

The application site is free from major constraints and is available to develop in the short term. The application site has never been the subject of a planning application, although we received planning approval for 14 residential properties on an adjacent site. Planning application DM/15/03779/FPA.

We are advised National Planning Policy framework [NPPF] has established a presumption in favour of sustainable development which means proposals should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole, or specific policies in NPPF indicate development should be restricted. There are no policies in NPPF, which would preclude development at Snookacres Farm. The site is not located within the green belt.

The Highway Authority is satisfied that an adopted highway can be provided for the development subject to the provision of a suitable access and have therefore offered no objection to the application. The final layout plan provides roads and footpaths and adequate parking for residents and visitor parking.

The Council's Arborist and Landscape Officer the Arborist has made a number of suggestions with regards to the development and these are incorporated into the final scheme design.

An element of affordable housing is provided as part of the development.

A planning obligation to provide a commuted sum for open space is accepted.

PLANNING CONSIDERATIONS AND ASSESSMENT

53. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, locational sustainability of the site, impact upon designated heritage assets including Grade II Listed Building at the former Smithy, landscape and visual impact (including the impact upon existing trees and hedgerows), residential amenity, highway safety, ecology, drainage, land contamination and planning contributions.

Principle of Development

54. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CofDLP) 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. However, the NPPF advises at Paragraph 213 that local planning authorities (LPAs) are only to afford existing Local Plan policies material weight insofar as they accord with the NPPF.
55. The City of Durham Local Plan (CofDLP) was adopted in 2004 and was intended to cover the period to 2006. The 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. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.
56. On this basis, given the age of the CofDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
57. Policy E7 of the CofDLP is relevant and seeks to restrict new development within the countryside and outside of existing settlements other than specifically permitted by other policies in the plan. In addition, Policy H5 is also relevant and states that in the countryside new housing development will be permitted only where there specific criteria is met including a requirement for the persons to live at or near their place of work, there is a functional need for this in association with a financially viable enterprise, it is of a size commensurate with the established functional requirement, adequate provision cannot be made in existing settlement boundaries and it respects the character of its landscape setting.

58. However, the out of date evidence base which underpins these policies and the application of settlement limits means that they must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.
59. The site also lies within the defined Witton Gilbert Neighbourhood Area and Witton Gilbert Parish Council are in the process of developing a neighbourhood plan for the whole parish area. This neighbourhood plan has now completed its Submission draft [Neighbourhood Planning (General) Regulations 2012 (Regulation 16)] consultation and it will be forwarded to an independent Examiner who will shortly be appointed to consider whether this neighbourhood plan meets the specific tests set down by central government known as 'Basic Conditions'. The neighbourhood plan will be finalised having regard to the Examiner's findings and will then be the subject of a public referendum which will ultimately determine whether the plan should be made a part of the local development plan.
60. The neighbourhood plan is not yet at a stage which carries weight in determining a planning application. It is considered that this will change post examination.
61. Crucially in respect of this planning application the development of the neighbourhood plan is being informed by a comprehensive design brief commissioned by the Parish Council for the area of undeveloped land located between Front Street and the A691 bypass. The design brief, which will form an annex to the neighbourhood plan, sets out a cohesive vision / approach for this area to the south of Front Street requiring that any development has reference to the local vernacular in terms of local grain, scale, design and materials, to be characterised by traditional low density layout, public open spaces & large gardens, with appropriate landscaping to mitigate impact in the wider context. The proposal subject of this outline planning application is for a significant part of this area.
62. Notwithstanding the above, the proposal needs to be determined in accordance with the LP unless material considerations dictated otherwise including the National Planning Policy Framework 2018 (NPPF).
63. Consequently, there are no policies in the development plan or any adopted neighbourhood plan, against which the principle of development can be determined and as noted regard must therefore be had to Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for the determining the application are out-of-date, granting planning 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 impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

64. Having regard to the above, the Development Plan is considered to be silent and/or out of date with respect to this proposed development. As a result, the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Five year Housing Land Supply

65. Paragraph 73 of the updated 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.
66. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
67. 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.
68. 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 in excess of 6 years supply of deliverable housing can be demonstrated when measured against this

Locational Sustainability of the Site

69. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. In this respect, whilst recognising that the development is located on the edge of Witton Gilbert it is nevertheless noted that the Witton Gilbert itself is a large town with access to a good range of shops, services, employment and education opportunities, and is well served by public transport. Consequently, the site is considered to represent a sustainable location capable of supporting additional residential development.

Impact upon Designed Heritage Assets including the Grade II Listed building at the former Smithy

70. The application site is situated within the setting of a Grade II Listed building at the former Smithy, Front Street, Witton Gilbert (which is considered a designated heritage asset for the purposes of the NPPF). It is also noted that the dwelling to the west of the Former Smithy is visible on the first edition OS map circa 1860 and is considered a non-designated heritage asset as a consequence.
71. At greater distance but within 1km of the application site there are numerous designated heritage assets. Approximately 210m to the south-east is the Barn at Witton Hall Farm (Grade II), approximately 290m to the south-east is Witton Hall and adjacent wall (Grade II*), and 350m south-east is the Church of St Michael and All Angels (II) as well as 6no tombs (Grade II). Approximately 800m to the west of the site is Kaysburn House (Grade II).
72. There are also potential non-designated heritage assets visible on the first edition OS map circa 1860 within 1km of the site including numerous buildings adjacent to the boundary of the site and on Front Street. The Travellers Rest Public House is visible on the second edition OS map circa 1898 and is considered a non-designated heritage asset.
73. Policy E23 of the CofDLP is therefore relevant which states that development will not be permitted which detracts from the setting of a listed building. This approach displays a broad level of accord with the aims of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the aims of paragraph 193 of the NPPF which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.
74. The application site lies to the south of Front Street at Witton Gilbert between existing buildings, their associated plots and the A691, and existing structure planting. Historic map regression shows that Witton Gilbert maintained its linear, east-west, single street medieval plan form until the late-19th century when several rows of terraces and other individual buildings were introduced. More significant expansion occurred from the mid-20th century onwards particularly to the north, which saw development against the historic plan form.
75. Whilst residents have raised concern at the loss of some of the existing farm buildings currently in situ at the site the Council's Design and Conservation Section has confirmed that the development would have no impact on the setting of the designated or non-designated heritage assets to the south-east and west of the development site and that there is no intervisibility between the site and the designated heritage assets due to existing vegetation, topography and plan form of the area.
76. The application is supported by a heritage statement which although focussing on the demolition of buildings to the rear of the Smithy, nevertheless demonstrates that the development would not have any adverse impact upon the setting of the Grade II Listed building in this regard, and this is a view accepted by the Council's Design and Conservation Section.

77. With regard to the proposed layout the Council's Design and Conservation Section raises no objection to the application but did advise that the applicant consider a reconfiguration of the proposed layout in order to remove/relocate plot nos. 24 to 26. Whilst the applicant has revisited the layout in this regard and the matter after detailed discussions with the Council's Design and Conservation Section it has not been possible to revise the layout to any fundamental degree. However, it is considered that sufficient control could be secured through the submission of reserved matters relating to scale and appearance to ensure that there would not be any adverse impact upon the setting of the Grade II Listed Building.
78. The development proposal would therefore cause no adverse harm to the special character, appearance or setting of any designated or non-designated heritage asset, particularly the Grade II Listed Building at the Former Smithy, and would relate acceptably to the surrounding built form in terms of layout. As such it is considered to accord with policies policy E23 of CofDLP, and paragraphs 193 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Area) Act 1990.

Impact upon landscape and visual amenity

79. The site is located within the countryside to the north of the A691 between built development forming Witton Gilbert and structure planting framing the highway. Whilst not subject to any specific landscape designation the pasture to the rear of the Travellers Rest is located within an adopted *DCC Landscape Improvement Priority Area* where the spatial strategy is to 'restore or enhance'.
80. The site is overlooked principally from the proposed entrance on Front Street, a public footpath passing through the pasture, the Travellers Rest Carpark and filtered seasonal views through the Witton Park Structure planting tree belt which frames the A691. The latter has matured over 20 years to create an effective seasonal screen although there appears to have been little management of this beyond the initial establishment period. Therefore, in the absence of any thinning exercise following establishment, the deciduous trees and hedging are becoming extended in form, as crowns become higher. Both the Council's Landscape Section and Arborist note the importance of this planting and raise concern with regard to its relationship with plot 18 as originally proposed, particularly that it would overshadow the rear garden of this unit.
81. Whilst matters relating to landscape and appearance are reserved for future consideration, the application has amended the proposal to remove this unit. The revised layout plan therefore shows a total of 25 dwellings spread across the site in predominantly linear form following the route of the A691. The scheme would occupy an area of open space occupying an area of undeveloped land between Witton Gilbert and the A691 and as such be visible in the wider locality but nevertheless viewed in the context of built development immediately to the north, and a site which benefits from planning permission for 14 dwellings to the west. Witton Gilbert has a variety of different house types, particularly along Front Street, and it is considered that the proposed houses would not have an adverse impact on the visual appearance of the street scene or the surrounding area in this context.
82. The Council's Landscape Section and Arborist have been consulted on the revisions and both offer no objection to the application. Detailed matters relating to external materials and means of enclosure could be appropriately secured through planning condition alongside other reserved matters including landscape and appearance, and in this regard the submission of a tree protection plan is also considered necessary to be secured through planning condition.

83. Subject to the inclusion of planning conditions in this regard the development is considered to accord with the requirements of policies E14, E15, H13, Q5 and Q8 of the CofDLP and paragraph 127 of the NPPF.

Impact upon Residential Amenity

84. Policies H7 and H13 of the CofDLP relate to city centre housing and the character of residential areas respectively. Together they seek to protect the amenity of adjacent users by resisting development which would have a significant adverse effect on the amenities of residents. This is considered to display a broad level of accordance with the aims of the NPPF at paragraphs 127 and 180 which require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution respectively. Therefore, significant weight can be afforded to these policies.
85. Whilst it is noted that detailed matters in relation to scale are reserved for future consideration full details of layout have been submitted for consideration and show a total of 25 dwellings set in a linear street arrangement. The nearest existing residential properties would be those located at Front Street to the north and rear elevation of No. 25 Front Street would be located approximately 17 metres from the gable elevation of plot number 26 which exceeds the minimum distance of 13.5 metres required by policy Q8 of the CofDLP. With regards to the proposed development to the west a distance of between 15 metres and 20 metres would be achieved between the principal elevations of Plot Nos. 1 to 6 and the gable elevation of those units previously approved through planning permission DM/15/03779/FPA which again exceeds the required minimum.
86. Within the development minimum separation distances have been achieved and each plot is served by adequate private amenity space in accordance with the requirements of policy Q8 of the CofDLP.
87. It is noted that the site is within close distance to the existing A691 bypass and therefore noise impacts from traffic could be a potential issue on future occupants of the site. A noise survey has been submitted with the application which is a resubmission of the noise survey provided in support of the residential development to the west which indicates that subject to specific mitigation measures in relation to building construction, there would be no adverse impacts on the amenity of future residents.
88. The Council's EHO has been consulted and notes that although 2yrs old and not specific to the application site, the noise monitoring levels stated within the report are indicative of the likely noise climate at the application site with particular regard to traffic. Whilst the noise climate is led by traffic the proposed site is also in closer proximity to the travellers rest public house than the site referred to in the assessment. As such the potential for noise arising from this element should be considered and the measures stated in the report on not relevant to this site. Consequently the Council's EHO considers that further work is needed in relation to specific noise levels and proposed mitigation works.
89. Notwithstanding the above the EHO nevertheless considers that any impact could be appropriately mitigated through planning condition requiring the submission and agreement of a noise assessment compliant with ProPG 2017 and that where the dominant noise identified relates to commercial activities/process/plant, a further detailed noise impact assessment be carried out compliant with the appropriate British Standard.

90. The application provides sufficient information in order to demonstrate that the site is capable of accommodating residential development proposed without adverse impact upon residential amenity. In this regard the agreement of precise detail in terms of appearance and scale could be subject to detailed consideration at reserved matter stage. It is also considered appropriate given the proximity of residential development to include a condition which requires the submission, agreement and implementation of a construction management plan which includes restriction to the hours of construction.
91. Overall, the scheme would therefore comply with CofDLP Policies H13 and Q8 of and paragraph 180 of the NPPF in that it would not lead to a significant reduction in residential amenity for existing or future residents.

Access, Highway Safety and Public Right of Way

92. As already noted the application relates to outline planning permission with full details in relation to access submitted for consideration. The submitted detail shows an access from the adopted highway to the north of the site which would be shared with the adjacent residential development. Residents have raised objection to the application citing concerns in relation to highway safety.
93. Policies T1 and T10 of the CofDLP require new development to provide safe and adequate access and sufficient car parking and this approach displays a broad level of accordance with the NPPF at paragraph 108.
94. The proposed layout shows a linear arrangement which follows broadly the route of the A691 with two spurs extending northwards. The Highway Authority considers the layout to be acceptable from a highway safety perspective and after revision now meets minimum parking standards with reasonable distribution across the site and a footway to one side of the carriageway. The applicant has also amended the layout to confirm that all roads would be constructed to an adoptable standard and ensure that adequate service verge is provided along with a hardened step off at parking bays where no footway is provided.
95. In summary, it is considered that sufficient information has been provided to demonstrate that the development would be served by a safe and sufficient means of access in accordance with the aims of policies T1 and T10 of the CofDLP and paragraph 108 of the NPPF.
96. The site is intersected by a public right of way (Footpath No. 29) to the eastern part of the site which does so from north to south connecting the centre of Witton Gilbert to the footpath network to the south of the A691.
97. Policy R11 relates to public rights of way and states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative route is provided and the proposal accords with policy T21 where possible the existing network or public rights of way and other paths will be extended.
98. The proposal has been amended and plot 18 removed from the development which has allowed the retention of the PROW in situ to the satisfaction of the Council's Public Right of Way Officer. As such the proposal would accord with the aims of policy R11 of the CofDLP.

99. Policy 16 of the CofDLP seeks to protect and enhance the nature conservation assets of the County through requiring development proposals where appropriate outside of sites specifically protected for their nature conservation importance to avoid any unacceptable harm to nature conservation interests as a result of the development, and provide mitigation measure to offset any harm. This is considered to display a broad level of accord with Part 15 of the NPPF which seeks to ensure that developments protect and mitigate harm to biodiversity interests.
100. The development includes the demolition of existing buildings and as such the application is supported by a Preliminary Ecological Appraisal and associated Bat Risk Assessment. The latter identifies a roost of 2 Common Pipistrelles and as such a Bat Low Impact Licence is required for the demolition of the affected building.
101. These species are afforded special legal protection under the Conservation of Habitats and Species Regulations 2010 (as amended) and/or the Wildlife and Countryside Act 1981 (as amended). Natural England has the statutory responsibility under the regulations to deal with any licence applications for works affecting European Protected Species. Before planning permission can be granted for development that may lead to species protected by European Law being harmed, the local planning authority must apply the same derogation tests as Natural England, in order to establish if it is likely that a licence would be granted. The derogation tests are i) that the activity must be for imperative reasons of overriding public interest, or for public health and safety; ii) there must be no satisfactory alternative; iii) the favourable conservation status of the species must be maintained.
102. Having regard to the Habitats Regulations and derogation tests it is considered that i) It is in the public interest that the development scheme can be implemented to deliver associated economic, environmental and social benefits; ii) and therefore there is no satisfactory alternative; iii) the proposed mitigation is appropriate to ensure there will be no significant impact on the conservation of the bat population as a whole. It is therefore considered that Natural England would be likely to grant a license. Accordingly, the LPA can discharge its duties under the Habitats Regulations.
103. The Ecological appraisal also identified several habitats on site and notes that the development will result in the loss of species rich hedgerow, grassland and scrub of which the species rich hedgerow meets the criteria for Priority Habitat which needs to be taken into account in determination of the application and as present it does not appear that sufficient mitigation is proposed within the site to offset any loss in this regard and this is a position confirmed by the Council's Ecologist.
104. Paragraph 175 of the NPPF requires that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
105. Consequently, the applicant has agreed to make a commuted sum payment of £14,880 to be used by the Council towards biodiversity enhancements in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy Document. This sum could be adequately secured through appropriate Legal Agreement and in this context the Council's Ecologist raises no objection to the application.

106. Subject to the commuted sums being made available and secured through S106 Legal Agreement, it is considered that the proposed development would accord with saved policy E16 of the CofDLP and part 15 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.

Contaminated Land

107. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
108. It is noted that the site is currently used for agriculture and as the proposal relates to a more sensitive use. Consequently, The Council's Contaminated Land Section raises no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a Contaminated Land Risk Assessment (including intrusive site investigation and the implementation of remediation and verification where need is identified).
109. In addition the site is located within an area identified by the Coal Authority as being at high risk of previous mine workings and in this regard the application is accompanied by a Phase 1 Desk Top Study Report dated 27 September 2018 which concludes that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigations should be undertaken to establish the exact situation regarding coal mining legacy at the site and inform any remediation measures required. The Coal Authority has been consulted and concurs with this view offering no objection and advising that a condition be included in this regard.
110. Subject to the inclusion of planning conditions in this regard the development is considered to accord with the requirements of policy U12 and U13 and paragraph 178 of the NPPF.

Drainage

111. The application proposes the disposal of surface water to onsite Suds arrangement in the form of a drainage basin shown in indicative form across the south eastern part of the site. This has been informed by an appropriate drainage assessment and is considered acceptable, drawing no objection from the Council's Drainage and Coastal Protection Section subject to the inclusion of a planning condition to ensure that all driveways are finished in permeable paving and that the Suds arrangement as shown is installed. As such it is considered appropriate to include a planning condition in this regard. Subject to the inclusion of such a condition the development is considered acceptable in principle in accordance with the requirements of policy 1 of the EDLP.

Planning Obligations

112. Policies R1 and R2 of the local plan seek to ensure that the provision of open space for outdoor recreation is evenly distributed and is maintained at a level which meets the needs of its population. While this policy is consistent with the general aims of NPPF, the NPPF requires standards to be based on up to date assessments, therefore the last published OSNA (2018) will need to be taken into consideration rather than the standards set out in this policy. The OSNA sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site-specific basis. This is a relevant material consideration in conjunction with Policy R2 of the CofDLP and paragraph 96 of NPPF.

113. Based on the OSNA and an average occupancy of 2.2 people per dwelling (Co. Durham average household size, 2011 Census), a development of 25 dwellings would generate a population of 55 people. A Section106 contribution to improving existing facilities would amount to **£43,477** (55 x £790.50) to be secured by legal agreement.

Affordable Housing

114. In order to deliver a suitable amount and variety of homes, local need should identify, among other things, affordable housing requirements for their area, whereby Paragraph 64 of the NPPF encourages the provision of affordable housing based on evidenced need. The up-to-date evidence in the Strategic Housing Market Assessment establishing a requirement for 25% provision in perpetuity, equating to 7 affordable units across this development and the viability evidence for this area establishes that 25% affordable housing (with a tenure split of 70% affordable rented housing to 30% intermediate products affordable housing should be capable of being delivered without adversely affecting viability.
115. The applicant has agreed to provide the affordable housing requirement as described above which could be secured through Section 106 Agreement.

Planning Balance

116. As the relevant policies of the CofDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

Benefits

117. The development would provide some limited benefit in terms of a boost to housing supply, although it is noted that this could be considered limited at 25 dwellings in the context that the Council's ability to demonstrate a 5 year supply of housing land. Less weight should therefore be afforded to the benefits of delivering new housing in this regard as such than would otherwise be the case if any shortfall in supply existed.
118. To a limited 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 supporting existing facilities in Witton Gilbert. As such this can be afforded some limited weight.

Adverse Impacts

119. In all other respects the applicant demonstrates that there would not be any adverse impact to which weight could be attached in determination of this application that could not be adequately mitigated through inclusion of planning conditions.

CONCLUSION

120. When applying the planning balance contained in paragraph 11 of the NPPF it is considered that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits and as such planning permission should be granted.

121. The site occupies a sustainable location to the south of Witton Gilbert which itself is served by some shops, services, employment and education opportunities. The introduction of additional residential development in this location would help support these facilities and as such is acceptable in principle being considered sustainable development in accordance with guidance contained within the NPPF.
122. The proposal presents some benefits in terms of a limited boost to housing supply and the local economy both in the short term, through the creation of construction jobs, and more long term through increased spending in the local economy from future residents.
123. It would achieve adequate separation distances between existing and proposed dwellings, ensuring that there would be no adverse impact in terms of residential amenity in accordance with policies H13 and Q8 of CofDLP and paragraph 180 of the NPPF subject to conditions requiring a noise impact assessment.
124. Safe and sufficient access to the site could be provided and the internal layout and parking provision is considered adequate to serve a residential development to this type and as the proposal is considered to accord with the aims of policies T1 and T10 of the CofDLP and paragraph 108 of the NPPF.
125. Concern has been raised by the Council's Landscape Officer that the development would have some adverse visual impact and whilst these have been fully considered, it is not considered that these issues are sufficient to outweigh the benefits of the scheme which are considered to be in accordance with policies E14, E15, H13, Q5 and Q8 of the City of Durham Local Plan.
126. The scheme would therefore comply with all relevant saved local plan policy, general aims of the NPPF and in the context of paragraph 11, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions and to the completion of a Section 106 Legal Agreement to secure the provision of:

- i) £43,477 contribution towards enhancement or provision of play provision in the Esh and Witton Gilbert Electoral Division.
 - ii) £14,880 contribution to be used by the Council towards biodiversity enhancements in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy Document
 - iii) 25% affordable housing to be provided on site.
1. Approval of the details of the appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced other than remediation works and site access works.

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. Application for approval of reserved matters of the development 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 approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last reserved matter 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:

| Drawing No. | Description | Date Received |
|-------------|----------------------|-----------------|
| | Location Plan | 15 January 2019 |
| | Proposed Layout Plan | 03 April 2019 |

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

4. Notwithstanding the detail submitted with the application all private drives shall be finished in permeable paving.

Reason: In the interests of flood risk protection in accordance with the aims of policy U8A of the City of Durham Local Plan and Part 14 of the NPPF.

5. The development hereby approved shall comprise a maximum of 25 dwellings.

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

6. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

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

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

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

Replacements will be subject to the same conditions.

Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policies E14 and H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

7. No construction work shall take place, nor any site cabins, materials or machinery be brought onto the site until all trees and hedges, as indicated on an approved tree protection plan to be submitted to and agreed in writing by the Local Planning Authority, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2012. The plan shall be accompanied by a method statement which clearly demonstrates how the development will be constructed without damage to existing trees.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: To protect existing trees in accordance with the requirements of policy E14 of the City of Durham Local Plan.

8. No development shall commence until such time as a detailed scheme for the disposal of foul and surface water from the development hereby approved (including full details of all Suds) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: In the interest of the adequate disposal of foul and surface water in accordance Part 14 of the National Planning Policy Framework

9. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority.

The agreed plan shall include as a minimum (but not necessarily be restricted to) the following:

- 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 construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- 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.

The management plan shall have regard to BS 5228 “Noise and Vibration Control on Construction and Open Sites” during the planning and implementation of site activities and operations. The approved Construction Management Plan(s) shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 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.

10. No development shall commence until such time as a scheme of intrusive site investigation, (adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow mine coal mining activity) has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include a report of findings arising from the intrusive site investigation and a scheme of appropriate remediation. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To ensure the site is capable of accommodating the proposed use in terms of ground stability in accordance with the aims of policy U12 and paragraphs 178 and 179 of the NPPF.

11. No development shall commence until such time as an assessment compliant with the Professional Practice Guidance on Planning and Noise (ProPG) (2017), has been submitted to and approved in writing by the local planning authority. The assessment shall include:

An acoustic design statement (ADS), proportionate to any risks identified and the scale of the development. This must include all relevant elements as defined in the ProPg guidance, to include demonstration of good acoustic design, adherence with the internal and external guideline values and full details of any mitigation measures found necessary.

Where the dominant noise identified relates to commercial activities/processes/plant then the following assessment should also be carried out:

A detailed noise impact assessment, compliant with the methodology stated in BS 4142: 2014, demonstrating the noise rating level from nearby commercial noise sources. Should the assessment demonstrate that the rating level of existing commercial operations/ fixed plant be more than 5dB LAeq (1 hour) (07.00-23.00) and 0dB LAeq (15 mins) (23.00-07.00) above the background noise level (LA90) at noise sensitive receptors, then a scheme of sound attenuation measures must be proposed.

Reason: In the interests of residential amenity in accordance with the aims of policy 35 of the EDLP and paragraph 180 of the NPPF.

12. 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.

13. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham District Local Plan 2007

Statutory, internal and public consultation responses



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|  <p>Durham County Council</p> <p>Planning Services</p> | <p>Outline application for residential development with all matters excluding access and layout reserved</p> | |
| <p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p> | <p>Comments</p> | |
| | <p>Date 11 June 2019</p> | |

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|---|
| APPLICATION NO: | DM/18/03882/OUT |
| FULL APPLICATION DESCRIPTION: | Outline Planning Permission for a rural-workers dwelling with all matters reserved |
| NAME OF APPLICANT: | Mr and Mrs Howarth |
| ADDRESS: | Howarth Raw Timber & Logs, Edderacres Plantation, Castle Eden, TS27 4TF |
| ELECTORAL DIVISION: | Shotton |
| CASE OFFICER: | Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises part of a large forestry plantation positioned between the settlements of Wingate and Castle Eden. In the wider landscape the site falls within an area identified as being of High Landscape Value (AHLV) and lies approximately 240 metres from Castle Eden Dene which is a Special Area of Conservation (SAC) and Sites of Special Scientific Interest (SSSI). It is bounded by a caravan park to the south, agricultural land to the north and west (with a large industrial estate beyond to the north) and by the A19 to the east. As would be expected much of the site plays host to mature trees/woodland which the applicant manages in association with an existing timber supply business.
2. This application specifically relates to part of the site situated adjacent to Shotton Lane and is approximately 0.07 hectares in area. This part of the site is a plateaued area which has previously been stripped of trees and provides as base from which forestry operations across the larger site operate. It also hosts the existing access from Shotton Lane and two storage containers which the applicant has used to store machinery in association with the existing forestry use.

The Proposal

3. Outline planning permission is sought for the erection of a single dwelling (with all matters reserved for future consideration) on land at Edderacres Plantation, Castle Eden.
4. Whilst all matters are reserved for future consideration the applicant has nevertheless submitted a basic location plan which shows in very broad terms the potential position of the dwelling toward the centre of the application site.

5. The application is reported to the Planning Committee at the request of Cllr Pounder who considers that the unusual nature of the business to be such that the social, environmental and economic factors should be considered by the committee.

PLANNING HISTORY

6. There is no planning history relevant to the current application site.

PLANNING POLICY

NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
9. *NPPF Part 5 Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
10. *NPPF Part 6 Building a Strong, Competitive Economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
11. *NPPF Part 8 Promoting Healthy 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
12. *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.
13. *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.

14. *NPPF Part 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
15. *NPPF Part 16 Conserving and Enhancing the Historic Environment*: Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

LOCAL PLAN POLICY:

16. The following policies of the Easington District Local Plan (EDLP) are considered relevant to the determination of this application.
17. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
18. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
19. Policy 7 – Areas of High Landscape Value will be protected and enhanced and any development likely to adversely affect the character, quality or appearance of AHLVs will only be permitted if it meets a need that outweighs the value of the landscape and there is no alternative location within the County.
20. Policy 14 - Development which (either individually or cumulatively) is likely to adversely affect (either directly or indirectly) a designated or candidate special area of conservation, and is not directly connected with, or necessary for, managing the scientific interest of the site, will only be approved where:
 - i) There is no alternative solution; and
 - ii) There are imperative reasons of over-riding national interest for the development. In the case of sites which host a priority habitat or a priority species, such development will only be approved where:
 - iii) It is necessary for reasons of human health or public safety; or
 - iv) Beneficial consequences of primary nature conservation importance arise.

Before any project is allowed, developers will be required to demonstrate that adverse effects are minimised and that commensurate efforts to compensate for unavoidable damage are made.'

21. Policy 15 – Protection of the Sites of Special Scientific Interest, and National Nature Reserves states that development which either individually or cumulatively is likely to adversely affected (either or directly or indirectly) a notified sites of special scientific interest will only be approved where there is no alternative solution and the development is in the national interest.

22. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
23. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

24. Paragraph 213 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. The Highway Authority has no objection to the application.
26. Northumbrian Water Limited offer no objection to the application at this stage but note reference in the planning application from to surface water run-off flowing to the nearest watercourse and that there is no reference to foul connection. Consequently, they advise that there are no public sewerage network connection points within the near vicinity of the application site and as such the applicant may wish to consider alternative foul water servicing.
27. Drainage and Coastal Protection Section notes that the proposal is not of a classification that requires consultation with the Lead local Flood Authority with respect to Flood Risk and Surface Water Management. However, it is advised that according to flood risk data held by the Council, there is a risk of overland flooding during storm conditions. Care should therefore be taken to ensure floor levels are above any potential flooding level.
28. Natural England raises no objection to the application.
29. Environment Agency raises no objection to the application.
30. Forestry Commission has not commented.

INTERNAL CONSULTEE RESPONSES:

31. Spatial Policy Section has not commented on the application.

32. Landscape Section notes that the proposals would have some adverse landscape and visual effects due to the currently undeveloped nature of the AHLV.
33. Arborist notes that based on the plans submitted with the outline permission, there are no obvious arboricultural conflicts and as such raises no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of a tree protection plan.
34. Contaminated Land Section has no objection to the application subject to the inclusion of planning conditions requiring the submission, agreement and implementation of a Contaminated Land Assessment to include intrusive site investigations, remediation and verification where need is identified.
35. Environmental Health Section raises no objection to the application but notes that the proposed dwelling is in close proximity to a logging enterprise and as such will be subject to noise arising from this conflicting use. However, it is noted that the development would provide accommodation to serve this business and as such is not considered a sensitive receptor, subject to the inclusion of a planning condition which limits its occupation in this regard.
36. Ecology Section raises no objection but notes that a commuted sum payment of £756.61 be secured through Section 106 Legal Agreement for use in Coastal Management Schemes to offset the impact of the development upon the Heritage Coast which would be used in the High Tide Roosts Scheme, specifically at Nose's Point which relates to fencing to manage public access.
37. Archaeology Section whilst raising no objection notes that a post medieval mill is known to have occupied a position adjacent to this site, however the mill leat may have run through the proposed development area and as such it is recommended that any ground disturbing works are monitored through an archaeological watching brief which could be secured through planning condition.

PUBLIC RESPONSES:

38. The application has been publicised by way of site notice, press notice and notification letters sent to neighbouring properties. No representations have been received.
39. However, a 36 signature petition (which includes the applicant's planning agent) has been submitted by the applicant in support of the proposal. The reasons for support are summarised below;
 - Onsite presence will deter crime current antisocial behaviour.
 - Onsite stewardship will make the site safer for users reducing fly tipping, fires and youths drinking.
 - Reduction in poaching.
 - Reduction in vehicle movements
 - Benefit to health and safety.
 - Historically there was a house on site.

APPLICANTS STATEMENT:

40. The proposal is an outline application for a new dwelling to support a forestry business at Edderacres near Castle Eden. There is significant local support for the scheme, no objections have been submitted relating to this application, however a petition of support signed by 36 local residents has been submitted.

A letter of support has also been provided by Natural England stating that having the applicant residing at the site would be a positive for the National Nature Reserve and the local area due to the current risk of anti-social behaviour in the area.

In terms of the location, visually the site is screened by significant trees/landscaping, the applicant is proposing a modest 3 bedroom house to support and allow the existing business to grow.

The site contains remnants of the former Old Shotton Mill, stables and associated workers house which was located on the site, and whilst demolished demonstrates that the site has historically been a live/work location. Photographs will be provided to the Committee, however there are many more remnants on site signifying its former use.

The forestry business (Howarth Raw Timber & Logs) covers a large area of 26.39 hectares/65.2 acres. A forestry workers appraisal has been undertaken and submitted which demonstrates that the business has a current need for 2.5 employees. The applicant has demonstrated that the business has been profitable since commencement of the operation over 3 years ago and that there is a functional need for a presence on site due to a multitude of reasons.

The need for someone to be onsite permanently include for reasons of health and safety as the site varies greatly in terms of topography. The steep ground is difficult to work in, not just the steep slopes but also the dangers involved with the forestry work itself and also ground conditions and how they can quickly change. A number of case studies involving the dangers of the business have been provided in the Planning Statement. Also in terms of animal welfare as the applicant raising Poults on the site, a significant issue is that the area and the business suffers greatly from anti-social behaviour, such as break-ins, fires, drinking and lewd behaviour.

The business can not put a shed up on the site or have welfare facilities as previous facilities were burnt down, CCTV was installed it was stolen. To allow the proper functioning of the business a rural workers dwelling is a necessity.

It is respectfully requested that the Committee supports the proposal and approves the planning application.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

41. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues relate to the principle of the development (including functional and financial tests for the justification), locational sustainability of the site, the impact upon the surrounding area of high landscape value (AHLV), residential amenity, highway safety, ecology and biodiversity, drainage and land contamination.

Principle of Development

42. 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 Easington District Local Plan (EDLP) 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. However, the NPPF advises at Paragraph 213 that local planning authorities (LPAs) are only to afford existing Local Plan policies material weight insofar as they accord with the NPPF.
43. The EDLP was adopted in 2001 and was intended to cover the period to 2006. The 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. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.
44. On this basis, given the age of the EDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
45. The application site is located outside of the residential framework of any town or village and in a predominantly rural location some distance from the nearest residential dwellings, services or facilities. The proposal therefore represents development within the open countryside where there is normally a presumption against new isolated dwellings.
46. Policy 3 of the EDLP defines settlement limits and states that development outside of settlement limits will be regarded as development within the countryside and that other than specifically allowed for by other policies, development in the countryside will not be approved. However, the out of date evidence base which underpins this policy and the application of settlement limits means that it must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.
47. Policy 69 of the EDLP relates to rural workers dwellings and states that new housing development in the countryside will only be approved if dwellings are required for occupation by persons engaged solely or mainly in agriculture, forestry or other appropriate rural enterprises who must live close to their place of employment to perform their duties. However, this policy has expired and cannot be afforded weight in determination of this planning application.
48. In terms of national policy Paragraph 79 of the NPPF is also relevant and takes a similar approach and states that new isolated dwellings will only be considered acceptable if there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work. In addition, the development should be of a size commensurate with the established functional requirement of the enterprise.

49. While no longer forming part of national policy, the approach contained within Annex A of PPS7 is still accepted and endorsed by recent appeal decisions, advocating the application of functional and financial tests in determination of the need test for rural workers dwellings contained in paragraph 79 of the NPPF. These tests require proposals to be genuine, financially viable and have a clearly established functional need for the dwelling. For the local planning authority to accept that there is clear justification for a new dwelling, any application should robustly demonstrate that the functional and financial tests have been satisfied.
50. Consequently, there are no policies in the development plan or any adopted neighbourhood plan, against which the principle of development can be determined and as noted regard must therefore be had to Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for the determining the application are out-of-date, granting planning 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 impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.
51. Having regard to the above, the policies of the Development Plan which are most important for determining the application are considered to be out of date. As a result, the acceptability of the development largely rests on the planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits there being no policies in this Framework that protect areas or assets of particular importance and which provide a clear reason for refusing the application.

Assessment of Functional Requirement

52. It is understood that the applicant has operated a logging/timber supply business from the site for 3 years and a planning statement has been submitted in support of the application which seeks to demonstrate that this business now requires a full-time worker to be permanently present on site. This statement focusses on the following issues to justify the need for a permanent rural worker to be present on site; health and safety requirements (citing the dangers associated with forestry work which requires working at height with cutting machinery and is supported by case studies from the Health and Safety Executive in this respect), animal welfare requirements (noting that the applicant breeds young chickens, turkeys and pheasants and require a presence on site), crime and antisocial behaviour (citing ongoing issues with theft and vandalism from the site including damage to vehicles, theft of equipment and diesel, poachers and antisocial behaviour including teenage drinking).

53. The information concludes that the current business generates a requirement for 2.5 people to be present on site to support the business.
54. A functional need for a permanent presence on site is generally defined as one which is essential for the proper functioning of the enterprise, for example in cases where animals require essential care at short notice.
55. By way of assessment each of the reasons listed by the applicant are considered in more detail below:
56. Health and Safety: The applicant has provided several case studies compiled from the Health and Safety Executive where forestry workers have suffered serious injury or loss of life when working in isolated or remote locations. The applicant considers that this justifies a permanent residential presence at the site, given the increase in natural surveillance this would provide and the ability to raise the alarm in the event of such an occurrence at the application site. However, it is noted that the wider plantation is of notable size at approximately 26 hectares and as such the extent to which a single dwelling positioned across the eastern part of the site would affect any meaningful improvement to health and safety at the site is questionable.
57. Notwithstanding the extent to which a single dwelling would improve health and safety for the applicant in the day to day operation of the business, it is considered that this alone does not amount to a sufficient functional requirement in the context of paragraph 79 of the NPPF that could not be overcome by alternative means.
58. Animal Welfare: The applicant has made reference to the rearing of poults at the site which is understood to include young chickens, turkeys and pheasants although no precise details of numbers/breeds/breeding programmes have been provided in this regard, and it is noted that this element of the business is not reflected in the submitted business accounts. In this context it is not considered that there is any justified functional requirement for a permanent presence on site in this regard.
59. Crime and Antisocial Behaviour: In supporting information the applicant acknowledges that crime and antisocial behaviour are not solely a reason to grant planning permission for a house in a rural area, they consider the business is suffering from a loss of machinery and stock on a regular basis which has not been mitigated by the installation of CCTV equipment which itself was stolen. An email has been provided by the applicant from Natural England in support of the application in this regard which notes the proposed dwelling would 'boost' security of the area and help make the western end of the Castle Eden Dene more 'welcoming'.
60. Whilst problems of security and antisocial behaviour at the site are understood to be having a detrimental impact upon the existing business this alone does not provide sufficient justification for a rural-workers dwelling at the site.
61. Taking all of the above into account it is not considered that the functional case has been satisfactorily demonstrated in this instance and on this basis the proposal is contrary to the requirements of paragraph 79 of the NPPF and policy 3 of the EDLP.

Assessment of Financial Viability

62. With regard to the financial viability of the business the applicant has provided basic accounts for three years commencing 2015 to 2018 within which the business is described as a 'sole trader operation' and as such no wages are identified in the accounts. This is of concern, as is the fact that the profits generated year on year vary significantly which is understood to be a result of variations in the frequency of logging activity. Nevertheless, when taken as an average across the accounting period the profit generated by the business would not allow a wage to be taken for a rural worker which meets the national minimum wage expected for an agricultural worker.
63. Whilst it is noted that the applicant has access to personal finance from other sources, and that these are used to support/finance the business, it remains that the business must be financially viable in order to receive support (notwithstanding the position with regard to functional requirements as detailed above). In this regard, and from the information provided, it does not appear that the current business is capable of supporting the construction of a rural workers dwellings at the site and in this respect is contrary to the aims of paragraph 79 of the NPPF.
64. The applicant has provided 3 years of financial accounts in support of the proposal which is widely accepted as being a sufficient period of time to assess the viability of a fledgling business. In some instances a local planning authority may grant planning permission for temporary accommodation at a site to allow three years of trading to demonstrate financial viability. Whilst the use of temporary accommodation has not been explored by the applicant in this instance it is noted that the business has been trading for three years and for the reasons stated above is not considered capable of supporting a new dwelling. Therefore, there would be little benefit in the applicant pursuing any application for temporary accommodation in this regard.

Five year Housing Land Supply

65. Paragraph 73 of the updated 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.
66. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
67. 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.

68. 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 in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.

Impact upon landscape, visual amenity and the Area of High Landscape Value (AHLV)

69. Policy 7 of the NPPF relates to areas of High Landscape Value and seeks to maintain and enhance the special character, quality and appearance of AHLVs. This displays a broad level of accordance with the aim of paragraph 170 of the NPPF which seeks to protect and enhance valued landscapes.
70. Whilst the application is submitted in outline form with all matters reserved for future consideration the applicant has nevertheless submitted an indicative site layout plan which shows a position for the proposed dwelling towards the centre of the site.
71. The site is visible from the adjacent Shotton Lane which is the redundant course of the Old A19 and as such is no longer open to public vehicular traffic. However, the existing steel storage containers and other evidence of logging activity at the site have nevertheless reduced the scenic value of the location as being countryside of visual amenity and particular landscape character which is noted by the Council's Landscape Section. The removal of these items through the erection of a single dwelling would present some benefit although it is noted that their removal or a general improvement in the visual amenity of the site could be secured through other legislative controls within the planning system, such as the service of a 215 Notice relating to untidy land.
72. The Council's Landscape Section has commented and whilst noting that the proposal would have some adverse landscape impact due to the currently undeveloped nature of the AHLV, nevertheless confirms this impact is unlikely to be significant. As such the development would accord with the requirements of policy 7 of the EDLP and paragraph 170 of the NPPF subject to the inclusion of the standard landscaping condition requiring the submission and agreement of reserved matters.

Impact upon Residential Amenity

73. The proposal is not within close proximity to any residential dwellings being approximately 360 metres to the south of the nearest residential property at Green Bank to the north and 210 metres from a caravan park to the south west. The Council's Environmental Health Officer has no objection to the application in this regard subject to the inclusion of a planning condition restricting the occupation of the property to that in association with the logging/timber business. As such it is not considered that the development would have any significant adverse impact upon residential amenity in accordance with the requirements of policy 35 of the EDLP and paragraph 180 of the NPPF.

Access, Highway Safety and Sustainability of Location

74. As already noted the application relates to outline planning permission with all matters reserved for future consideration. Nevertheless, the applicant has identified a potential point of access which would be taken via the existing arrangement from Shotton Bank to the east.

75. Policies 36 and 37 of the CofDLP require new development to provide safe and adequate access and sufficient car parking and this approach displays a broad level of accordance with the NPPF at paragraph 108.
76. The application satisfactorily demonstrates that a safe and suitable means of access can be provided and as such the proposal accords with policies 36 and 37 of the EDLP and paragraph 108 of the NPPF.
77. However, at part 9 of the NPPF also promotes sustainable transport and at paragraph 103 in particular states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.
78. In this regard it is noted that the proposal would be remote from services and amenities and would not be readily accessible to public transport. Given this any occupants of the dwelling would be heavily reliant on a motor vehicle to access day to day services and as such the site is not considered to represent a sustainable location capable of supporting additional residential development contrary to paragraph 103 of the NPPF.

Ecology

79. Policies 14 and 15 of the EDLP seek to protect Special Areas of Conservation and Sites of Special Scientific Interest respectively which is an approach that is considered to display a broad level of accordance with Part 15 of the NPPF in that it seeks to ensure that new development protects and mitigates harm to biodiversity interests.
80. There are no structures of note currently present on site and as noted in the site summary the predominant use is one of forestry.
81. The Council's Ecologist has also notes that the proposed development is within the 6km Durham Coast HRA buffer therefore a financial contribution to the Coastal Management Plan is required to mitigate impacts as a result of new housing development. Durham County Council has carried out screening in compliance with the Habitats Regulations for all housing allocations in the county, this work was done in conjunction with Natural England, and after Appropriate Assessment, concluded that there is likely to be a significant effect on the Northumbria Coast SPA and Durham Coast SAC from new housing development within 6km of the coastal European sites due to increased recreational impacts including dog walking and coastal erosion. It was agreed that mitigation for those identified impacts upon the European protected sites will include the provision of alternative green space suitable for off-lead dog walking and or a financial contribution to the coastal management plan designed to limit the identified impacts. Natural England offer no objection to the application.
82. The applicant has agreed to make a contribution of £756.61 towards one of the strategic programmes within the Heritage Coast Management Plan to offset any adverse impact in this regard.
83. Subject to the commuted sum being made available and secured through S106 Legal Agreement, it is considered that the proposed development would accord with saved policies 14 and 15 of the EDLP and Part 15 of the NPPF, which seeks to protect and enhance biodiversity and the natural environment.

Other Matters

84. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
85. It is noted that the site is currently used for forestry and as the proposal relates to a more sensitive use. Consequently, the Council's Contaminated Land Section raises no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a Contaminated Land Risk Assessment (including intrusive site investigation and the implementation of remediation and verification where need is identified).
86. Subject to the inclusion of planning conditions in this regard the development is considered to accord with the requirements of paragraph 178 of the NPPF.
87. The Council's Drainage and Coastal Protection Section, the Environment Agency and Northumbrian Water Limited offer no objection to the application although the latter noted that there is no existing foul connection within the vicinity of the application site. However, the application is submitted in outline only with all matters reserved for future consideration and in this regard, it is considered that the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered acceptable in accordance with the aims of policy 1 of the EDLP.

Planning Balance

88. As the relevant policies of the EDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

Benefits

89. The development would provide some benefit in terms of providing a boost to housing supply although this would be considered very limited at one dwelling, particularly in the context that the Council is currently able to demonstrate a 5 year supply of housing land and only limited weight should be afforded to the benefits of delivering new housing given there is no current shortfall in supply.
90. The proposal would also present some personal benefits to the applicant, namely that a dwelling would provide natural surveillance that would have some positive benefit to health and safety noting the nature of forestry work and in relation to crime and antisocial behaviour, the latter presenting some benefit to the wider locality and the presence of a 36 signature petition in this regard is noted. However, any benefits in this regard would be limited and would not amount to a functional requirement for a rural worker to be permanently present on site in the context of paragraph 79 of the NPPF.

Adverse Impacts

91. The application site does not represent a sustainable location and any future occupiers of the proposed dwelling would be heavily reliant on trips by private vehicles in order to access day to day services including shops, health services and education facilities without sufficient justification contrary to paragraphs 79 and 103 of the NPPF.

Concluding Point regarding Paragraph 11

92. It is considered that given the benefits of the scheme can only be afforded limited weight and with this in mind the adverse impacts are considered to significantly and demonstrably outweigh the benefits and as such planning permission should be refused.

CONCLUSION

93. The proposal is considered to conflict with guidance contained within the NPPF in that it fails to present adequate justification for both the functional and financial need for the creation of a new isolated dwelling within the countryside to accommodate the essential need for a rural worker to live permanently at or near their place of work. In this regard the application is considered to be contrary to guidance contained within paragraph 79 of the NPPF and policy 3 of the EDLP.
94. The application is therefore present to the committee with a recommendation for refusal.

RECOMMENDATION

95. The proposal constitutes new residential development in the open countryside which is considered to be within an unsustainable location and without adequate justification in terms of an identified essential need or sufficient financial justification. Consequently, it is considered that the proposal is contrary to guidance contained within Paragraph 79 of the National Planning Policy Framework and the requirements of saved policy 3 of the Easington District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Easington District Local Plan 2007

Statutory, internal and public consultation responses



Planning Services

Outline Planning Permission for a rural-workers dwelling with all matters reserved

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Comments

Date: 11 June 2019

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COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|---|
| APPLICATION NO: | DM/18/03785/FPA |
| FULL APPLICATION DESCRIPTION: | Erection of 4 dwellings |
| NAME OF APPLICANT: | Mr Lee Smurthwaite |
| ADDRESS: | Land To The Rear Of 63 Crossgate Durham DH1 4PR |
| ELECTORAL DIVISION: | Elvet and Gilesgate |
| CASE OFFICER: | Michelle Hurton Michelle.Hurton@durham.gov.uk 03000 261398 |

DESCRIPTION OF THE SITE AND PROPOSALS

SITE:

1. The application site is located directly to the rear of Crossgate Workingmen's Club on the north side of Crossgate, approximately 85 metres from the street's junction with North Road and Framwellgate Bridge. The site is not visible from the surrounding public realm and can only be seen in localized views from either the rears of No.57-59 Crossgate, the Working Men's Club (No's 60 to 63) or via the private side vennals.
2. The site is accessed by a pedestrian route from Crossgate which is shared with the Workingmen's Club and sits within a concentrated, tightly enclosed urban context where the original commercial/residential properties which bound the site have been heavily altered and extended to the rear over time.
3. The site itself contains no listed buildings, and no known heritage assets, it is however located within Durham (City Centre) Conservation Area, is firmly within the setting of numerous listed buildings within both Crossgate and North Road and can be considered within the inner urban setting of Durham Cathedral and Castle World Heritage Site (WHS), which is located approximately 200 metres to the east.

PROPOSAL:

4. Full planning permission is sought for the erection of four residential town houses, comprising of two and three storey properties. The townhouses incorporate one two bedroomed property, two three bedroomed properties and one four bedroomed property.
5. Bin storage and cycle storage provision has been provided onsite for all properties.

6. The application is referred to planning committee at the request of local member Councillor Freeman as local residents are concerned about the location of the site, effect on nearby properties and whether the properties will become HMOs.

PLANNING HISTORY

7. There is no planning history for this site.

PLANNING POLICY

NATIONAL POLICY:

National Planning Policy Framework

8. A revised National Planning Policy Framework (NPPF) was published in February 2019. 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.
9. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
10. 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.
11. 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.
12. NPPF Part 5 - Delivering a sufficient supply of homes. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. NPPF Part 6 Building a Strong, Competitive Economy: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

14. NPPF Part 8 Promoting Healthy Communities. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted
15. NPPF Part 9 - Promoting sustainable transport. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. NPPF Part 11 - Making effective use of land. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
17. NPPF Part 12 - Achieving well-designed places. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. 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.
19. 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. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

NATIONAL PLANNING PRACTICE GUIDANCE:

20. 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; conserving and enhancing the historic environment; design; and use of planning conditions.

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

LOCAL PLAN POLICY:

City of Durham Local Plan 2004

21. Policy E3 (World Heritage Site) – Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.

22. Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
23. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
24. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
25. Policy E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
26. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
27. Policy E24 (Ancient Monuments and Archaeological Remains) sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
28. Policy H2 (New Housing within Durham City) states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
29. Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
30. Policy T1 (Traffic Generation – General) The council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
31. Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

32. Policy Q1 (General Principles – Designing for People) states that the layout and design of all new development should take into account the requirements of users. It will be expected to incorporate the following as appropriate personal safety and crime prevention, the access needs of people with disabilities, the elderly and those with children.
33. Policy Q2 (General Principles – Designing for Accessibility) states that the layout and design of all new development should take into account the requirements of users. It will be expected to embody
34. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
35. Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
36. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
37. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
38. Policy U13 (Development on Unstable Land) notes that development on unstable land will only be permitted if it is proven that there is no risk of the development or its intended occupiers from such instability or that satisfactory remedial measures can be undertaken.

EMERGING POLICY:

39. Paragraph 213 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.

Durham City Neighbourhood Plan

40. The Durham City Neighbourhood Plan is at an early stage of preparation and has not yet reached a stage where weight can be afforded to it.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

41. The City of Durham Parish Council objects to the proposed development and has raised concerns in regards of safeguarding listed buildings and their settings, impact on the character and appearance of the Conservation Area, does not provide a safe and satisfactory access and has inadequate parking provision.
42. Northumbrian Water raises no objections to the proposed development. Following the transfer of private drains and sewers in 2011, there may be assets that are the responsibility of Northumbrian Water that are not yet included in their records. Therefore, care needs to be taken prior and during the construction phase with consideration to the presence of sewers on site. Northumbrian Water actively promotes sustainable surface water management, the developer should develop their surface water drainage solution by working through the following, listed in order of priority: discharge into ground (infiltration); discharge to a surface water body; discharge to a surface water sewer, highway drain, or another drainage system; as a last resort, discharge to a combined sewer.
43. The Coal Authority raises no objections to the proposed development. The site is located within a high-risk area therefore, a planning condition is to be attached to any approval granted regarding the undertaking of a scheme of intrusive site investigations to properly assess the ground conditions and potential risks posed to the development by past shallow coal mining activity, submission of the findings and implementation of remedial works.
44. The Fire and Rescue Service has made no comment on the application.
45. The Highways Authority have raised no objections to the proposed development given that cycle provision has been provided as part of the scheme. A construction management plan condition is to be attached to any approval granted.

INTERNAL CONSULTEE RESPONSES:

46. Design and Conservation raises no objections given that the site is located in a concealed location which does not impact on the conservation area or surrounding listed buildings. A condition is to be attached to any approval granted regarding materials.
47. Ecology raises no objections subject to a S106 agreement being entered into between the applicant and the Council for the loss of biodiversity at the site.
48. Landscape raises no objections as it is considered that there are no visual impact issues on the enclosed site within the Conservation Area.
49. Landscape (Trees) raises no objections as the trees cannot be seen from any viewpoints and does not warrant tree preservation orders.
50. Environment, Health and Consumer Protection (Nuisance Action Team) raises no objections following the submission of the noise assessment report.
51. Environment, Health and Consumer Protection (Contaminated Land) – raises no objections, condition to be attached to any approval granted.

52. Archaeology raises no objections subject to a watching brief condition being attached to any approval granted

53. Spatial Policy raises no objections to the proposed development.

PUBLIC RESPONSES:

54. The application was advertised by means of site notice, press notice and by neighbour notification to 43 properties.

55. At the time of preparing this report 1 letter of objection had been received from the City of Durham Trust regarding the land being left over backland which includes semi-mature trees and a ten metre drop, the access to the site is by a long narrow alley, issues relating to construction machinery accessing the site, how will emergency services access the site and where will the wheelie bins be placed for collection given that there is a notice prohibiting bins being placed within the alley.

APPLICANTS STATEMENT:

56. Our consultant Ryder Architects has worked with planners and agents of Durham County Council and sought advice to establish a positive solution to proposed development on land to the rear of 63 Crossgate, Durham City.

57. The application site is free from major constraints and is available to develop in the short term. We understand the site has never been the subject of a planning application.

58. We are advised National Planning Policy framework [NPPF] has established a presumption in favour of sustainable development which means proposals should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole, or specific policies in NPPF indicate development should be restricted. There are no policies in NPPF, which would preclude development on land to the rear of 63 Crossgate.

59. Throughout the design process our agents have worked with Planners and Conservation Officers of DCC. We have developed their suggestions, and our agents have provided what we consider to be a well worked out development plan which provides a low-rise development of 4 No. town houses in a terraced formation to secure a development to sit well within the Durham City Conservation Area. The development also accords in every respect with 2015 Central Government space standards for rooms in residential dwellings.

60. Subject to the provision for cycle parking The Highways Authority have confirmed no objections will be raised to the development.

PLANNING CONSIDERATIONS AND ASSESSMENT

61. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

62. The main considerations in regard to this application are the principle of the development, locational sustainability of the site, residential amenity, impact on the character and appearance of the conservation area and heritage assets, highway safety and access, ecology, and contaminated land and stability.

Principle of Development

The Development Plan

63. 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 City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
64. On this basis given the age of the CDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need and must now be considered out-of-date. As such the weight to be afforded to these policies is reduced as a result and paragraph 11 of the NPPF is also engaged. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor is it prescribed how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
65. Policy H2 of the local plan supports the provision of new housing in Durham City providing it accords with other policies, including policies relating to the conservation area, open spaces and the World Heritage Site (WHS) and providing the development is on previously developed land. In this case the development is partly on previously developed land - as it would occupy part of the site on which an existing dwelling is located – but also relates to an area of garden, classed as greenfield land. In this regard the development would not be in compliance with Policy H2, however, this aspect of the policy does not accord with the NPPF which does not contain a sequential requirement and does not therefore preclude development on greenfield sites. Accordingly, less weight must be afforded to this policy due to the inconsistency with the NPPF.
66. With Policy H2 being a settlement boundary policy, informed by what is now an out of date evidence base, the policy is therefore considered to be an out of date policy for the purposes of engagement of paragraph 11 of the NPPF. This also affects the weight to be afforded to this policy.
67. Consequently, the application must be determined in accordance with Paragraph 11 of the NPPF.
68. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);

- approving development proposals that accord with an up to date development plan without delay; or
- where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Five year Housing Land Supply

69. Paragraph 67 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.

70. In September 2017, the Government published a consultation document entitled “*Planning for the Right Homes in the Right Places*”, which introduced a standard methodology for calculating housing need (OAN) which is now also reflected in paragraph 60 of the NPPF. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).

71. The Council’s position on 5-year housing land supply was publicly 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 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 standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

72. Accordingly, the benefit of boosting housing land supply will need to be factored into the planning balance, whilst recognising that the benefits of delivering new housing would be less than if a shortfall in supply existed.

Location and Sustainability of the Site

73. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development in locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

74. In this respect the application site is situated within Durham City and is well related to a wide variety of shops, services, education and employment opportunities and as such, the provision of 4 dwellings within this area, close to existing facilities could be supported in principle subject to assessment against other local plan policies and material planning considerations.

Impact upon residential amenity

75. Policy Q8 of the City of Durham Local Plan provides detailed design advice for new residential development and policy H13 states that planning permission will not be granted for new development which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them. The former prescribes separation distances of 21 metres between windows of habitable rooms and 13 metres between gable elevations and windows to habitable rooms. These policies are considered to comply with the NPPF in particular paragraph 127 f) which seeks to achieve a high standard of amenity for existing and future users. Part 15 of the NPPF seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution and noise.
76. The proposed development is located to the north of Crossgate Club. To the west of the site lies a small terrace of residential properties which run parallel with the access lane which serves the properties as well as Crossgate Club and the application site. These residential properties are situated on an elevated position facing onto the application site. To the north of the site, lies North Road which is set at a much lower level and forms part of the City Centre High Street which includes a mix of commercial properties.
77. The layout of the four properties has been designed in such a way to ensure that the separation distances are met and that there will be no overlooking issues created for the existing residents as well as the future occupants of the proposed development. The proposed development is set back into the site enough to ensure that the properties which face onto the site do not look directly onto the blank gable elevation of the proposed development.
78. With regard to private amenity space it is considered that all 4 properties would incorporate adequate private external space to serve the size and type of dwellings proposed.
79. Paragraph 180 of the NPPF requires that planning decisions avoid noise from development giving rise to significant adverse impacts on health and quality of life; and mitigate and reduce to a minimum other adverse impacts through the use of conditions.
80. The application site is located behind a number of commercial properties, including hot food takeaways and night time music venues. As such it is expected that the proposed development will be exposed to noise in excess of that stated in the Technical Advice Notes (TANs). The information submitted initially was not considered adequate to allow the Environmental Health officer to fully consider the proposed development. A noise assessment report was requested to detail the noise climate in the local area to demonstrate the suitability of the site and if any noise mitigation measures would be required.
81. A noise assessment report has since been received and it is considered that the information submitted demonstrates that the application complies with the thresholds stated within TANs.
82. The development is considered to be noise sensitive and is located in an inner city area in close proximity to a number of varied noise sources. Due to the need to shorten the monitoring period, the weather and limited accompanied monitoring of the site has led to some uncertainties. However, following a visit to the site by the Environmental Health officer it is considered that the findings of the report are generally indicative and as such demonstrate that the site is suitable for development.

83. The noise assessment report demonstrates that no specific noise mitigation measures are needed to obtain a reasonable degree of acoustic comfort. However, considering the nature of the site and surrounding uses it is strongly recommended that the specification of glazing/ventilation to sensitive rooms is increased. This is due to the surrounding uses and the potential for alterations of external plant/uses without the benefit of further planning consideration. Therefore, it is considered that a planning condition should be attached to any approval granted to agree the details.
84. Consequently, the Council's Environmental Health Section offers no objection to the application.
85. Concerns have been raised by Councillor Freeman regarding the dwellings becoming HMOs. The site is located within the boundaries of the Article 4 Direction (1) relating to HMOs which came into force on the 17th September 2016 and therefore to change the use of the dwellings from C3 use into C4 use would require a new planning application.
86. Overall, it is considered that the proposed scheme would comply with City of Durham Local Plan Policy Q8 and Part 15 of the NPPF and would not lead to a significant reduction in residential amenity for existing or future residents.

Impact upon character and appearance of the Conservation Area and Heritage Assets

87. Local authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Local authorities also have a duty under Section 66 of the same legislation to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
88. Policies E22 and E23 of the Local Plan reflect these legislative requirements and are also deemed to be consistent with the NPPF. Within the policies there is a requirement that development be refused where it would detract from the character of the area or the setting of a listed building and that all development should be sensitive in terms of siting, scale, design and materials, reflecting where appropriate existing architectural details. In addition, the policy requires that trees, hedgerows, views and undeveloped areas which contribute to the character or appearance of the area should be protected.
89. Objections have been received from the City of Durham Parish Council because of concern that the proposed development would cause a significant adverse effect on the character and appearance in the immediate location of the Conservation Area. The Parish have also objected because they consider the development conflicts with Policy E23 which is designed to safeguard listed buildings and their settings, however, the objection letter does not explain how the proposed development does not comply with this policy.
90. The site itself contains no listed buildings, and no known heritage assets, it is however located within Durham (City Centre) Conservation Area, is within the setting of numerous listed buildings within both Crossgate and North Road and can be considered within the inner urban setting of Durham Cathedral and Castle World Heritage Site (WHS), which is approximately 200 metres to the east.

91. The site is very distinct from the linear historic pattern of development in the area and was essentially created in the mid-20th century when what was historically a range of linear rear garden plots was built upon. As such the land today holds no value in terms of the historic layout and plan form of the area, or its understanding or evolution, while providing no functional or visual amenity attributes. The development would therefore result in the development of a site which makes no positive contribution to the significance of this part of the conservation area. The development proposal would in fact be considered to have a beneficial impact by the loss of the existing poor-quality back land environment replaced with a well-designed urban development displaying a contemporary take on the local vernacular.
92. In relation to the impact on surrounding listed buildings. There are a number of listed buildings in close proximity to the site namely No's 15, 16 & 17 North Road (Grade II), 53, 54, 55 & 56 Crossgate (Grade II) and in views across the site, the Church of St Godric Durham (Grade II) and further out, not exclusively, No's 4, 7, 9, 10, 11 Crossgate (Grade II), 24 and 26 Allergate, Church of St Margaret of Antioch (Grade I) etc.
93. The development proposal would have no direct physical impacts on any of the above listed buildings ensuring that their significance would be conserved. In terms of setting, there would be a general absence of intervisibility between the site and such designated heritage assets generated by the topography, street patterns, and surrounding existing built development. This means that it would not impact upon now the heritage values of any of these heritage assets are experienced, understood or appreciated as referenced by public views, and would not affect any significant non-visual factors such as their historic interest, relationships or the understanding of their past and their time-depth. Overall, the rear environment of a multi-period secondary townscape developed fortuitously and of limited quality provides a poor wider setting to surrounding listed buildings; as such the permanent change that the development proposal would bring can again be described as positive.
94. In terms of the impact on the setting of the WHS, the site's location, topography and the existing dense built development enclosing the site restricts intervisibility between the site and the designated heritage asset. As such the development proposal would have a neutral impact within its setting.
95. In design terms, the terraced format, narrow footprints and vertical emphasis, breakdown of scale and mass by the inclusion of building line, height and materials variants, the simple and balanced fenestration and simple detailing would be considered an acceptable contemporary take on the local vernacular.
96. In turn, the Design and Conservation officer has raised no objection to the proposed development given that the development is considered to enhance the area. It is considered that a planning condition should be attached to any approval granted requesting samples of materials proposed which would be required to be agreed by the LPA.
97. Originally the roof tiles were proposed to be red pantiles. However, as the predominant roofing material in the area is natural slate, concerns were raised regarding the introduction of this material, and amendments were sought. Amended plans were submitted which omitted the red pantiles and replaced them with natural slate which is welcomed.
98. In relation to archaeology it is noted that the application site lies within the historic core of Durham City, in an area where historic mapping shows the site has been variously used over time. Whilst some areas may have been disturbed it is probable that remains associated with some of the earliest uses will still survive, therefore a scheme of work will be necessary.

99. Consequently, the Council's Archaeology Section raises no objection to the application subject to the inclusion of a planning condition requiring the implementation of a programme of archaeological work to be approved in writing by the Local Planning Authority and the results be recorded within the County Durham Historic Environment record. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policy E24 of the City of Durham Local Plan and paragraphs 197 and 199 of the NPPF.
100. In this respect it is considered that the proposed development would not cause a significant adverse effect on the character and appearance of the immediate location of the Conservation Area and will not adversely impact upon the nearby Heritage Assets, and therefore it is considered that the proposals comply with saved policy E3, E6, E22, E23 and E24 of the City of Durham Local Plan.

Highway Safety and Access

101. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
102. The application site is located to the rear of Crossgate Club with no vehicular access and is only accessible via one pedestrian route which is to be used for both entering and exiting the site. Objections have been raised by the City of Durham Parish Council regarding the proposed development not complying with Policy T10 as it does not provide safe and satisfactory access or adequate parking provision for the proposed dwellings.
103. By reason of the layout and location of the site, it would not be possible to include off road parking for the development. The Council's Highways team considered this fact and accepted that in curtilage parking could not be achieved, but further acknowledged that the city centre location of the application site would mean that no parking provision would be required from a highways point of view. The applicant has been advised that no parking permits to park within the Durham City controlled Parking Zone would be given for the new properties should approval be granted.
104. The lack of parking provision, whilst not ideal, is not considered a sufficient ground for refusal of planning permission, and in many respects, such a circumstance would be more likely to deter car owners from inhabiting the properties as well as encourage sustainable transport choices. Amendments to the scheme have been provided to include cycle storage for each of the properties in accordance with policy T10 of the City of Durham Local Plan.
105. In regards to the access, given that it will be accessed on foot or by bicycle only, the width of the access is considered to be of an acceptable standard given that it is a wider access path than the existing access arrangements available for the properties located to the west of the site.
106. Given the location of the application site, it is considered that a planning condition should be attached to any approval granted relating to a Construction Management Plan being submitted to the LPA and agreed in writing, to ensure that the building work takes due account of the constrained access.

107. In this respect no concerns are raised in relation to highway matters at the site, and therefore it is considered that the proposals comply with saved policy T1 and T10 of the City of Durham Local Plan.

Ecology and Trees

108. The presence of protected species is a material consideration, in accordance with Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System). In addition, under the requirements of the Conservation of Habitats and Species Regulations 2017 (referred to as the Habitats and Species Regulations hereafter) it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England. The Conservation of Habitats and Species Regulations require local planning authorities to have regard to the requirements of the Habitats Directive in exercising their functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species licence from Natural England if one is likely to be required.

109. Paragraph 170 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible with Paragraph 175 stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for.

110. The site comprises of mature trees and scrub and it would appear that the extant habitats on site meet the criteria for North East England Nature Partnership Priority Habitat: Woodland Scrub, which have a biodiversity value that needs to be taken into account by the applicant as the proposed development would result in the loss of this habitat.

111. The original application did not include an ecological appraisal and given that the proposed development will result in a net loss of biodiversity, the Ecology officer considered that the proposal did not meet the requirements of the NPPF for either biodiversity or sustainability. Therefore, further information was required to be submitted in support of the application.

112. An amended arboricultural report and a habitat survey has since been received. The findings of the habitat survey show that the development of the site may result in the potential loss of approximately 510m² of non-native broadleaved secondary woodland and low risk destruction of an arboreal bat roost, although it was recommended that no further survey work of the site and surrounding was deemed necessary.

113. The application site is of such a small size that the felling of the woodland cannot be mitigated. However, those trees with a low risk of containing roosting bats are to be removed in a sympathetic manner, and by a competent and qualified arborist.

114. Due to the small size of the site, opportunities for on-site compensation are limited, therefore to calculate the level of off-site compensation for the loss of this habitat a biodiversity offsetting calculator was used. The calculations indicate a loss of 0.31 units of biodiversity, assuming full clearance of the site is achieved. Part 15 of the NPPF states that planning decisions should contribute to and enhance the natural environment by providing net gains for biodiversity. In order to meet this obligation, wildlife habitats to the value of at least 0.31 units will require creation off-site.

115. Therefore, the creation and establishment of 0.4ha of native broadleaved woodland is required as compensatory habitats. This would be provided as a financial contribution paid to the LPA via a S106 Agreement to deliver off site compensation. The amount of contribution is based on Direct Services costs for creating the habitat and establishing woodland over 3 years with the LPA absorbing the long-term management costs. The costs to the LPA would be £2,400. The S106 agreement of £2,400 should be paid prior to the commencement of works.
116. A bat risk assessment of the trees on the site revealed no evidence of roosting bats, however a small number of trees to the west of the site are clad with ivy, and therefore could not be comprehensively surveyed. These trees were considered to be at a low risk of containing roosting bats and therefore working methods for their removal are required.
117. To facilitate the proposed development the removal of the semi-mature trees will be required. The longevity of tree cover within a relatively small enclosed area means the trees are considered to have a limited life span. As the trees cannot be seen from any public vantage points, apart from within the site, it would be difficult to justify placing tree preservation orders on the trees. To the north of the site is a group of trees (G2) which are to be retained, a planning condition will be attached to any approval granted relating to tree protection measures. The Senior Tree officer has raised no objection to the proposed works.

Contaminated Land and Stability

118. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
119. The application site falls within a defined development high risk area; therefore, within the site and surrounding area there are coal mining features and hazards which need to be considered. The application is accompanied by a Phase 1 Desk Top Study Report which indicates that possible unrecorded mine workings within a number of coal seams pose a potential risk to the stability of the site.
120. The Coal Authority has confirmed that they do not hold any mine abandonment plans relating to shallow mine workings within the area, and the reason for the site being within the Development High Risk Area is due to the potential for the unrecorded mining of the outcropping Top Brass Thrill coal seam.
121. Therefore, The Coal Authority have requested that a planning condition be attached regarding the undertaking of a scheme of intrusive site investigations to properly assess the ground conditions and potential risks posed to the development by past shallow coal mining activity, the submission of the findings is to be submitted to the LPA as well as the implementation of remedial works. Subject to a planning condition being attached to any approval granted, they have raised no objection.
122. In turn, the Council's Contaminated Land Section has also raised no objection to the proposed development and considered that the Phase 1 report is generally acceptable, and the outcomes identify the need for a phase 2 assessment. The general scope of the Phase 2 investigation is considered appropriate; however, the Environmental Health officer has advised that asbestos should be included as a Potential Contaminant Of Concern although it is expected that this would be clarified within a specific detailed sampling and analysis plan which is to be agreed prior to works being carried out.

Drainage

123. Policy U8A of the City of Durham Local Plan states that development proposals will only be approved if they include satisfactory arrangement for disposing of foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
124. Northumbrian Water have been consulted and following the transfer of private drains and sewers in 2011, there may be assets that are the responsibility of Northumbrian Water that are not yet included in their records. With this in mind, care needs to be taken prior to and during the construction phase with consideration to the presence of sewers on site. Northumbrian Water has assessed the proposed development and have raised no objection. Northumbrian Water actively promotes sustainable surface water management and therefore the developer should develop their surface water drainage solution in a sustainable manner.
125. It is considered that the proposed development accords with the requirements of policy U8A of the City of Durham Local Plan. However, the inclusion of a planning condition requiring the submission and agreement of precise details of the means of disposal of foul and surface water prior to the commencement of development is to be attached to any approval granted.

Other Matters

126. The City of Durham Parish Council and City of Durham Trust have raised concerns on a number of issues including the safeguarding of the nearby listed buildings and their settings, having a significant impact on the character and appearance of the Conservation Area, and the proposal not providing a safe and satisfactory access or adequate parking provision. All material issues are considered to have been addressed within the report. In regards to the access not being a safe arrangement, the Fire Authority was consulted during the course of the application, consulting in particular on the access arrangements, however, no comments were received.

Planning Balance

127. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 of the NPPF, which states that permission should be granted unless policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusal, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. There are no such policies within the NPPF that provide a clear reason for refusal for this application.

Benefits

128. The application site is within a highly sustainable location within close walking distance to shops, services and public facilities. The principle of residential development in this location is considered acceptable and in accordance with the sustainable aims of the NPPF.
129. The development would provide some benefit in terms of providing a boost to housing supply although this could be considered limited at 4 dwellings, particularly in the context that the Council is currently able to demonstrate a 5 year supply of housing land and less weight should be afforded to the benefits of delivering new housing than would be the case if a shortfall in supply existed.

130. To a degree the development would provide direct and indirect economic benefits within the locality and 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. Such benefits can be afforded weight.

Adverse Impacts

131. In all other respects the applicant demonstrates that there would not be any adverse impact to which weight could be attached in determination of this application that could not be adequately mitigated through inclusion of planning conditions.

CONCLUSION

132. As the relevant City of Durham Local Plan policies are considered to be out of date, the presumption in favour of sustainable development is engaged. The residential development is therefore required to be considered in the context of Paragraph 11 of the NPPF, which states that the development should be approved without delay, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole or specific policies indicate development should be restricted.

133. It is considered that the overall design, scale and layout of the proposal would not detract from the built form in the surrounding conservation area and will not have an adverse impact upon the nearby historic assets. In turn, the proposals would not have an adverse impact on residential amenity.

134. In this instance, it is accepted that there would be some adverse impact as a result of the development, primarily centring around the impact on the loss of biodiversity. However, as identified in the planning assessment, the impacts would not significantly and demonstrably outweigh the benefits associated with additional family dwellings within the area. Accordingly, planning permission should be granted.

135. The proposal has generated some interest from the City of Durham Trust and Durham City Parish Council, with letters of objection having been received. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions and subject to the completion of a S106 legal agreement to secure the provision of:

- i. The sum of £2400 Indexed to be used by the Council towards biodiversity enhancements in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy document.*
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans

| Plan | Drawing No. | Date Received |
|-----------------------|-------------|---------------|
| Site Plan | | 11/12/18 |
| Topographical Survey | | 11/12/18 |
| Amenity space layouts | 5 | 28/05/19 |
| Amenity Space Layouts | 4 | 28/05/19 |
| Site location plan | | 01/04/19 |
| Proposed plans | 1 | 01/04/19 |
| Section A - A | 3 | 01/04/19 |

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E22 E23 E26 R18 T1 Q1 & Q2 of the City of Durham Local Plan

3. Notwithstanding any details of materials submitted with the application, no development shall commence until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details thereafter.

Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.

4. No development shall commence until a scheme for the provision of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the approved details.

Reason: To prevent pollution of the water environment in accordance with policy U8a of the City of Durham Local Plan.

5. No development shall commence until details of all means of enclosure have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: In the interest of visual amenity in accordance with the requirements of policies H13 of the City of Durham Local Plan.

6. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:

- i; Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- ii; Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.

- iii; Post-fieldwork methodologies for assessment and analyses.
- iv; Report content and arrangements for dissemination, and publication proposals.
- v; Archive preparation and deposition with recognised repositories.
- vi; A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
- vii; Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- viii; A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

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

7. Prior to the occupation of the development, 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 paragraph 199 of the NPPF which ensures information gathered becomes publicly accessible.

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

- A Dust Action Plan including measures to control the emission of dust and dirt during construction
- Details of methods and means of noise reduction/suppression.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

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

9. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a, b, c or d are not required. Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

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

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

Completion

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

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

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 15.

10. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

11. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The development shall be carried out in accordance with the approved details.

Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policies E14 and H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

12. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

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

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

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

Replacements will be subject to the same conditions.

Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policies E14 and H13 of the City of Durham Local Plan

13. No development shall commence until such time as a scheme of intrusive site investigation, (adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow mine coal mining activity) has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include a report of findings arising from the intrusive site investigation and a scheme of appropriate remediation. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To ensure the site is capable of accommodating the proposed use in terms of ground stability in accordance with the aims of policy U13 of the City of Durham Local Plan and paragraphs 178 and 179 of the NPPF

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Durham City Local Plan 2004
- National Planning Policy Framework
- National Planning Practice Guidance
- Consultation Responses
- Objection Letters



Planning Services

Erection of 4 dwellings at Land To The Rear Of
63 Crossgate, Durham, DH1 4PR

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Comments

Date. 11th June 2019

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COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|--|
| APPLICATION NO: | DM/19/00397/FPA |
| FULL APPLICATION DESCRIPTION: | Domestic Garage |
| NAME OF APPLICANT: | Mr David Taylor |
| ADDRESS: | Land south of West Wynd Stockton Road Seaham SR7 0PB |
| ELECTORAL DIVISION: | Seaham |
| CASE OFFICER: | Jennifer Jennings Planning Officer Telephone: 03000 261057 jennifer.jennings@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located to the north of Seaham, and forms part of a small group of dwelling houses located to the east of the B1285. The property and curtilage is the southernmost property of this grouping, beyond which lies intervening agricultural fields before reaching properties associated with the main settlement area of Seaham, some 330 metres away to the south. Directly west of the B1285 and opposite the application site lies Seaham Grange Industrial Estate and this extends south towards the main settlement area of Seaham. The Industrial Estate covers a large area but is hidden from view along the length of the B1285 by extensive and mature hedgerow. To the north of, and directly adjacent to, the Industrial Estate lies former agricultural buildings associated with East Cherry Knowle Farm which have been converted to dwellings.
2. The application site consists of a large double fronted detached dwelling, located to the north of the site with an attached double garage on the north gable end of the property. The dwelling has a brick and red tile finish with a large area of curtilage to its west (front), south (side) and east (rear). A tarmac drive exists to the front, whilst the land to the south of the dwelling consists of loose gravel, allowing for further parking. To the south east and east (rear) of the property are lawned areas, along with a patio area directly adjacent to the rear elevation. Boundary treatments consist of a low lying brick wall with high pillars to the frontage and open post and rail fencing along the south and east boundary up to one metre in height.

3. The application site is located within the Tyne and Wear Green Belt. From this point the Green Belt extends eastwards to the coast, southwards towards Lord Byrons Walk and northwards towards the boundary with Sunderland, taking in the other dwellings adjacent to the application site and the barn conversions of East Cherry Knowle Farm. Seaham Grange Industrial Estate is not within the Green Belt but the designation continues west from the west boundary of the Industrial Estate.

Proposal

4. The proposal seeks full planning permission for the erection of a detached triple garage located within the curtilage to the south of the dwelling. The garage would measure 12 metres by 7 metres with the long frontage facing towards the B1285. Four dormer windows would be located in the roof, two to the front and two to the rear, serving an upstairs room within the garage. The proposed building would be finished in matching brick and roof tile.
5. The application is referred to Committee at the request of the Local Ward Councillor who wishes the Planning Committee to consider whether or not a refusal of the proposals for a garage within the curtilage of a dwelling is reasonable, despite its Green belt location.

PLANNING HISTORY

6. In 2003, an outline application was submitted for a new dwelling but was withdrawn. A further outline application for a new dwelling was submitted in the same year and approved in 2004. The red line boundary was significantly smaller, covering not much more than the foot print of the house and front driveway area.
7. In 2007, planning permission was granted for the erection of a house and garage. The application also sought permission for change of use of land to the south of the site for domestic use.
8. In 2012, planning permission was granted for a front porch.

PLANNING POLICY

NATIONAL POLICY

9. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
10. 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.
11. 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.

12. NPPF Part 13 Protecting Green Belt Land - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt land serves 5 purposes; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

13. 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; conserving and enhancing the historic environment; design; and use of planning conditions.

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

LOCAL PLAN POLICY:

The Easington District Local Plan (2001) (LP)

14. *Policy 1 – General Principles of Development* – Due regard will be given to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
15. *Policy 3 – Protection of the Countryside* – Development limits are defined on the proposal and inset maps. Development outside ‘settlement limits’ will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
16. *Policy 4 – Green Belt Extension in County Durham* – this policy defines the extent of the Tyne and Wear Green Belt that lies within County Durham.
17. *Policy 35 – Design and Layout of development* – Development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
18. *Policy 36 – Design for access and the means of travel* – To ensure good access and to encourage alternative means of travel to the private car, development should provide safe and convenient footpath and cycleway links, facilities to enable public transport, safe and adequate access capable of serving the amount and nature of traffic to be generated, physical measures to exclude or reduce impacts of motor traffic. states that existing footpaths and public rights of way should be protected.
19. *Policy 37 – Design for Parking* – new development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

20. Policy 73 – Extensions and / or alterations to dwelling houses – where such development requires planning permission, approval will be granted where there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.

RELEVANT EMERGING POLICY:

21. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

22. Highways Authority comment that there would be no highways objection subject to imposition of a planning condition restricting the use of the on-site garages to C3 residential use to prevent any unauthorised uses the garages could be associated with in the future.

INTERNAL CONSULTEE RESPONSES:

23. Environment, Health and Consumer Protection (Contaminated Land) – have no concerns with regards the application and no requirement for a planning condition relating to land contamination.

Landscape Section – comment that there would be some adverse landscape and visual effects. The principal receptor is the Stockton Road and views of the garage would be seen from most viewpoints against the greater mass of the adjacent house's gable end. The effect of the proposals in terms of incursion into the Green Belt would be marginally reduced if the structure was rotated to face south rather than west.

PUBLIC RESPONSES:

24. The application has been advertised by means of site notice on site and by notifying neighbouring residents by letter. No comments have been received.

APPLICANT'S STATEMENT:

25. We have worked with planners and agents of Durham County Council and sought advice to establish a positive solution to provide a suitable garage to accommodate private cars on land at South Wynd Seaham.

26. The application site is within the enclosed boundary our property which was granted planning permission ref 5PLAN/2007/0554 for a detached dwelling which we now occupy.
27. Planners and Officers of DCC. Have verbally agreed that a detached garage located on the land could be supported, subject to the structure being positioned against the exposed gable end of South Wynd.
28. We have considered the proposal but consider the suggested location of the garage does not represent a practical solution to meet our requirements. We have therefore suggested the garage be repositioned to a position parallel to the existing property.
29. We also note The Highways Authority have confirmed no objections will be raised to access for the proposed development.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>

PLANNING CONSIDERATIONS AND ASSESSMENT

30. 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 the development within the Green Belt, impact of the development on the openness of the Green Belt and on the character of the surrounding area, residential amenity and highway safety.

Principle of Development within the Green Belt

31. 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 Easington Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the Local Plan was adopted in 2001 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
32. In consideration of the above, saved policy 4 relating to the Green Belt designation to the north of Seaham is directly relevant to the proposal and identifies that the application site is located within the Green Belt. Policy 5, which provides advice on the control of development within Green Belts, is however not a 'saved' policy following 2004 planning reform and is considered expired. On this basis paragraph 11 of the NPPF would be engaged, as there are no relevant development plan policies or policies which are most important for determining the application are out of date. However, paragraph 11 states that permission should be granted unless:

- i. The application of policies in the 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 NPPF taken as a whole.
33. Accordingly, it is necessary to consider whether paragraph 11(d) i) above applies which in turn depends upon an assessment against section 13 of the NPPF relating to protecting of Green Belt land.
34. Within this section paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that when considering any planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations.
35. Paragraph 146 clearly states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
 - a. Buildings for agriculture and forestry;
 - b. The provision of appropriate facilities for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments
 - c. The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building
 - d. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
 - e. Limited infilling in villages
 - f. Limited affordable housing for local community needs
 - g. Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
36. Paragraph 147 provides other exceptions, including mineral extraction and engineering operations etc which are not of relevance to this application.
37. In the determination of this application, consideration needs to be given as to whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the NPPF. The exceptions within paragraph 146 do not specifically refer to garages or outbuildings within the garden curtilage of dwelling houses. However, as outlined at an appeal case in 2004 (DCS ref. 037-661-665) it was agreed that domestic outbuildings could be defined as extensions for the purposes of defining appropriateness, in which case the application can be determined against part c of the paragraph 146 exceptions.
38. The site currently comprises a large detached two storey dwelling house with attached double garage. The dwelling house has a footprint of approximately 205 square metres with the existing double garage adding a further 56 square metres. The proposed triple garage would measure 84 square metres in footprint, which would equate to a 32 per cent increase in the developed area of the site. Whilst an increase of one third may not, in general, be considered excessive, this needs to be considered in the context of the site and how it relates to existing development.

39. At present development on the site is located at its northern most end adjacent to the existing built up area. The frontage of the dwelling house measures 14 metres across, with the attached garage measuring 6.4 metres across. This presents a relatively long frontage, particularly by comparison to neighbouring semi detached and detached properties further north along the street, which for the most part measure no more than 10 metres along their frontage. The proposed triple garage would measure 12 metres across its frontage and would add a 60 per cent increase in developed frontage of this site. This aspect in itself is considered a disproportionately large addition, particularly as the proposed garage is to be located on an undeveloped part of the site at the edge of the built up area at this part of Seaham. As a disproportionate extension, the proposal would represent inappropriate development in the Green Belt.

Impact of the development on the openness of the Green Belt and landscape character

40. Being designated Green Belt land, the LPA is duty bound to protect the openness of such land and ensure any excepted development does not undermine the reasons for including land within this designation. Paragraph 134 sets out the five key purposes of the Green Belt, three of which have direct relevance in this case, namely to check unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another and to assist in safeguarding the countryside from encroachment. The introductory three paragraphs to this report provide detail on the application site and the context of its surroundings. From this assessment it is clear that the south gable end of the existing dwelling marks the end of the developed area of this part of Seaham on this side of the B1285, beyond which the openness of the countryside area is evident. This area is characterised by the expanse of agricultural land with the benefit of long distance views to the coast and sea beyond being readily gained. It is without doubt that the addition of a triple garage beyond the developed area will impede on this openness.

41. Although the land proposed for development is contained within garden curtilage, an assessment of the history of the site reveals that this curtilage area was extended significantly during the course of planning applications between 2004 and 2007 for the erection of the house that has now been built. Initially the site was triangular in shape with the frontage not dissimilar to what currently exists along the main road, but with the boundary cutting back diagonally across the land towards the existing built up area. Historic maps show that this field boundary had existed since before 1850. However the later 2007 planning application for the house and garage included a site location plan that had effectively squared off the land, seeking permission to change the use of existing farm land into domestic curtilage. Whilst this was approved (although objections were noted at the time), restrictions were applied to the permission to seek to control incursion of development beyond the approved built area, by removal of permitted development rights for extensions and separate outbuildings. This has been effective to date, and although classed as domestic curtilage, the land forms a part of, and contributes to, the openness of the Green Belt. This is helped by the boundary treatments at the site, with low lying wall to the front and open post and rail fencing to the side and rear elevation.

42. The views of the Council's Landscape section were sought in terms of the likely impact on the character of area. They commented that there would be some adverse landscape and visual effects and that the garage would be seen from most viewpoints. They further comment that even if the garage were rotated to face south rather than west, the extent of its incursion in the Green Belt would be only marginally reduced, meaning there would continue to be an impact on openness.

It should be noted that Green Belt designations are planning tools to protect from encroachment into countryside areas and are not used as a means to define the quality of landscape character. So whilst the area does not benefit from a designation of high landscape value, its Green Belt status is nonetheless sufficiently important, with the NPPF identifying one of its key attributes as its openness. With no development or domestic structures to the south of the dwelling house, the site remains uncluttered and merges seamlessly with the surrounding open countryside. In this way it is clear that the addition of a large triple garage would therefore erode this open character, encroaching into the countryside, harming one of the key purposes of designating the land as Green Belt.

It is therefore necessary to apply the test in paragraph 144 of the NPPF namely that if a proposal would be inappropriate development, consideration should be given as to whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations which would amount to very special circumstances necessary to justify the development. The proposal is by definition harmful and in addition to that, there would be an adverse impact on openness and the landscape character. The site already benefits from a double garage alongside a good sized dwelling, with accommodation over three floors, and no justification for the proposed garage has been put forward. Accordingly, there are no considerations which clearly outweigh the identified harm and very special circumstances do not exist.

Impact on residential amenity

43. Given its location away from the main area of development to the north, the proposals would not create any negative impacts in terms of loss of privacy or overbearing impact on surrounding properties. There is no conflict with policy 35 of the local plan in this regard.

Highway Safety and Access

44. Saved local plan policy 36 requires that the council should require that the design and layout of development provide safe and adequate access capable of serving the amount and nature of traffic to be generated as well as encourage alternative means of travel. The proposed garage would accord with these requirements insofar as suitable access can be gained onto the road with good levels of visibility available. Highways have therefore raised no objections, however suggested a condition be applied to ensure that the garage would be used in association with the dwelling house and not for a business or trade.

Other matters

45. Some queries were raised during the course of the application in terms of the reasoning behind including a Green Belt in this location, particularly given the location of the Industrial Estate nearby. From assessing the preamble associated with Policy 4 of the Easington Local Plan 2001, it is clear that significant concern was raised with regards the potential for the settlement to merge with Ryhope to the south of Sunderland as well as noted pressure for development on the agricultural land to the north of Lord Byrons Walk, which was impacting on the regeneration of sites within the Seaham town centre area. In this regard the Green Belt was deemed an important and necessary addition to the 2001 Local Plan for Easington and is to be carried forward within the emerging County Durham Plan.

46. Further comments were made with regards the erection of a triple garage to the north of the East Cherry Knowle Farm area, north of the Seaham Grange Industrial Estate. This site consisted of a series of derelict farm buildings that were subsequently converted to homes. The latest permission was granted in 2011 and as part of the conversion scheme, a triple detached garage with dormers in the roof space was also approved. It is noted that the site is also located within the Green Belt area. However the merits of this case differ substantially to the current proposal, not least due to its location adjacent to the Industrial Site to the west of the B1285, but also due to the existing established hedgerow forming a natural field boundary at the site. In addition the garage in this location is not deemed to impact on any open views within the area due to the existing hedgerow providing significant screening.

CONCLUSION

47. In conclusion, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In this case, the proposed triple garage with dormers is considered disproportionately large and in a very prominent location therefore amounting to inappropriate development and impacting on the openness of the Green Belt. Added to this harm is the adverse impact on the landscape character of the area. Very special circumstances do not exist to outweigh this harm. The proposals are therefore deemed to conflict with the aims of the NPPF and the reasons behind the designation of the Green Belt as outlined in Policy 4 of the Local Plan. Paragraph 11(d)(ii) of the NPPF is applicable and the proposal does not benefit from the presumption in favour of sustainable development.

RECOMMENDATION

That the application be **REFUSED**, for the following reason:

1. The proposed triple garage with dormers is considered disproportionately large and prominently located therefore amounting to inappropriate development in the greenbelt. In addition to harm by reason of inappropriateness, there is an adverse, impact on the openness of the Green Belt and the landscape character of the area. Very special circumstances do not exist which would clearly and demonstrably outweigh this identified harm. The proposals are therefore deemed to conflict with the aims of Green Belt policy as detailed within Part 13 of the National Planning Policy Framework, as well as undermining the reasons behind the designation of the Green Belt as outlined in Policy 4 of the Easington District Local Plan 2001.

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 balance of all considerations, the issues of concern could not result in a positive outcome being achieved. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

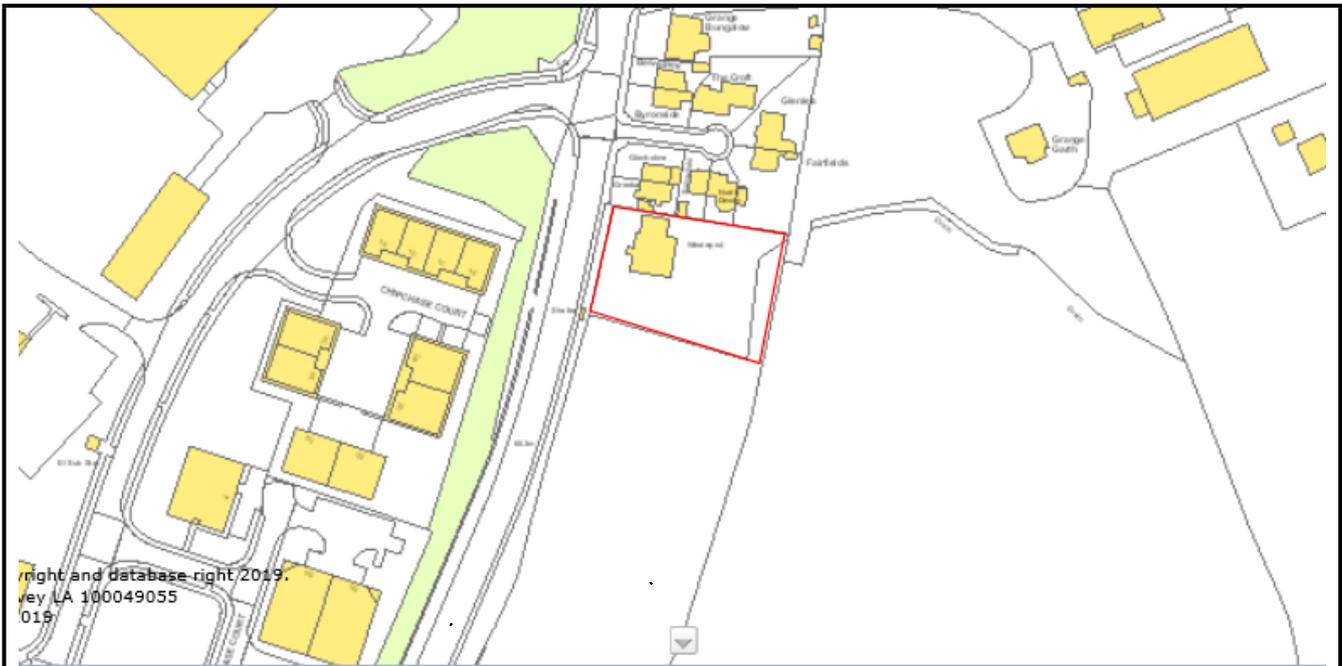
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



| | | |
|---|--|-------------------------|
| <p>Planning Services</p> | <p>Detached garage at land south Of West Wynd, Stockton Road, Seaham SR7 0PB</p> <p>Application Number DM/19/00397/FPA</p> | |
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| | <p>Date 11 June 2019</p> | <p>Scale NTS</p> |

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/19/01182/FPA
FULL APPLICATION DESCRIPTION: First floor front extension and attached garage
NAME OF APPLICANT: Mrs Joanne Hall
ADDRESS: 3 Witton Garth
Peterlee
SR8 1NF
Passfield
ELECTORAL DIVISION:

John Russell
CASE OFFICER: john.russell@durham.gov.uk
03000 263428

DESCRIPTION OF THE SITE AND PROPOSALS

SITE:

1. The application site relates to a detached property situated at the end of the residential cul-de-sac at Witton Garth, Peterlee. The site slopes from the north to the south, with the property currently having 4 bedrooms based over the ground and first floor. In addition, there is a garden room to the rear and attached double garage on the front elevation with a balcony area at first floor level.

PROPOSAL:

2. Full planning permission is sought for a first-floor extension above the existing double garage and creation of an attached garage on the front elevation towards the south of the site. The new room created in the first-floor extension is described on the floor plans as a disabled child's bedroom/bathroom. This new bedroom will have folding doors leading to a small rectangular area of the existing balcony. In addition to this, further internal works are detailed on the drawings and floorplans which include the existing garage being converted into a therapy room.
3. Internally the building is to be reconfigured to become a 5-bedroom property with therapy, play and games rooms, along with living, dining and garden rooms, kitchen, utility and bathrooms. The proposed attached garage will replace the current double garage and is required for the storage a vehicle due to a previous vehicle being stolen and the storage of mobility equipment.
4. The application is brought before members at the request of the local ward member (Cllr Hawley) for consideration of visual amenity.

PLANNING HISTORY

5. PRE21/18/03048 – Pre-application advice request for conversion of garage, build on top of garage and construction of new garage to side (10th January 2019).
6. The final pre-application response was unsupportive for the first-floor extension due to the impact on amenity of the neighbouring property (4 Witton Garth, Peterlee) which is a bungalow and set down below the application site due to the land topography. The applicant was also advised that the proposal did not meet minimum distance standards and was perceived to be significantly overbearing upon the residential and visual amenity of the neighbouring property. However, it was acknowledged that a proposal at the rear of the property could garner support or the first-floor extension being reduced by half the proposed width.

PLANNING POLICY

NATIONAL POLICY:

National Planning Policy Framework

7. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
8. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
9. 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.
10. 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.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

LOCAL PLAN POLICY:

District of Easington 2001

11. Policy 1 (*General principles of new development*) whether the proposal would accord with the principles of sustainable development together with any benefits to the community and the local economy.

12. Policy 35 (*Design and layout of development*) proposals should embody the objectives of energy conservation, reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials, provide adequate open space, appropriate landscaping features and screening where required and have no serious adverse affect on the amenity of people living and working in the vicinity of the development site and existing use of adjacent land of buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
13. Policy 73 (Extensions and/or alterations to dwelling houses) extension or alterations to an existing dwelling, will be approved provided that there is no serious adverse effect on the amenities of residents of adjoining properties in terms of either overshadowing, loss of light, overlooking or visual intrusion. The proposal is in keeping with the scale and character of the building itself and the area generally in terms of site coverage, height, roof style, detailed design and materials and the proposal does not result in the loss of off-street car parking spaces or lead to conditions that are prejudicial to road safety.

EMERGING POLICY:

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

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

15. Ward Councillors were consulted on the 29th April 2019 and Councillor Karen Hawley has requested that the application be brought before members for consideration of visual amenity.

INTERNAL CONSULTEE RESPONSES:

16. Highways Section – The councils Highways Officer was consulted and has confirmed that whilst the loss of a potential garage parking space may be disappointing the property would still be able to accommodate at least 3 no. parked motor vehicles to the front of the proposed ground floor therapy room and the proposed attached single garage. This remains a good level of on-site car parking and complies with the minimum requirement of the County Durham Parking & Accessibility Standards 2019, based on this there would be no highway objections to these proposals.

17. Ecology – The councils Ecology Officer was consulted and has raised no objections, however, a request has been made to include a bat informative if approval is recommended.
18. Trees – The councils Tree Officer was consulted and has raised no objection, however, it is possible that the construction will impact a neighbouring hedge but this is not protected and the applicant should be advised to ensure this is not damaged during construction if approval is granted.

PUBLIC RESPONSES:

19. The application was advertised by means of site notice which was displayed adjacent to the property on the 30th April 2019 and by neighbour notification to 5 properties also on the 29th April 2019.
20. At the time of preparing this report no responses from neighbours have been received.

APPLICANTS STATEMENT:

21. The applicant has opted not to submit a statement.

PLANNING CONSIDERATIONS AND ASSESSMENT

22. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
23. It is acknowledged that the proposal involves significant work for a disabled child. The personal circumstances of an applicant can be a material planning consideration, but are rarely a determinative factor. Therefore, only limited weight can be afforded to the personal circumstances of the applicant in the decision making process.
24. The main considerations in regard to this application are the principle of the development, residential amenity, visual amenity, highways/parking and ecology.

Principle of Development

25. The application site is located within the settlement boundary of Peterlee and is a detached property located at the end of a cul-de-sac. Within the immediate area there are a mix of property types and sharing similar material including buff colour brick, concrete roof tiles and mainly brown coloured fenestration. The site is situated on an area of land that slopes downward from north to south.
26. Peterlee is a large town situated in the east of the county and benefits from facilities, services and transport options. As such a development of this nature would be considered to be within a sustainable location and would be supported in terms of national, regional and local planning policy, in particular NPPF section 12 and policy 1 of the local plan.

27. The proposal needs to be determined in accordance with the LP unless material considerations dictated otherwise including the National Planning Policy Framework 2018 (NPPF) particularly paragraph 11 which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations dictate otherwise);

– Approving development proposals that accord with the development plan without delay; or

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

i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

Policy 73 of the Local Plan states that extensions to an existing dwelling will be approved as long as specific criteria are met. This policy is considered to be up to date and compliant with the aims of the NPPF. Therefore, the expansion of the property would be acceptable in principle, subject to detailed consideration of the impacts of the proposals on neighbouring properties and the locality.

Impact upon residential amenity

28. In respect of the design and layout of the development, during the pre-application process design changes were advised to make the proposal acceptable in policy terms. This included recommendations to either locate the extension to the rear of the property or to reduce the first-floor extension by half the width. These changes were to ensure the proposal was in accordance with policy requirements of the local plan as appendix 7 (paragraph 2.5) states a minimum distance of 13.5 metres between window elevations and opposing gable end walls should be maintained to reduce the impact on amenity of neighbouring property, in this case 4 Witton Garth, Peterlee. The submitted application has disregarded this advice and additionally the attached garage has now been relocated to the front elevation at the south of the site forming an even closer gable wall in relation to habitable windows of the neighbouring property. The proposed first-floor extension fails this policy requirement as the distance is approximately 11 metres from the proposed first-floor gable wall to the neighbouring property and the garage gable wall will be approximately 6.25 metres. As such the proposal is not in accordance with policies 35 or 73 of the District of Easington Local Plan. Policy 73 (Extensions and/or alterations to dwelling houses) states extension or alterations to an existing dwelling will be approved provided that there is no serious adverse effect on the amenities of residents of adjoining properties in terms of either overshadowing, loss of light, overlooking or visual intrusion. It is considered that the current proposal will have a significant adverse impact on the residential amenity of the neighbouring property due to the closeness of the proposed 2 new gable walls.

29. The pre-application submission from the applicants proposed an alternative way of extending the host property with a garage to the side, which would have less of an impact on this neighbouring property. However, the submitted scheme has been amended as described, with the side garage now omitted.

30. The materials to be used in the development have been confirmed to be light buff facing brick, brown concrete tiles and brown Upvc fenestration, all to match existing materials.
31. Therefore, in design terms it is considered that the proposed first-floor extension and attached garage are unacceptable as they are not in accordance with policies 35 and 73 and appendix 7 (paragraph 2.5) of the District of Easington Local Plan due to separation distances being less than 13.5 metres from the new gables to habitable room windows of the neighbouring property 4 Witton Garth, Peterlee. The situation is made worse by the difference in ground levels between the two properties, with the application site being higher and increasing the overbearing impacts of the development.
32. In respect of residential amenity, due to the location of the development site, orientation of the host dwelling and location of the proposed first-floor extension and attached garage it is considered that there would be significant adverse impact on the residential amenity of the neighbouring property to an extent that would justify refusal. As stated above Appendix 7 (paragraph 2.5) sets a distance of 13.5 metres from a gable to habitable room windows. For the avoidance of doubt Appendix 7 (paragraph 3.4) states habitable rooms shall include: living rooms, dining rooms, kitchens, bedrooms, studies, games rooms, nursery etc. non-habitable rooms include bathrooms, toilets, halls, landings, cloakrooms and utility rooms.
33. NPPF Part 12 (Achieving well-designed places) states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It goes on to further state that 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. Paragraph 127(f) highlights that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This latter point is of particular significance given the impacts on the neighbouring property, and the proposal is considered to be contrary to the NPPF in this respect.

Impact upon visual amenity

34. Policy 35 (Design and layout of development) requires that proposals should reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials. In addition, they should have no serious adverse effect on the amenity of people living and working in the vicinity of the development site and existing use of adjacent land of buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. The proposal would generate an enlarged property at the southern side of the site and an increased density of development as a result, and as such there are some concerns about scale and design. However, the area is characterised by individual properties of varying scale and design, and the application site is located at the end of a cul-de-sac. On this basis, the development is not considered to have such significant adverse impacts on the host property or street scene to justify refusal as being out of character. Notwithstanding this, the proposal would create an over bearing impact on the neighbouring property for reasons mentioned previously and have significant adverse impacts on the residential amenity currently enjoyed.

Highways

35. In respect of highways issues, the council's Highways Officer has confirmed that whilst they are disappointed to see the loss of the double garage, they have no objections to the scheme. The Highways Officer is satisfied that at least three vehicles could park within the curtilage of the property.

36. In this respect no concerns are raised in relation to highway matters at the site, and therefore it is considered that the proposals comply with saved policies 1, 35 and 73 of the District of Easington Local Plan.

Trees

37. In respect of trees on the site, the council's Tree Officer has confirmed that they have no objections, however, it is possible that the construction will impact a neighbouring hedge but this is not protected and the applicant should be advised to ensure this is not damaged during construction if approval is granted

Ecology

38. The council's Ecology Officer was consulted and has raised no objections, however, a request has been made to include a bat informative if approval is recommended.

CONCLUSION

39. In conclusion it is considered that the proposed development due to its location, site topography and overall design would have significant adverse impact on the residential amenity of the neighbouring property at 4 Witton Garth, and does not meet the policy requirements of the local plan with regards to separation distances and is therefore contrary to policies 1, 35 and 73 of the District of Easington Local Plan. Although the proposals are intended to provide disabled facilities, this is not considered to outweigh the harm caused by the development.

RECOMMENDATION

Recommendation that the application is:

REFUSED

1. The proposed extensions by reason of scale, design, location and a difference in ground levels are considered to have a significant adverse impact on the residential amenities of the neighbouring property, 4 Witton Garth, in terms of visual intrusion and overbearing impact, contrary to policies 1, 35 and 73 of the District of Easington Local Plan 2001 and Part 12 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



Planning Services

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First floor front extension and attached garage at 3 Witton Garth, Peterlee, SR8 1NF

Comments

Date. 28th May 2019

Scale 1:1250

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|---|
| APPLICATION NO: | DM/19/00846/OUT |
| FULL APPLICATION DESCRIPTION: | Outline application with all matters reserved for a proposed single storey dwelling and demolish existing structures with associated access works. (amended plan and description). |
| NAME OF APPLICANT: | Mr Raymond Catleugh |
| ADDRESS: | Land Adjacent To The Elms, High Hesleden |
| ELECTORAL DIVISION: | Blackhalls |
| | Susan Hyde |
| | Planning Officer |
| CASE OFFICER: | 03000 263961 |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. High Hesleden is a small hamlet located to the east of Hesleden and to the West of Blackhall Rocks. The application site is located on the eastern edge of High Hesleden and currently forms part of a field currently used for the keeping of horses with stables and associated storage facilities and stable yard on the application site. To the north and west of the site are open fields. To the east is Micklehill Road with semi detached bungalows adjacent to the road. To the south is a cul-de-sac The Elms which accommodates 5 detached dwellings. Although the vehicular access is a reserved matter the red line application includes The Elms as the proposal is for the access to be from this unmade private cul-de-sac.
2. The site is shown as lying just outside the settlement boundary on the District of Easington Local Plan with the settlement boundary line including the existing dwellings on The Elms and the semi-detached dwellings to the east.

The Proposal

3. Outline planning permission is sought for the erection of 1 No. dwelling with all matters reserved. The application proposes the demolition of the existing horse related single storey structures and an illustrative layout plan has been submitted which shows the possible siting of a detached bungalow and garage. The associated access works relate to the vehicular access from the cul-de-sac The Elms and the agent has noted that for an additional dwelling to be sited from this access the road will need to be made up to an adoptable standard.

4. The application is before Members at the request of Councillor Crute to allow the issues of road access and highway safety to be considered by Members.

PLANNING HISTORY

PLAN/2007/0655 – Granted planning permission for stables on the land.

PLANNING POLICY

NATIONAL POLICY

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. NPPF Part 2 Achieving sustainable development
7. 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.
8. 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.
9. 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.
10. 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.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

11. 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 relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

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

LOCAL PLAN POLICY:

12. The following policies of the Easington District Local Plan (EDLP) as amended by Saved and Expired Policies September 2007 are relevant to consideration of this planning application:
13. Policy 1: Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with the sustainable development principles while benefitting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
14. Policy 3: Development outside the settlement limits will be regarded as development within the countryside. Other than specifically allowed for by other policies, development in the countryside will not be approved.
15. Policy 35: The design and layout of development should consider use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
16. Policy 36: The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
17. Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

RELEVANT EMERGING POLICY:

18. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at

<http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. County Highway Officer – *The Elms is a private shared drive/access road and historically there has been no Section 38 Agreement Highways Act 1980 in place to consider the highway infrastructure for adoption by Durham County Council.*

There are already 5 no. dwellings served by the existing private shared drive/access road and Section 3.6 Private Drive Accesses (Type 6) of the DCC Highways Design Guide for Residential Development November 2014 does not permit any more than 5 no. dwellings to be served by such a road infrastructure.

The planning application was amended to include the adoption of The Elms and the applicant has confirmed that the road is within his ownership. The County Highway Officer has commented that whilst the applicant's intention to upgrade The Elms to DCC Highway Adoption Standards is welcomed by the Highway Authority this must be supported by a suitably worded planning condition, which must be added to any planning permission that may be granted to ensure that the adoption of the road has the details agreed before the development commences on site and the adoption is completed before the dwelling is occupied.

Consultee Responses

20.Environmental Health – Noise – They have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant TANs (Technical Advice Notes). The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact.

In addition they can confirm that they have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment that the development is unlikely to cause a statutory nuisance.

21.Environmental Health – Contaminated Land – A screening assessment for historical contaminants was required on the site. This has now been submitted and at the time of preparing this report Environmental Health Officers are assessing if contamination conditions are required on the site. The committee will be updated accordingly.

22. Ecology – Raise no objection to the vehicular access and confirm that as the structures on the site appear to be modern stables and sheds built from pre-fabricated materials they do not need an ecological assessment for the proposal.

This development is within the 6km Durham Coast Habitats Regulations Assessment (HRA) buffer therefore DCC (as Competent Authority) are required to undertake an Appropriate Assessment of the application to determine whether the development is likely to have a significant effect on the integrity of the Durham Coast SAC and Northumbria Coast SPA.

Durham County Council has carried out initial screening (in conjunction with Natural England) in compliance with the Habitats Regulations for all housing allocations in the county. The 6km buffer allows development to proceed up to 6km away from the coastal European Protected Sites provided certain mitigation measures are taken. This can include alternative green space suitable for off-lead dog walking or a financial contribution of either £662.00 (for sites allocated in the County Durham Plan) or £756.61 per dwelling (for non-allocated sites) towards specific Coastal Access Management Measures.

If the development is approved the financial contribution for this development is £756.61 and should be secured through a Section 106 Agreement or Unilateral Undertaking and allocated to CAMMS revenue Action Point 2.

PUBLIC RESPONSES:

23. The application was advertised by neighbour letters and a site notice and the following responses were received.

24. 25 letters of support that are all of a similar format and state they support the application and have no objections to the proposal. In addition a signed petition with 48 signatures was submitted in support of the application stating that they support the planning application and raise no objection to the proposal.
25. One letter of representation which states that the current road surface (The Elms) remains unfinished and as a result, both drain and manhole covers protrude from the surface, causing trip hazards and potential damage to vehicles. This risk is increased by the absence of street lighting, which they would also hope/expect to be addressed as part of the adoption process.

APPLICANTS STATEMENT:

The proposal relates to the small parcel of land contained within the corner of the junction of Micklehill Road and The Elms in High Hesleden, Co Durham. The site currently is occupied by stables, storage buildings, storage yard and paddock. See OS plan and Site Plan for further details.

The proposal involves the removal of all existing structures to the site and the provision of a single storey, mono-pitched roof, dwelling house together with a detached garage accessed via the retained existing vehicle access from The Elms to the North of the site. The bungalow will provide accommodation for the existing inhabitants of No 1 The Elms, which current property has become unsuitable for the occupants upon medical grounds, but who wish to remain in the same vicinity, with access to their other land/property and amenities.

The proposal is for a modern designed structure with a plan form to follow the curve of the road, with a mono-pitch roof with the lower eaves level to the road side elevations. The single storey structure will house an open plan living/dining/kitchen area, three bedrooms and associated service rooms. It is proposed to use environmentally sound construction types with technologies and fabric providing a highly sustainable unit with the levels of insulation, energy use, etc, which far exceeds the minimum requirements of the Building Regulations, keeping running cost and environmental impact to a minimum. The design of the structure aims to utilise the natural environment to aid this goal, while sitting within its setting naturally to aesthetically enhance the site.

The detached garage is to reflect the dwelling house, with the existing vehicle access being utilised to the North of the site, from The Elms. It is proposed to provide two parking spaces together with the double garage. It is also proposed to provide an electric charging point for electric vehicles to the parking area to accommodate developments in the automotive industry and the ease of use of electric vehicles for the occupants of the dwelling.

The site, while outside the previous development boundary of the settlement does lie within the boundary of the settlement and offer a natural extension to the settlement. The proposed site is an infill site which has been previously developed. There are existing buildings/dwellings and structures extending beyond the proposed site out from the centre of the settlement, to the opposite side of the road, which forms the boundary to the site, along both adjoining highways. Further, the actual village boundary can be seen to be some distance beyond the proposed site. Reference should be made to the location plan and photographic record sheet for details and clarification of the position and siting of the proposed site.

High Hesleden is served by public transport, Public House, Public Park, leisure facilities, and various other amenities and facilities. High Hesleden is also connected to other settlements and major conurbations by Footpaths, Public Transport and Highways offering a full array of public services, shops, Schools, Medical Practice, facilities, etc, etc.

26. 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 the development, the impact on the character and appearance of the surrounding area, ecology and highway safety.

Principle of Development

27. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Easington District Local Plan (EDLP) was adopted in 2001 and was intended to cover the period to 2006. The 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. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up to date/is time expired.
28. On this basis, given the age of the EDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up to date objective assessment of need, and must now be considered out of date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
29. Policy 3 of the EDLP is relevant and seeks to restrict new development within the countryside and outside of existing settlements other than specifically permitted by other policies in the plan. However, given the out of date evidence base which underpins this policy and its application of settlement limits means that the policy must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.
30. As the development plan policies which are most important for the determination of the application are out of date regard must therefore be had to Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);

approving development proposals that accord with the development plan without delay; and

where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusal 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; or

31. Having regard to the above, the Development Plan is considered to be out of date and there are no policies which protect areas or assets of particular importance which provide a clear reason for refusal with respect to this proposed development. As a result, the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits taking into account specifically the impact of the proposal upon the sustainability of the location, impact on the landscape, impact upon residential amenity, ecology, contaminated land, access and highway safety.

Five year Housing Land Supply

32. Paragraph 73 of the updated 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.
33. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
34. 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 in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.
35. Accordingly, the benefit of boosting housing land supply will need to be factored into the planning balance, whilst recognising that the benefits of delivering new housing would be less than if a shortfall in supply existed.

Locational Sustainability of the Site

36. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.
37. In this regard High Hesleden is identified as a tier 6 settlement (Hamlet) within the County Durham Settlement Study (2012) on account of it having very few facilities which at present is understood to be limited to a single public house. Future occupiers of the proposed development would therefore have poor access to shops, services, education and employment opportunities, which given the distances to surrounding settlements would foster an over reliance on trips by private vehicle. Officers also note that the closest settlement of Hesleden is located over 1km away from the application site and the next nearest at Blackhall in excess of 1.4km away. These distances are not considered to be suitable walking distances for pedestrians to reach services and facilities and it is noted that in both instances the majority of the routes are not subject to any street lighting. Whilst there is a bus route which runs a service through High Hesleden, investigations indicate this is infrequent.
38. The fact that the site is poorly served by key services is a material consideration within the planning balance to which weight can be applied when considering the planning balance test contained in paragraph 11 of the NPPF.
39. On this issue, Officers note that in a recent appeal for 3 dwellings in High Hesleden (Planning reference DM/18/00043/OUT Planning Inspectorate Reference APP/X1355/W/18/321124) the Planning Inspector in his decision statement concurs with officers views on sustainability and states that 'However, although there is a demarcated footpath along the routes to Hesleden and Blackhall Rocks, I saw that significant lengths of these routes are unlit. Furthermore, the routes lead through the open countryside and are therefore not overlooked. Using these routes to access facilities in neighbouring settlements may be practical for able bodied individuals in good light and good weather.

However, these routes would not be practical for children, the elderly and less able bodied due to their unlit nature and lack of natural surveillance. Indeed, the lack of streetlights and surveillance would be likely to deter future residents of the proposal from using these routes on foot or on bike during the hours of darkness and in winter months.'

40. With regard to the bus service the Planning Inspector commented: 'The appeal site has convenient access to bus stops which are served by bus routes providing access to nearby villages as well as larger settlements. However, the evidence suggests that these bus services are relatively infrequent, and I do not consider that these bus services would provide a significant alternative to a reliance on the private car due to the frequency of the bus service and the relative convenience of these modes of transport.' Officers concur with this view.

41. Officers therefore conclude that future residents of the application site would be heavily reliant on the private car to access services and facilities as well as employment. Whilst the proposal for one dwelling would not represent large scale development, officers do not consider this would outweigh the wider policy requirement to manage growth in a sustainable manner. The proposal would therefore be contrary to Policy 1 of the Local Plan which requires the development should accord with the principles of sustainable development. Whilst Policy 36 of the Local Plan refers to the layout and design of development, the proposal would conflict with the aims of this Policy with regards to meeting the access needs of the users of development and encouraging alternative means of travel to the private car. These policies are broadly consistent with the NPPF which seeks to manage patterns of growth in order to promote sustainable transport.

Impacts upon Surroundings

42. Policies 1 and 35 of the EDLP requires new development to reflect the scale and character of adjacent buildings and the area generally. This displays a broad level of accordance with the aims of Section 12 of the NPPF which attaches great importance to the design of the built development, noting that good design is indivisible from good planning, and should contribute positively to making places better for people.

43. Saved policy 35 requires the design and layout of new development to reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials. Schemes should provide adequate open space, appropriate landscape features and screening (where required) and development should have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.

44. Section 12 of the NPPF highlights the need for achieving good design in new development. Given the sites location outside the settlement boundaries it is of particular important to consider the impact of the proposed development on the landscape. Paragraph 127 of the NPPF highlights the need for decisions to be sympathetic to local character and history, including the surrounding built environment and landscape setting. Section 15 of the NPPF recognises the need to conserve and enhance the natural environment by protecting and enhancing valued landscapes (para 170).

45. The potential effect of the development on the visual amenity value of the village would not be considered significant in this location. The key views of the site are from Micklehill Road to the north of the site where views are restricted from the mature hedgerow and from the public footpath to the north of the site which looks onto The Elms, and from within the cul-de-sac the Elms. There are no specific landscape allocations in the local plan in this location.

On the application site there are already significant single storey buildings with the stables / storage building currently being on site. The site is proposed to be accessed from the Elms which allows the existing hedge adjacent to the west boundary adjacent to Micklehill Road to be retained which forms an existing mature boundary. In addition, the sketch layout includes a proposed hedge on the north boundary which would also partially screen the proposed bungalow from views from the north of the site from Micklehill Road, suggesting that the development could be assimilated successfully into the settlement in visual terms. The single storey height of the building will also assist in reducing the impact of the development from long range views.

46. Officers therefore conclude that whilst there is some impact on the street scene and the landscape of High Hesleden from introducing a dwelling and residential curtilage onto the edge of the hamlet the impact is not considered to be significant.

Impact upon Residential Amenity

47. Policy 35 of the Easington District Local Plan requires new development to have no serious adverse effect on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. This approach is considered to display a broad level of accord with the aims of paragraph 180 of the NPPF which requires that planning decisions avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

48. The nearest residential properties are located to the south at The Elms where an approximate 21 metres separation distance is shown between the application site and the detached dwellings on The Elms. To the west of the site at Micklehill Road there is an approximate distance of 30 metres from the sketch location to the existing semi detached dwellings. Whilst the submitted location plan is provided for indicative purposes only it nevertheless demonstrates that the site is capable of accommodating one dwelling without adverse impact upon residential amenity.

Highway Safety

49. Policy 36 of the EDLP requires new development to provide safe and adequate access capable of serving the amount and nature of traffic to be generated. The amended application proposes the use of an existing access from Micklehill Road on to The Elms which currently serves 5 existing dwellings.

50. The highway authority has been consulted and offers no objection to the amended planning application that includes The Elms within the red line application site and confirms that the cul-de-sac would be brought up to an adoptable standard as part of the planning application. The Highway Officer has requested a condition to ensure that the adoption procedure is achieved on the outline planning consent requiring the submission of details before the development commences and implementation before the dwelling is occupied if planning permission is granted on the application site.

Ecology

51. Although not supported by a preliminary ecological assessment the County Ecologist has confirmed that in this case as the site already has modern buildings on it for the stables and storage a preliminary ecological assessment would not be required. The county ecologist has also commented he could only support a vehicular access from The Elms as an access from the Micklehill Road would lead to the loss of a substantial amount of hedge to achieve the highway sight lines.

52. In addition the Council's Ecology Officer has noted that the proposed development is within the 6km Durham Coast HRA buffer therefore a financial contribution to the Coastal Management Plan is required to mitigate impacts as a result of new housing development. Durham County Council has carried out screening in compliance with the Habitats Regulations for all housing allocations in the county, this work was done in conjunction with Natural England. A financial contribution of £756.61 would therefore be required, to be secured via a legal agreement if planning permission is granted.

Land Contamination

53. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.

54. The Council's Contaminated Land Section has no objection to the application in principle, but is considering the need for conditions, as referred to above.

Planning Balance and Conclusion

55. As policy 3 of the Local Plan is out of date the proposal should therefore be assessed on the basis of the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF. This requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

56. With regard to the benefits of the development, as a small site adjacent to an existing settlement the proposal would add to the supply and mix of housing in the area. It is noted that future residents would support services in surrounding settlements, but due to the scale of the development this support would be limited. The construction of the proposal would also lead to employment and investment, although this would be to a limited degree and over a limited period of time.

57. With regard to the adverse impacts of the proposal the application site would not be in a sustainable location with regard to access to services and employment. The proposal would therefore conflict with the policies of the NPPF in respect of managing patterns of growth to promote sustainable transport. The proposal would be contrary to Policies 1 and 36 of the Local Plan with regard to the sustainability of the location and these policies with regard to the sustainable location and promoting sustainable transport are considered to be in broad conformity with the NPPF.

58. In conclusion the adverse impacts arising from the proposed application with regard to sustainable patterns of growth and promoting sustainable transport would significantly and demonstrably outweigh the benefits. The proposal should therefore be refused.

CONCLUSION

59. This application has been fully assessed and considered in relation to the relevant policies including 1, 3, 35, 36 and 37 of the District of Easington Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, supporting information submitted with the application has been fully considered along with comments received from consultees and local residents.

60. The application is submitted for one dwelling in outline on the above site in the small hamlet of High Hesleden. Officers conclude the location of the site in High Hesleden is not considered to a sustainable location due to the limited services available both in High Hesleden and the difficulties in accessing the closest settlements of Hesleden and Blackhall Rocks either by public transport or by walking or cycling. For these reasons officers consider the application is not acceptable and is contrary to Policy 1 and 35 of the District of Easington Local Plan 2001 and this significantly and demonstrably outweighs the limited benefits of the proposal.

61. The application is therefore recommended for refusal.

RECOMMENDATION

That the application be refused for the following reason:

1. In applying the requirements of paragraph 11 of the NPPF the adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits. In particular, future occupiers would be heavily reliant upon trips by private vehicles to access shops, services and employment opportunities contrary to the aims of Policies 1 and 35 of the District of Easington Local Plan and Part 2 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
District of Easington Local Plan 2001
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance



Planning Services

Outline application with all matters reserved for a proposed single storey dwelling and demolish existing structures with associated access works (amended plan and description).

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**Date
June 2019**

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|--|
| APPLICATION NO: | DM/19/00855/FPA |
| FULL APPLICATION DESCRIPTION: | Erection of 1 no. detached bungalow. |
| NAME OF APPLICANT: | Mr Gordon Pearson |
| ADDRESS: | Land At Flass Bungalow, Flass Vale, Durham. |
| ELECTORAL DIVISION: | Neville's Cross Susan Hyde Planning Officer |
| CASE OFFICER: | 03000 263961 |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located to the west of the existing 1950's Flass Bungalow and currently forms part of the defined residential curtilage of the bungalow. Whilst the proposed site for the detached dwelling is on a flat area of land the land slopes steeply downwards to the north of the site which towards a public footpath and this slope is wooded. All the planning application site for the dwelling and residential curtilage is within the green belt, High Landscape Area and Conservation Area the site is located adjacent to Flass Vale which is a local nature reserve and area of woodland with public access from footpaths to the north and west of the site. The site has trees within the red line application site and is also surrounded by mature trees to the north and west of the proposed site. To the south the site joins an existing garden that forms part of Highgate House and to the east is Flass Bungalow owned by the applicant. To the north and west rear of the site is the wooded, hillside backdrop known as Flass Vale which contains several public footpaths, is designated Green Belt, an area of high landscape value, local nature reserve and wildlife site and contains Maidens Bower Scheduled Ancient Monument immediately to the west of the application site. The application site is accessed via a relatively steep access lane off Ainsley Street that serves Flass bungalow and two other large detached dwellings with the application site forming the last property and the track then forming the public footpath only.

The Proposal

2. Full planning permission is sought for 1 detached two bedroomed bungalow which is proposed to be located to the north west of the existing bungalow. Vehicular access to the proposed bungalow is from an existing access and the siting of the proposed dwelling is set back from the public footpath located to the north of the application site and the existing trees on the application site are proposed to be retained. The building is proposed to be constructed of natural stone and timber walling with a tiled roof.

3. The application is before Members at the request of Councillor Brown as the proposal is in the Durham City Green Belt, is within the Flass Vale Nature Reserve and it is in close proximity to Maidens Bower, a Bronze Age burial site and she feels the proposal will be detrimental to this area.

PLANNING HISTORY

No planning history on this site.

PLANNING POLICY

NATIONAL POLICY

4. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
5. 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.
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 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.
8. 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.
9. NPPF Part 13 Green Belt -
10. 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.

11. *NPPF Part 16 Conserving and Enhancing the Historic Environment*: Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

12. 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 relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

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

LOCAL PLAN POLICY:

13. The following policies of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007 are relevant to consideration of this planning application:
14. Policy E1 - Durham City Green Belt outlines the presumption against inappropriate development in the Green Belt in order to preserve its intrinsic openness.
15. Policy E3 - World Heritage Site – Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
16. Policy E6 - Durham City Centre Conservation Area states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
17. Policy E10 - Areas of Landscape Value is aimed at protecting the landscape value of the district's designated Areas of Landscape Value.
18. Policy E14 - Trees and Hedgerows sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
19. Policy E15 - Provision of New Trees and Hedgerows states that the Council will encourage tree and hedgerow planting.
20. Policy E16 - Protection and Promotion of Nature Conservation is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

21. Policy E18 - Sites of Nature Conservation Importance seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
22. Policy E22 - Conservation Areas seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
23. Policy E24 - Ancient Monuments and Archaeological Remains sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
24. Policy E25 - Nevilles Cross Battlefield seeks to protect and enhance the battlefield site through not permitting development which would adversely affect the interpretation of the battle, seeking the provision of appropriate interpretation material on the battle site and not permitting development harmful to the Conservation Area or scheduled ancient monuments and archaeological remains.
25. Policy H7 – City Centre Housing seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
26. Policy H13 - Residential Areas – Impact upon Character and Amenity states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
27. Policy T1 - Traffic – General states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
28. Policy T10 - Parking – General Provision states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
29. Policy T21 - Safeguarding the Needs of Walkers states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network.
30. Q1 and Q2 - General Principles Designing for People and Accessibility states that the layout and design of all new development should take into account the requirements of all users.
31. Policy R11 - Public Rights of Way states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.

32. Policy R11 - Public Rights of Way states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.
33. Policy Q5 - Landscaping General Provision sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
34. Policy Q8 - Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
35. Policy U5 – Pollution Prevention states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
36. Policy U8a - Disposal of Foul and Surface Water requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
37. Policy U11 - Development on Contaminated Land sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

RELEVANT EMERGING POLICY:

Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at

<http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. County Highway Officer – The applicant currently has a shared drive access arrangement which links to Ainsley Street as means of access to the site, the site currently serves 3 number residential dwellings. These proposals add an additional 2 bedroom residential bungalow to the private shared access which takes the total to 4 number residential dwellings. In highway terms the vehicular trips generated by the bungalow would not impact on the public highway and 4 residential dwellings from a shared private access is acceptable.

In terms of residential parking requirements, the site should be designed to fulfil the Highway Authority's Parking Standards. The applicant has not indicated any clear useable car parking space at the site, parking spaces should be provided for two average sized family vehicles as parking amenity space for the bungalow. The general residential car parking standards sizes are as follows. A double width drive for side by side parking is normally sized at 4.7m x 5.5m. A double length single width drive is normally 2.7m x 10.5m. An average sized family vehicle should be able to comfortably reverse manoeuvre safely and turn onsite to proceed onto the private shared access in forward gear.

Bin refuse collection

In accordance with the Councils refuse collection policy a bin storage area needs to be located on the site plan, which should be shared with the applicant and be located no further than a distance of 25 metres from the public highway for refuse collection.

The above highway matters need to be addressed and detailed with relevant dimensions on a clear accurate scaled block layout plan for highways approval.

Consultee Responses

39. Environmental Health – Noise – The application relates to a noise sensitive development and as such falls into the scope of the TANS. However the proposed development is such that it cannot be considered against the thresholds or other relevant guidance/standards contained within the TANS. Therefore the planning officer should consider the following supporting detail to inform their decision in relation to the possible impact of the development.

The proposed site is suitable for residential accommodation therefore there are no concerns when the proposal is operational. However there are currently residential properties near to the site and therefore during construction there may be noise and dust issues if suitable controls are not in place and as such noise management conditions are proposed.

40. Environmental Health – Contaminated Land – The Environmental Health Officer has reviewed the completed screening assessment form, dated 12/03/2019. The adjacent land use is identified as domestic historically, however Flass Quarry is shown to be directly adjacent to the proposed development. No information is known regarding the quarrying activities or if any infilling has taken place. Given this and due to the fact that this development constitutes a change of use to a more sensitive receptor, a contaminated land condition should apply.

41. Landscape Officer - This *Green Belt* property is within an *Area of High Landscape Value* and *Conservation Area*. A designated *Local Wildlife Site* surrounds the property. The bungalow and garden are visible from the adjacent public right of way. The heavily wooded surrounds serve to visually isolate the site. Some trees are further protected by *TPO's*. Large mature trees within the property overshadow much of the garden.

The site and its immediate surrounds are of high sensitivity to the effects of further built development. I was unable to find a detailed *Tree Constraints Plan* beyond the details shown on the *Site Plan*. The loss of only some of those trees identified in the Tree Survey, within this heavily tree covered location, would suggest minimal impact. However, it is unlikely that future occupants would be content to live in such shaded proximity to some of those trees scheduled for retention.

Despite these reservations, and subject to any detailed comments that the Senior Tree Officer may wish to make, the effects on the character and visual amenity value of the AHLV and Conservation Area would be less than significant with regards to impact on the landscape.

42. Tree Officer - The proposed site is within the Durham City Conservation Area, Local Wildlife site (LWS) and adjacent to the Local Nature Reserve (LNR); Tree Preservation Orders are also located adjacent to the property boundary. The Arboricultural report submitted is out of date, dated 8th June 2015. Within section 4.2 of the report it is not clear which tree numbers it is referring to, as no plan has been submitted that indicates tree numbers and root protection areas. Topographical survey and proposed plans do not show any of this.

As such the following information is required – before any further comments can be provided to assess the proposal:

- Tree Survey
- Arboricultural Impact Assessment
- Tree Protection Plan
- Arboricultural method Statement

All of which must comply with BS 5837 2012

43. Conservation Officer - The proposed dwelling is unlikely to cause a significant issue with visual impact upon the character and appearance of the surrounding conservation area given the screening afforded by the land form, trees and adjacent dwellings.

44. Ecology - This proposal is located directly adjacent Flass Vale Local Nature Reserve and surrounded by mature woodland. A Preliminary Ecological Assessment (PEA) of the site and the immediate surroundings is required to fully inform the application on the potential ecological impacts of the proposal. The PEA should assess the nature and quality of the habitats on the application site and at the edge of the woodland for the potential for the presence of protected species and Priority Species (NERC Act).

The PEA should also specifically address the risk of

- Bats using Flass Bungalow
- Bats using mature trees around the edge of the woodland
- An assessment of the impacts of increased lighting and noise disturbance on bat commuting or foraging routes
- Badgers
- Risk of Great Crested Newts

45. Archaeology – Comments are awaited and Members will be updated at Planning Committee.

PUBLIC RESPONSES:

46. City of Durham Parish Council - The Parish Council objects to this proposed development in Flass Vale. In particular we note that the intended development would breach the protected Green Belt in this part of the City. The presumption in favour of sustainable development does not apply when the site is Green Belt land (NPPF para 11). The application does not meet any of the exceptions set out in paragraphs 143-147 of the NPPF, and the applicant has not addressed these criteria in his submission.

Its construction would also damage the Flass Vale Nature Reserve which is protected. Furthermore, it conflicts with the protected locality of Maiden's Bower, a Bronze Age burial site.

We note the applicant's assertion that this is a brownfield site. However, it is possible that land which has at some point in the past been developed can, by the action of nature, revert to greenfield. That is what has happened in this case.

Attempts have been made in the past to enclose this parcel of land and also to build on this area. Those attempts have always been thwarted by the appropriate planning authority and there have been no relevant or material changes in planning policies since then.

We believe that this application should be refused because it is contrary to a raft of Environmental Policies (E1, E8, E10, E20, E21, E22, and E24) and Policy R3 in the Saved Durham City Local Plan 2004 and Policy 13, (paragraphs 135, 143 and 144), Policy 15 (paragraphs 174 and 176) and Policy 16 (paragraphs 184, 185 and 189 - 195) in the NPPF 2018.

47. City of Durham Trust - Trustees object to this application. They suggest that it is contrary to so many saved Local Plan policies that it should be dismissed out of hand. (That is without reference to NPPF.) It is a Local Nature Reserve (E20), in Green Belt (E1, and not meriting one of the possible six exceptional types of development therein), Area of High Landscape Value (E10), adjacent to Ancient Woodland (E14) and section of the Neville's Cross Battlefield (E25) and ancient Maiden's Bower. Trustees' conclusion, therefore, is to disagree with the applicant that the proposal "will not impact significantly" and that choice of materials to lessen the impact of a new building is irrelevant in view of infringement of policies.

APPLICANTS STATEMENT: The applicant has opted not to submit a statement.

PLANNING CONSIDERATIONS AND ASSESSMENT

The Development Plan

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 principle of the development, the impact on the character and appearance of the surrounding area, ecology and highway safety.

Principle of Development

49. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The City of Durham Local Plan (CDLP) was adopted in 2004 and was intended to cover the period to 2006. The 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. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up to date/is time expired.
50. On this basis, given the age of the CDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up to date objective assessment of need, and must now be considered out of date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.

51. The application site for the proposed dwelling is all located within the designated green belt on the CDLP, with the boundary of the green belt being located to the east of the application site, including most of the applicants bungalow, Flass Bungalow. Policy E1 of the CDLP is relevant as it relates to the policy for the defined green belt boundary and explains in the justification that the fundamental aim of the Green Belt is to prevent urban sprawl and defines 5 purposes for including land in the Green Belt that include:
- . to check the unrestricted sprawl of large built up areas;
 - . to preserve the setting and special character of historic towns.
52. Officers consider national policy in NPPF is broadly consistent with Policy E1 and in paragraph 133 includes the same fundamental aim to prevent urban sprawl and provides the same 5 purposes in paragraph 134 including the two highlighted above.
53. In this case the defined Green Belt encloses an open woodland area that includes a Local Nature Reserve (located to the north of the application site) and the City of Durham Conservation Area includes the green wooded valley including the application site. This open wooded area forms an attractive green lung that runs from open countryside to the west of Durham City towards the central area of Durham City. Officers consider the Green Belt boundary is still relevant and is required to serve the above purposes of preventing urban sprawl by keeping the land open and also assists in preserving the setting and special character of Durham City. Officers consider it is pertinent that this green wooded valley forms part of the Conservation Area.
54. Policy E1 defines new development in the green belt as 'inappropriate' unless it falls within specific criteria. The national policy in NPPF is consistent with Policy E1 and states in Paragraph 143 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. The specific categories in the national and local policy relate to uses such as agricultural or forestry use, replacement of an existing dwelling, conversion of existing buildings and limited extensions to existing buildings. The green belt policy therefore defines a new dwelling that is not required for a genuine agricultural purpose as inappropriate development. In this case no supporting case has been submitted on agricultural grounds, and the proposed dwelling is therefore considered to be 'inappropriate' development in the greenbelt. A balancing exercise in accordance with Policy E1 of the CDLP and Part 13 of the NPPF is set out later in this report
55. As the development plan policy E1 is considered to be the most important policy for the determination of the application and is considered to have a high degree of consistency with the NPPF, Paragraph 11 of the NPPF, which establishes a presumption in favour of sustainable development, is not considered to be engaged in this case.

Five year Housing Land Supply

56. Paragraph 73 of the updated 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.

57. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

58. 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 in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.

59. Accordingly, the benefit of boosting housing land and delivering new housing would be less than if a shortfall in supply existed.

Locational Sustainability of the Site

60. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

61. In this regard the application site performs well with the site being within 500 metres of the bus station, a range of commercial services and within 600 metres of the train station. In addition, a primary school is located about 600 metres from the site and a secondary school about 800 metres.

Impacts upon the Character and Appearance of the Area and Heritage Assets

62. The application site lies within the Durham City Centre Conservation Area, immediately abuts Flass Vale and is within the designated green belt and an Area of High Landscape Value. The designated Local Nature and Wildlife Reserve is located to the north of the application site and Maidens Bower Scheduled Ancient Monument is located to the north of the application site boundary. Trees within part of the site are protected by the Flass Vale TPO of 1973. This includes the tree to the east of the application site fronting onto the public right of way to the front of the application site.

63. The site therefore lies within a sensitive location and careful consideration must be given to the impacts of the development upon the area and the various local land designations.

64. The Local Planning Authority has a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve or enhance the character and appearance of a conservation area.

Design and Conservation officers have been consulted on the application and have raised no objections subject to the proposal not leading to a loss of the mature trees (this is discussed below). Providing this is achieved no harm to the character, appearance or setting of the Conservation Area is considered to occur. Design and Conservation officers consider that the site is currently well screened due its setting within the existing mature trees and surrounded by wooded embankments and the proposed bungalow in the materials of natural stone and timber walling and a tiled roof would have a neutral impact on the Conservation Area.

65. Flass Vale is designated within the Local Plan as an Area of High Landscape Value, and is within the Green Belt. The allocations of the green belt and the high landscape area cover the planning application for the proposed dwelling and residential curtilage. The site of the local nature reserve is not on the planning application site but is to the north of it. Policies E10, E18 and E1 of the Local Plan respectively seek to protect such areas from inappropriate development. The character of this area is of a mature woodland setting and the designation as an Area of High Landscape Value reflects this. Policy E10 seeks to protect the landscape value of the area and resist development which would have an unacceptable adverse impact on the landscape. This is considered to be consistent with Paragraph 170 of the NPPF that seeks to protect and enhance valued landscapes. In addition, Policy E14 of the CDLP seeks to retain areas of woodland, important groups of trees and require a full tree survey to accompany planning applications when development may affect trees.
66. In this case the Landscape Officer and Tree Officer have both noted that the submitted tree report is out of date and that there are mature trees on site, including some that are the subject of a TPO. The tree officer and landscape officer have noted that they cannot provide detailed comments on the impact of the development on the trees without adequate updated information including a Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural method Statement. This information is required to assess the impact of the new dwelling on the existing trees. Officers therefore consider there is insufficient information with regard to trees on the application site.
67. However officers also note that the proposed siting is within a group of mature trees where limited light will penetrate to windows and concerns are raised that a dwelling in this location would lead to requests for pruning / tree removal to improve light into the site to the detriment of existing tree cover.

Archaeology

68. Maidens Bower Scheduled Ancient Monument is located to the north of the planning application site and is close to the boundary of the Neville's Cross Battlefield. Policies E24 and E25 of the Local Plan relate to archaeological remains, ancient monuments and the Nevilles Cross battlefield and seek to protect archaeological remains (requiring preservation in situ where necessary), ancient monuments and the interpretation of the Neville's Cross Battlefield. Part 16 of the NPPF is consistent with the aims of these policies. Comments from the archaeology officer will be provided to members at planning committee.

Highways Issues

69. Policy T1 of the Local Plan seeks to ensure that all development is acceptable in terms of highway safety whilst Policy T10 seeks to limit parking provision in development to promote sustainable transport choices and reduce the land take of development. Part 9 of the NPPF also seeks to promote sustainable transport choices. In addition, Policies Q1 and Q2 of the Local Plan relate to general principles and designing for people and accessibility and state that the layout and design of all new development should take into account the requirements of all users.

70. The Highway Authority have been consulted on the application and raised no objection to the access being used to serve the new dwelling. However the highway officer has requested further information with regard to the car parking being provided within the planning application to ensure suitably sized spaces are available. Officers consider sufficient space is available within the red line application site to provide the car parking, subject to an assessment of the impact on any trees. In addition, bin storage facilities within 25 metres of the adopted highway are requested to be provided. The agent was made aware of these requests for additional information and given the option to provide additional information in the context that the proposal was unlikely to be supported on greenbelt grounds.
71. Officers note that Waddington Street, Ainsley Street and the immediate area on the adopted highway are covered by the City Centre parking control area and therefore anyone wishing to park on these streets would have to use the pay and display ticket machines.

Ecology

72. With regards to matters of ecology the proximity of the site to the Local Nature Reserve, the site being within a designated Area of High Landscape Value and within 400 metres of Flass Bog wetland area is noted. Policy E16 of the Local Plan and Part 15 of the NPPF seek to conserve nature conservation assets and prevent harm to protected species through development. Policy E18 of the Local Plan relates specifically to Sites of Nature Conservation Importance and seeks their protection. The County Ecologist has highlighted that the application is required to be accompanied by a Preliminary Ecological Assessment (PEA) of the site and the immediate surroundings to fully inform the application on the potential ecological impacts of the proposal. The PEA should assess the nature and quality of the habitats on the application site and at the edge of the woodland for the potential for the presence of protected species and Priority Species (NERC Act). The County Ecologist has clarified that the following information should be included in the PEA to specifically address the risk of bats using Flass Bungalow, bats using mature trees around the edge of the woodland, an assessment of the impacts of increased lighting and noise disturbance on bat commuting or foraging routes, badgers and the risk to Great Crested Newts. As such at this stage the submitted application is not considered to have sufficient information to assess the impact of the dwelling on protected species.

Impact upon Residential Amenity

73. Policy Q8 of the CDLP requires new residential development to minimise impact upon the occupants of existing properties. This approach is considered to display a broad level of accord with the aims of paragraph 180 of the NPPF which requires that planning decisions avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

74. The nearest residential property is Flass Bungalow located to the east of the application site. To the north and west is Flass Vale and to the south is the garden area of a neighbouring dwelling. Officers are satisfied the proposed dwelling would meet the minimum space about dwellings distances without adverse impact upon residential amenity.

Land Contamination

75. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.

76. The Council's Contaminated Land Section has no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of a contaminated land risk assessment, intrusive site investigation, remediation and verification where need is identified. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of paragraph 178 of the NPPF.

Greenbelt balance

77. As noted earlier the dwelling is located in the Green Belt and is inappropriate development which is by definition, harmful.

78. Whilst the site is well screened by trees in the summer months officers also raise concerns that a new dwelling in this location would detrimentally affect the openness of the green belt from the erection of the dwelling with the creation of the associated residential curtilage that includes the paraphernalia of cars, garden furniture, washing lines etc which would further detract from the openness of the greenbelt. Whilst views would be restricted to glimpse views from higher land within Flass Vale and from the public footpath adjacent to Flass Bungalow a further dwelling in this location would lead to a loss of openness of the greenbelt.

79. There are no considerations which would clearly outweigh the identified harm to the greenbelt and accordingly, very special circumstances do not exist. The proposal is therefore contrary to Policy E1 of the Local Plan and part 13 of the NPPF and is considered to be inappropriate development within the green belt.

CONCLUSION

80. This application has been fully assessed and considered in relation to the relevant policies including Policies E1, E6, E10, E14, E18, E21, E22, E24, Q8, T1 and T10 of the CDLP and criteria detailed in the NPPF. In reaching a recommendation on this application, supporting information submitted with the application has been fully considered along with comments received from consultees and local residents.

81. The application is submitted for one dwelling on the above site within the designated green belt, site of Nature Conservation, Area of High Landscape Value, Durham City Conservation Area and adjacent to sites of archaeological interest in Flass Vale. Officers conclude the introduction of one dwelling and associated curtilage in the green belt will constitute inappropriate development that will adversely affect the openness of the green belt and there are no very special circumstances which would clearly outweigh the identified harm. In addition, insufficient information has been submitted to demonstrate the impact of the proposed development on the mature trees and ecology in the area. For these reasons officers consider the application is not acceptable and is contrary to Policy E1, E10, E14 and E18 of the City of Durham Local Plan 2004.

82. The application is therefore recommended for refusal.

RECOMMENDATION

That the application be refused for the following reason:

1. The proposed detached dwelling would constitute inappropriate development in the Green Belt and detract from its openness, with no very special circumstances being demonstrated, contrary to the aims of Policy E1 of the City of Durham Local Plan and Part 13 of the NPPF.
2. Insufficient information has been submitted to demonstrate that there would not be adverse impacts of the development on mature trees and nature conservation interests in an area that is in the green belt, directly adjacent Flass Vale Local Nature Reserve, in close proximity to mature trees within an Area of High Landscape Value, the City of Durham Conservation Area and Tree Preservation Orders contrary to Policy E10, E14, E16 E18, and E22 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
District of Easington Local Plan 2001
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance

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PLANNING DEVELOPMENT MANAGEMENT PERFORMANCE SUMMARY 2018/19

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

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

In your role as decision-makers, it is important that key information about planning performance is shared with our planning committees. As a bi-annual update, the information provided below details the headline performance information for the whole of the 2018/19 period, covering April 2018 through to March 2019 (with the exception of comparator authority data which is for 1 January 2018 to 31 December 2018).

Headline facts (2017/18 figures in brackets for comparison)

- 2629 (2747) planning applications were received of which 107 (136) were for major development.
- The number of 'major' planning applications determined within the statutory 13 week timescale was 95.6% (97.6%).
- The number of 'minor' planning applications determined within the statutory 8 week period timescale was 92.6% (89.8%).
- The number of 'other' planning applications determined within the statutory 8 week period timescale was 97.8% (96.3%).
- The number of all categories of planning application determined within the statutory timescale was 96.2% (94.5%).
- The number of Mineral and Waste applications determined within the statutory timescale was 100% (100%).
- There were 45 appeal decisions received, of which, only 7 were allowed (52/15).

In broad terms, the headline facts above show consistent, and in most cases, improved performance across key indicators in comparison to 2017/18.

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

PLANNING APPLICATIONS

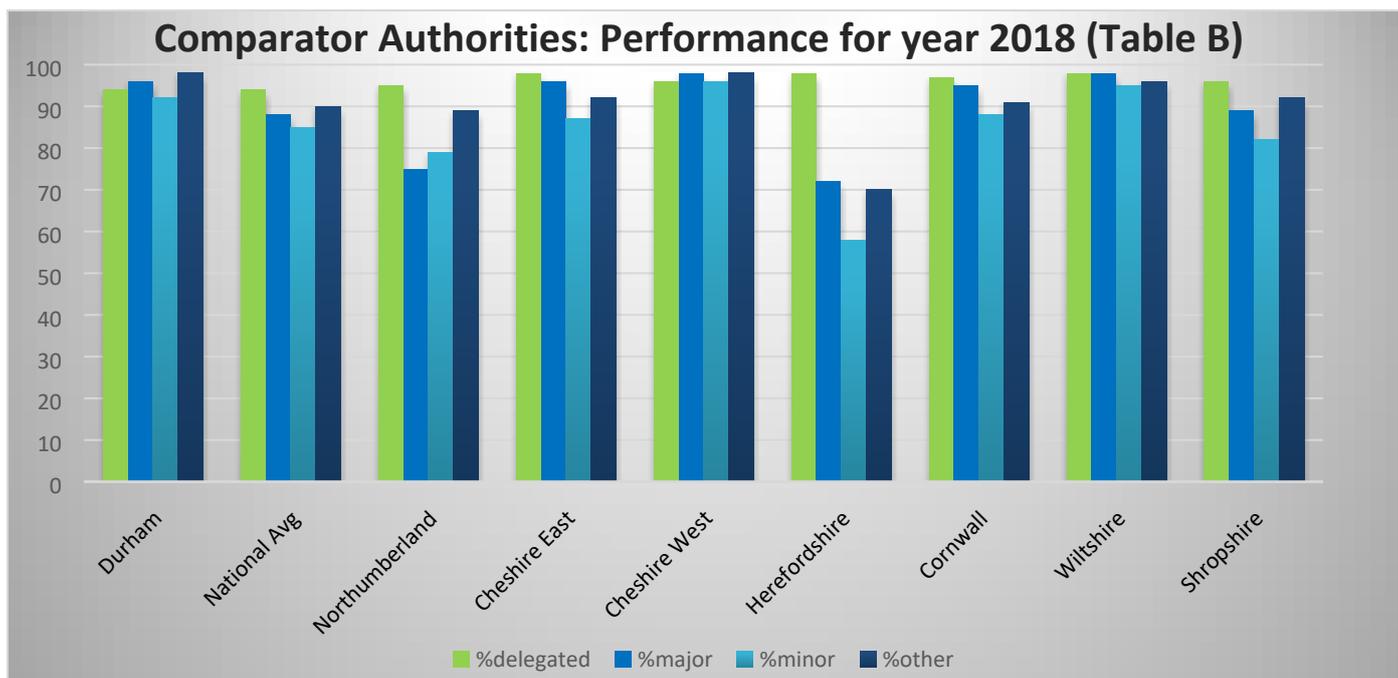
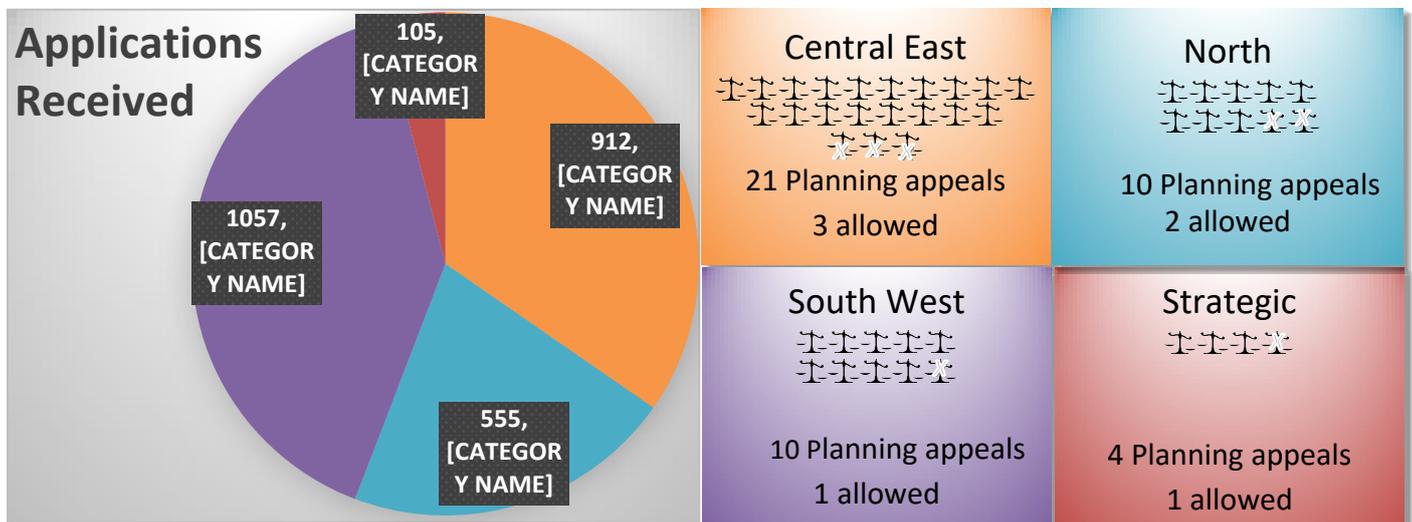
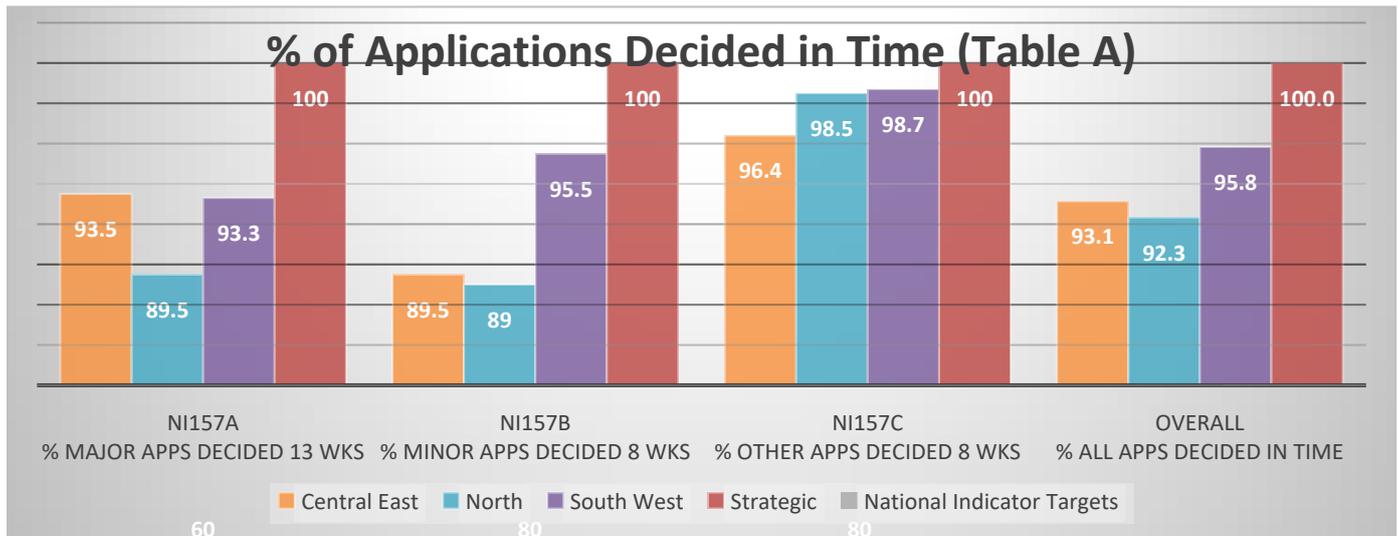


Figure 1(Source –CLG Live planning statistics table 132/134)

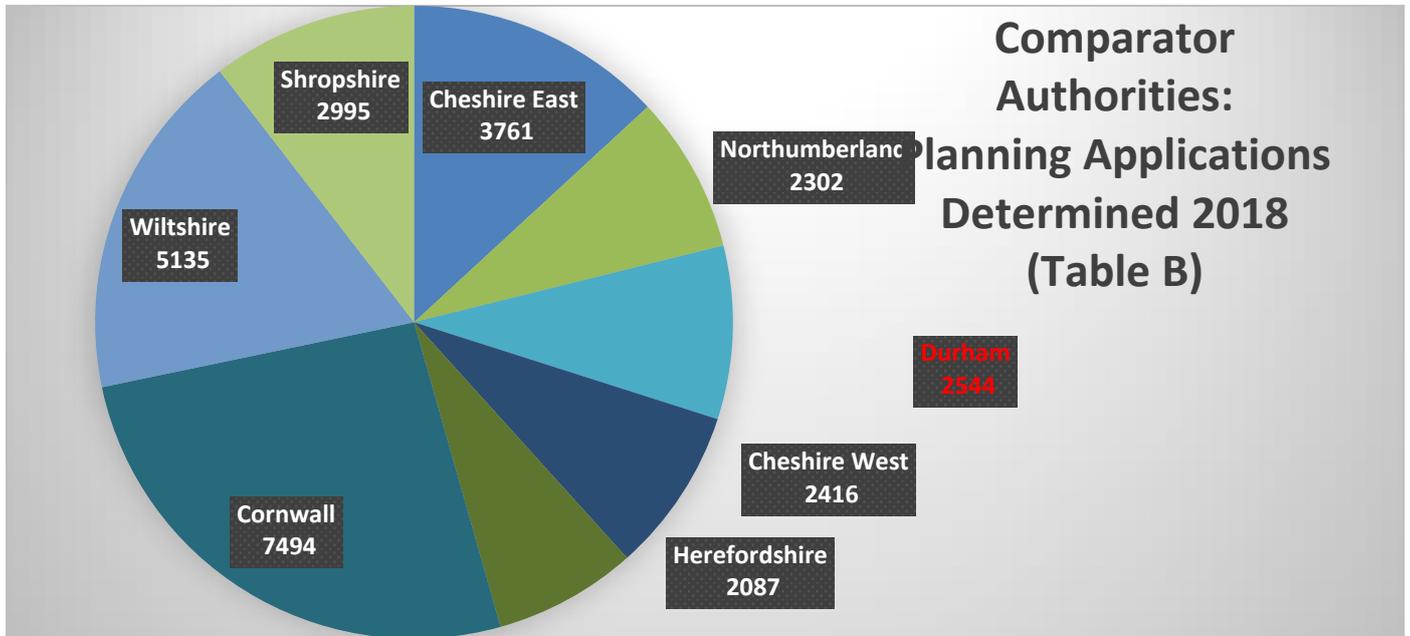


Figure 2(Source –CLG Live planning statistics table 134)

ENFORCEMENT

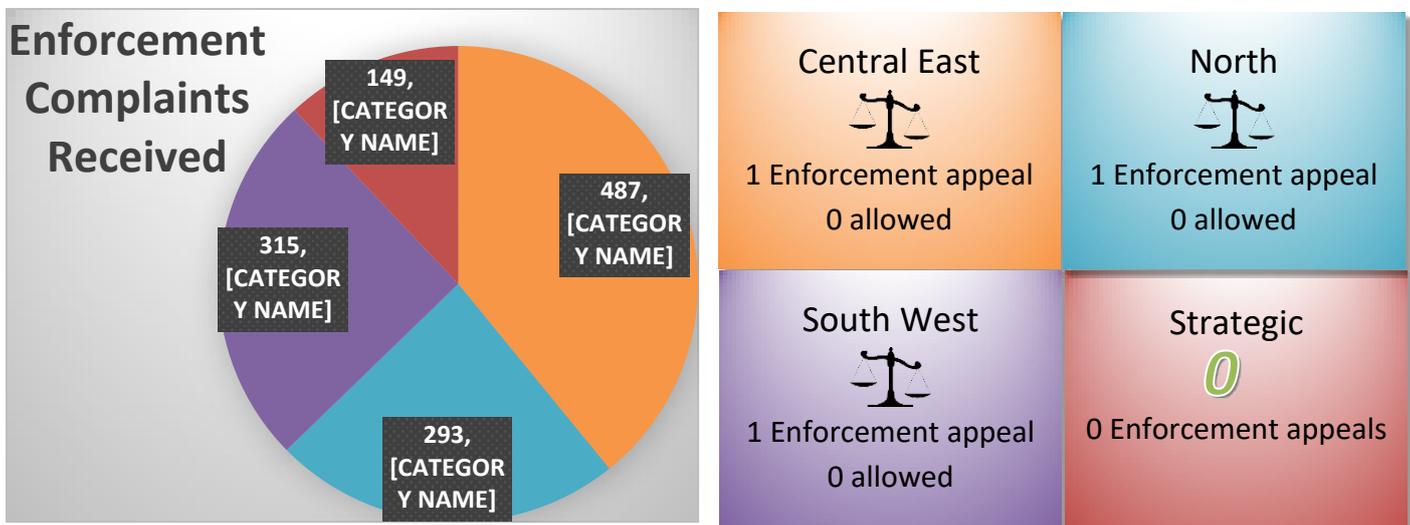
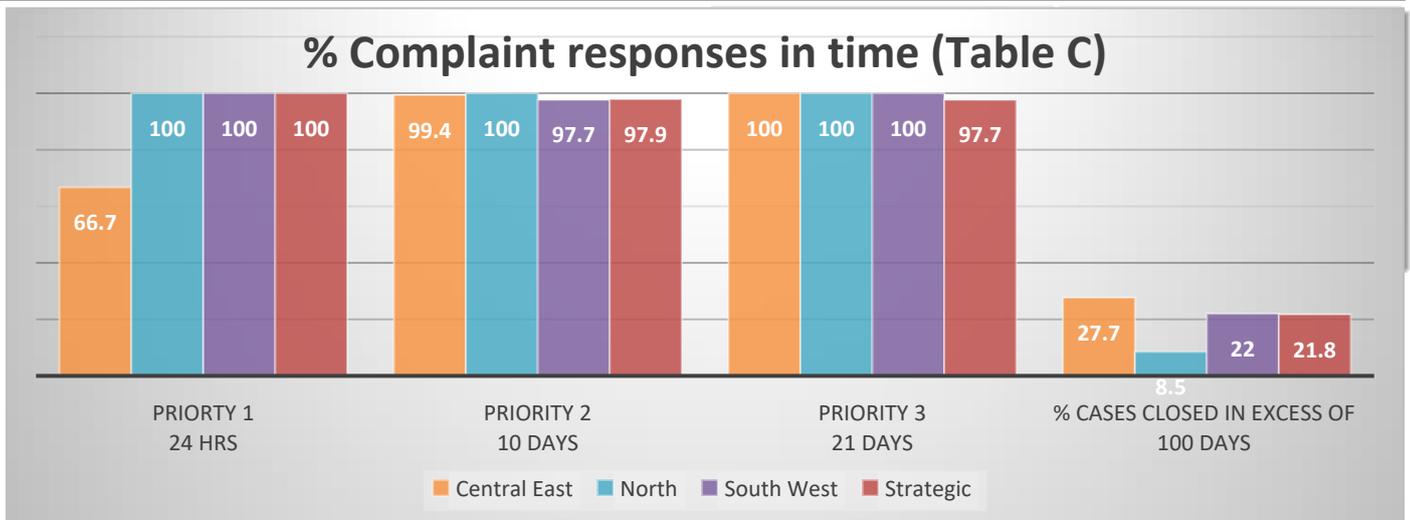


Table A (% of Applications Decided in Time)

| Area Office/Benchmark | NI157a – Majors - % | Total Apps | Apps Achd | NI 157 b - Minors - % | Total Apps | Apps Achd | NI 157 c - Others - % | Total Apps | Apps Achd |
|------------------------|---------------------|------------|-----------|-----------------------|------------|------------|-----------------------|-------------|-------------|
| Central East | 93.5 | 31 | 29 | 89.5 | 200 | 179 | 96.4 | 343 | 330 |
| North | 89.5 | 19 | 17 | 89.0 | 146 | 130 | 98.5 | 388 | 382 |
| South West | 93.3 | 30 | 28 | 95.5 | 337 | 322 | 98.7 | 630 | 622 |
| Strategic | 100 | 55 | 55 | 100 | 19 | 19 | 100 | 25 | 25 |
| <i>Average 2017/18</i> | <i>97.6</i> | | | <i>89.8</i> | | | <i>96.3</i> | | |
| <i>Target 2018/19</i> | <i>90.0</i> | | | <i>90.0</i> | | | <i>95.0</i> | | |
| Overall Result: | 95.6 | 135 | 95 | 92.6 | 702 | 650 | 97.8 | 1386 | 1359 |

Table B (Source - CLG Live planning statistics tables 133 and 134)

| Planning authority | Major developments | | Minor developments | | Other developments | | | |
|--------------------|--------------------|---|-----------------------|---|-----------------------|--|-----------------------|--|
| | Total decisions | Percentage of decisions delegated to officers | Total major decisions | Percentage within 13 weeks or agreed time | Total minor decisions | Percentage within 8 weeks or agreed time | Total other decisions | Percentage within 8 weeks or agreed time |
| England | 413,519 | 94 | 14,789 | 88 | 119,969 | 85 | 278,761 | 90 |
| Cheshire East | 3,761 | 98 | 185 | 96 | 1,054 | 87 | 2,522 | 92 |
| Cheshire West | 2,416 | 96 | 97 | 98 | 656 | 96 | 1,663 | 98 |
| Cornwall | 7,494 | 96 | 255 | 95 | 3,502 | 88 | 3,737 | 91 |
| Durham | 2,544 | 94 | 151 | 96 | 724 | 92 | 1,669 | 98 |
| Herefordshire | 2,087 | 98 | 92 | 72 | 911 | 58 | 1,084 | 97 |
| Northumberland | 2,302 | 95 | 110 | 75 | 742 | 79 | 1,450 | 94 |
| Shropshire | 2,995 | 96 | 110 | 89 | 1,232 | 82 | 1,653 | 97 |
| Wiltshire | 5,135 | 98 | 155 | 98 | 1,267 | 95 | 3,713 | 96 |

Table C (% Complaint responses in time)

| Area Office/Benchmark | Priority 1 -24 hours % | Total Apps | Apps Achd | Priority 2 -10 day % | Total Apps | Apps Achd | Priority 3 - 21 days % | Total Apps | Apps Achd | Cases close 100+ days % | Total Cases | 100+ |
|------------------------|------------------------|------------|-----------|----------------------|------------|------------|------------------------|------------|------------|-------------------------|-------------|------------|
| Central East | 66.7 | 3 | 2 | 99.4 | 362 | 360 | 100 | 109 | 109 | 27.7 | 578 | 160 |
| North | 100 | 3 | 3 | 100 | 206 | 206 | 100 | 70 | 70 | 8.5 | 295 | 25 |
| South West | 100 | 15 | 15 | 97.7 | 174 | 170 | 100 | 112 | 112 | 22.0 | 304 | 67 |
| Strategic | 100 | 2 | 2 | 97.9 | 97 | 95 | 99.7 | 43 | 42 | 21.8 | 110 | 24 |
| <i>Average 2017/18</i> | <i>100</i> | | | <i>98.3</i> | | | <i>99.7</i> | | | <i>18.8</i> | | |
| <i>Target 2018/19</i> | <i>100</i> | | | <i>100</i> | | | <i>100</i> | | | <i><20</i> | | |
| Overall Result: | 95.7 | 23 | 22 | 99.0 | 839 | 831 | 99.7 | 334 | 333 | 21.4 | 1287 | 276 |