



Area Planning Committee (Central and East)

Date Tuesday 9 July 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 11 June 2019 (Pages 3 - 34)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/19/01369/FPA - 21 Church Street, Coxhoe, Durham
(Pages 35 - 46)
Change of use from clinic to hot food take-away at ground floor and office above.
 - b) DM/19/01234/FPA - Land to the East of Unit A, Damson Way, Dragonville, Durham, DH1 2YD (Pages 47 - 72)
Demolition of former garage and construction of link road (between Renny's Lane and Damson Way). Construction of new retail unit (Use Class A1 with ancillary A3) and construction of signalised junction (A181 Sherburn Road and Damson Way).
 - c) DM/19/00171/FPA - Land at Mill Hill, North West Industrial Estate, Peterlee, SR8 2HR (Pages 73 - 90)
The construction and operation of gas powered generators for the provision of flexible energy generation.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
1 July 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, J Shuttleworth and
P Taylor

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 11 June 2019** at **1.00 pm**

Present:

Councillor J Clark (Chair)

Members of the Committee:

Councillors D Brown, B Coult, M Davinson, D Freeman, S Iveson, A Laing (Vice-Chair), R Manchester, J Robinson and J Shuttleworth

Also Present:

Councillors E Huntington, S Morrison and J Turnbull

1 Apologies for Absence

Apologies for absence were received from Councillors G Bleasdale, I Cochrane, A Gardner and K Hawley.

2 Substitute Members

No notification of Substitute Members had been received.

3 Minutes

The minutes of the meeting held on 14 May 2019, subject to the following amendment to Minute 5d, page 14 of the minutes, fifth paragraph, were confirmed as a correct record by the Committee and signed by the Chair:

“The Policy Team Leader noted in more general terms that some of the comments made related more to the Interim Policy itself, rather than the specifics of the proposal. It was noted that the emerging County Durham Plan includes an updated version of the Interim Policy, which has recently been subject to public consultation. The representations made as part of this consultation will be subject to discussion at the Examination in Public on the Plan”.

The Area Planning Team Leader (Central and East), Sarah Eldridge noted that Councillor O Temple had been in contact with Planning Officers as regards the matter of housing density he had raised at the last meeting. She explained that Councillor O Temple had believed that the average figure for housing density for new build properties on previously developed land in 2018 was 22 per hectare, with the Senior Planning Officer having suggested an average of 30 per hectare. The Area Planning Team Leader noted that subsequent to the meeting Councillor O Temple had checked as regards the average density for previously developed land in 2018 and found it to be 21 per hectare and wished this to be clarified for Committee.

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/18/02947/OUT - Land Adjoining Snook Acres, Front Street, Witton Gilbert, DH7 6SY

The Senior Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was an outline application for 25 dwellings with some matters excluding access and layout reserved for future consideration and was recommended for approval.

The Senior Planning Officer asked Members to note the application was for 25 dwellings, as per the report and not 26 as stated on the agenda front sheet. He referred Members to the aerial photographs and views of the site, noting proposed demolitions to two buildings, and the location of the Grade II listed building next to the site which was in the ownership of the applicant and would remain in-situ. Members were asked to note the public right of way which lead from Front Street and along the northern edge of the application site.

The Senior Planning Officer noted that the application was in outline, with structural planting along the west boundary, this area being within the County Council's ownership. He added that the area to the north of the site was allocated as a sustainable drainage system.

The Senior Planning Officer noted that there had been no objections from statutory or internal consultees subject to a Section 106 legal agreement in relation to affordable housing, open space and biodiversity and conditions as set out within the report. He noted that the City of Durham Trust had queried the wisdom of development beyond the established extent of Witton Gilbert and the structural planting alongside the A691. It was explained there had been: one letter of objection, citing highways safety issues; one letter of support, noting the boost to the housing supply; and one letter querying land ownership, parking and noting significant concern in terms of the demolitions and the Listed Building.

The Senior Planning Officer noted that the application site was in a sustainable location near to shops, facilities and transport links. He added that Witton Gilbert Parish Council was developing a Neighbourhood Plan and the area of land was identified as an area for housing, albeit at a lower density. It was noted that the Plan was not sufficiently advanced for weight to be attached at this point.

The Senior Planning Officer noted that Heritage and Design Officers had not felt the demolition of the two buildings was a negative impact, and the Tree Officer had not objected to the loss of some small trees, not impacting upon structural planting. He added the Members would have noticed the changes in level while out on site, and an additional condition was proposed to control the final levels across the site. The Committee were asked to note that the Highways Section had no objections to the proposed access or parking arrangements. The Senior Planning Officer noted the report had a Statement of Proactive Engagement set out, however, this was the standard wording for a refusal recommendation, he asked Members to note it should have read as per the standard paragraph for an approval recommendation. An additional condition requiring site level details to be submitted and agreed would also be required.

The Chair thanked the Senior Planning Officer and noted as there were no registered speakers she would ask the Committee for their comments and questions.

Councillor J Shuttleworth moved that the application be approved as per the Officer's recommendation.

Councillor M Davinson asked as regards any scope to include a condition in relation to tidying up the nearby Listed Building, which was in a poor condition. He also asked as regards the Construction Management Plan noting "no noisy working on a Sunday or Bank Holiday" and asked what constituted "noisy".

The Solicitor – Planning and Development, Neil Carter advised that such a condition would not be appropriate as the Council have separate powers to deal with derelict listed buildings, he would defer to the Senior Planning Officer on the issue of the noise condition.

The Senior Planning Officer noted that in terms of the Listed Building, there was an ongoing separate application regarding conversion to residential dwelling and therefore this building and condition were being addressed. He added that the condition in terms of “noisy working” was a standard condition from Environmental Health and he could seek clarification if Members wished.

Councillor D Freeman noted Witton Gilbert Parish Council were developing a Neighbourhood Plan and there had been concerns as regards density, he asked as regards the density of the proposed development. The Senior Planning Officer noted that the development would represent a density of 19.3 dwellings per hectare.

Councillor A Laing seconded Councillor J Shuttleworth’s proposal for approval of the application.

RESOLVED

That the application be **APPROVED** subject to completion of a s106 legal agreement, the conditions as set out within the report and an additional condition as regards site levels as noted by the Officer.

b DM/18/03882/OUT - Howarth Raw Timber & Logs, Edderacres Plantation, Castle Eden, TS27 4TF

The Senior 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 Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was an outline planning permission for a rural-workers dwelling with all matters reserved and was recommended for refusal.

The Senior Planning Officer asked Members to note the extent of the applicants’ land ownership and area which was utilised for their timber supply business and an indicative site layout, though all matters were reserved. He noted that there had been no objections from statutory or internal consultees, subject to conditions and a financial contribution in relation to the heritage coast.

The Committee were informed that a 36 signature in support of the application had been received, with support also received from Natural England, custodian of the nearby Castle Eden Dene. It was noted issues raised included the development helping in terms of reducing anti-social behaviour, poaching, vehicle movements and in terms of improved health and safety in relation to the forestry work. Those in support had also noted there had been a previous structure within the application site, an old mill.

The Senior Planning Officer noted that in planning terms the location was considered remote and that paragraph 79 of the National Planning Policy Framework (NPPF) applied, noting there was a requirement for special circumstances for such a rural worker's dwelling. He noted the test would look at functional need and financial viability.

It was explained the applicant had felt in order to be able to raise the alarm should an accident occur at the site a property was required at the location. The Senior Planning Officer noted that the applicant also cited improved animal welfare and a deterrent against anti-social behaviour and crime as additional benefits. Members noted that when equipment had previously been kept on the site it had been vandalised and stolen and when CCTV equipment had been placed on site it too had been stolen. The Senior Planning Officer noted that on balance when looking at the test in paragraph 79 of the NPPF it was not felt that there was justification for a full-time presence at the site on functional need.

The Senior Planning Officer explained that when looking at three years of financial records provided by the applicant there had been significant fluctuations over that period. He added that he had been provided with updated information as regards the timing of works, with work scheduled in June 2019 to have a significant impact upon profitability. It was noted that finalised audited accounts had yet to be produced and therefore limited weight could be afforded to this. The Senior Planning Officer noted that therefore it was not felt that the financial viability had been demonstrated as per the test in paragraph 79 of the NPPF.

The Senior Planning Officer noted in other respects the application would be acceptable, subject to conditions and a s106 legal agreement, however, as it was not felt to meet the functional or financial test as set out in paragraph 79 of the NPPF, the recommendation was for refusal.

Councillor J Robinson left the meeting at 1.38pm

The Chair thanked the Senior Planning Officer and asked the Committee Services Officer to read out a statement on behalf of an adjacent Division Member, Councillor L Pounder in support of the application, noting her fellow divisional Member, Councillor R Crute supported the statement.

“Thank you for reading out my statement, I wish I was present at the Committee to express to you all how strongly I feel about supporting this application, however I am currently out of the country”.

“Edderacres is a site on which stood Shotton Mill, a workers house and associated buildings, parts of buildings remain on the site. It is previously developed land which has been used for commercial purposes. The planning application before you is from Mr and Mrs Howarth, a local couple, with a good business they intend to grow, which they cannot do without a presence on the site.

Mr and Mrs Howarth are asking for support to build a modest three bedroom home next to Castledene Caravan Park to allow the proper functioning of their business.

Forestry is an unusual business but one which is benefitting the area both in terms of economy and environmentally. Natural England are supporting the application as they know Mr and Mrs Howarth and know that what they are doing supports their aims and is a positive benefit to the area. A petition of support has also been submitted, and no objections have been received again showing that this is a good scheme.

The National Planning Policy Framework states that to support an application in the rural area there should be an essential need for a rural worker, to live permanently at their place of work in the countryside. Mr and Mrs Howarth have provided robust evidence to demonstrate that there is a need for someone to be onsite permanently, this is a dangerous business with high safety risks a presence on site will support the proper functioning of the business. A property will deter the current antisocial behaviour which is currently experienced.

The business has been financially stable for over three years and has made profit every year it has operated, it's not going to make millions, but it is a sustainable business.

There is a need for the functioning of the business to have an onsite presence, and the location of the site means it will not be visually obtrusive. All of these points mean that the application complies with the emerging Local Plan and the currently adopted Easington District Local Plan – so we should support it.

The business has requests for more timber, from another local business, however currently there is no way to meet demand as Mr and Mrs Howarth cannot put a storage shed on the site as previous buildings have been burnt down and CCTV stolen without someone being on the site permanently.

I implore you all to support this sustainable local business which in turn supports other local businesses and approve this application.

Thank you.”

The Chair thanked the Committee Services Officer and asked Local Member, Councillor E Huntington to speak in support of the application.

Councillor E Huntington thanked the Chair and noted that on the basis of all of the comments from supporters of the application, and the Officer’s report she wondered why the application was before Committee. She noted Mr and Mrs Howarth ran an excellent business, with the application representing their attempt to help ensure the business could progress and meet demand.

Councillor E Huntington noted that with the Howarth’s working this area of land it had reduced the incidents of anti-social behaviour and drug misuse in the area. She added they had a caravan on site, this had been burnt out, they had installed CCTV, this had been stolen. She noted when she had visited the site, it was well maintained, with ecology that would be protected, consistent with such an ancient forest. Councillor E Huntington noted the excellent relationship with and support received from Mr J Davies from Natural England, working at the nearby Castle Eden Dene. She added that the Forestry Commission were also very complimentary in their comments for Mr and Mrs Howarth’s business and practices.

Councillor E Huntington noted she felt the business would help ensure the sustainability of the landscape for future generations and while the Planning Officer had not seen this, she felt the business could go forward successfully if permission was granted. She reiterated that Mr M Outhwaite of the Forestry Commission had noted the business was sound and protected ecology. Councillor E Huntington added that Mr and Mrs Howarth had invested money in vehicles and machinery, looking to offer chipping in the future. She added their desire for a barn to store equipment and materials on site was not possible if there was not a property on site in order to protect them from vandalism and theft. Councillor E Huntington noted that there was increasing demand from other local businesses for their materials and the three-bed property proposed was a modest home.

Councillor E Huntington noted the site had previously been developed, with an old mill, and the access was the route of the “old A19” prior to the new dual-carriageway route. She added she felt that the proposed development was exciting and would help the forest and, again while Planning Officers doubted the sustainability of the business, she felt that the knowledge, skill and commitment of the applicants would help sustain the forest for generations to come.

Councillor E Huntington reiterated her support for the application and noted it was the type of business and application we should all be supporting and asked what message would be sent if these types of ideas were stamped out, concluding that the County needed more beacons like this business, which could in the future provide employment for people from our area. The Chair thanked Councillor E Huntington and asked Mrs Chris Pipe, representing the Applicant and Mrs Howarth, the applicant, to speak in support of the application.

Mrs C Pipe thanked the Chair and noted her clients, Mr and Mrs Howarth, had developed a sustainable business which they wished to grow for the future and the proposed development would help them to be able to achieve this. She reiterated the comments made by others as regards the previous development at the site, namely Old Shotton Mill, which had included stables and an associated workers house, while demolished, there were many remnants on site and established that the location was one that had historically been a place to live and work.

Mrs C Pipe explained that as well as the 36-signature petition in support of the application, there had been support from three Local Councillors, the Forestry Commission and Natural England, highlighting the local demand, and the benefits to the site in terms of biodiversity and reducing anti-social behaviour. She added there had been no objections from statutory or internal consultees.

Mrs C Pipe continued by noting that the NPPF allowed for such developments if there was a need for such development. She added that the definition of financially viable was for a competent person to be able to have sufficient livelihood and the applicant would have the ability to do so. She added that the nature of the work was similar to agriculture in the sense that the profits were linked to "harvests" and therefore providing a wage of just over £22,000 on average, not factoring in increases from additional business that was available. Mrs C Pipe added that her clients were happy with the s106 contribution figures that were mentioned within the report.

Mrs J Howarth thanked the Committee for the opportunity to speak and noted that having a home on the site would allow for profits to rise, cutting down on travel time and costs, but also by having the property on site would mean that containers of materials would be safe, and equipment would also be able to be protected. She explained that it was a Catch-22 situation, without being on-site to protect assets it would not be possible to invest further to help maintain and grow the business. She added the on-site presence would help to stamp out anti-social behaviour, reiterating that CCTV equipment had not proved to be a deterrent, itself being stolen.

Mrs J Howarth noted increased demand from the local Horns Garden Centre for logs and being able to chip on site would help support other arboricultural businesses in the area. She reiterated that their forward plan had the support of the Forestry Commission and Natural England. She concluded by noting that for safety, with mobile signals in the area poor, a property on the site would enable the alarm to be raised should an accident occur.

The Chair thanked Mrs C Pipe and Mrs J Howarth and asked Members of the Committee for their comments and questions.

Councillor J Shuttleworth noted that over the years he had seen many planning applications where refusal had been recommended, with the location having not been deemed as sustainable. He noted the comments from speakers and when looking at the evidence of the site having previously been developed and the support from Local Members he felt the application should be supported and moved that it be approved.

The Chair asked if the Senior Planning Officer could clarify some of the points raised by speakers and Councillor J Shuttleworth.

The Senior Planning Officer noted that looking at historic maps of the area, the mill on the site was listed in 1898 on the Ordnance Survey map, set out as “disused” on the 1923 map, and removed from the map by the 1951 edition. Accordingly, while the site had previously been used, the last reference was 1923 as disused. In terms of the applicant’s management of the site, his techniques were not in question, it was that Officers felt that when judging against the NPPF principles of requiring someone to live on site, neither the functional or financial justification were met.

The Chair allowed Mrs C Pipe to clarify a point in relation to previous development.

Mrs C Pipe noted that while the previous use was historic, there was photographic evidence, and Members would have seen on their site visit, remnants of the old mill at the site. She noted that the NPPF identified that if remnants were on site the land was classified as previously developed land.

The Solicitor – Planning and Development noted that previously developed land had an element of judgement, taking into account the extent to which the land had returned to nature. He added that in this case whether the site is previously developed or brownfield land was not the determinative issue, rather that the Planning Officer had not felt the functional or financial tests in relation to paragraph 79 of the NPPF had been satisfied.

Councillor R Manchester noted he felt that he had read sufficient functional requirement for the application within the report, then with more support from the speakers. He added he felt that the case had been met and noted that paragraphs 57 and 60 of the Officer's report both noted that the reasons of improved health and safety and improved security and reduced anti-social behaviour alone did not justify a rural-workers dwelling. Councillor R Manchester noted if there were these two reasons, amongst other, then in fact they were not alone and therefore there was a functional need for a dwelling to support the business. The Senior Planning Officer noted that the view taken had been that collectively the reasons cited did not warrant a rural-worker's dwelling on the site.

Councillor M Davinson noted he would second the approval of the application, agreeing with the comments from Councillors J Shuttleworth and R Manchester, meeting the functional need in terms of health and safety and preventing thefts and anti-social behaviour. Councillor J Shuttleworth reiterated that he felt it had been established that the land had previously been developed and the application would also help to get rid of anti-social behaviour in the area.

The Solicitor – Planning and Development asked if Members could amplify their reasons in terms of meeting the functional test.

Councillor R Manchester noted he felt that the health and safety aspect was very important, with the ability to raise the alarm via family on-site as a major benefit. He added that in terms of anti-social behaviour, he noted that Natural England had supported the application, and cited this aspect as a concern that could be addressed by the positive determination of the application. Councillor R Manchester added that being on-site to deter and prevent theft would provide a massive increase to the viability of the business.

The Solicitor – Planning and Development noted that if Members were minded to approve the application it would need the usual suite of conditions and a s106 agreement as mentioned within the report. He asked if those proposing and seconding the application would wish for those to be delegated to Officers. Councillor M Davinson noted delegated to Officers, in consultation with the Chair or Vice-Chair of the Committee.

RESOLVED

That the application be **APPROVED** subject to a s106 planning obligation to secure a payment of £756.61 for Heritage Coast mitigation and a suite of conditions the details of which to be delegated to the Planning Officer, in consultation with the Chair of the Committee.

c DM/18/03785/FPA - Land to the rear of 63 Crossgate, Durham, DH1 4PR

The Principal Planning Officer, Alan Dobie 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 four dwellings and was recommended for approval.

The Principal Planning Officer noted some minor amendments to the report: to paragraph four, the properties being now one two-bed, two three-bed and one four-bed; and to paragraph 83, with Environmental Health noting that the condition was no longer necessary and rather an informative would be included should the application be approved.

The Principal Planning Officer explained that the application site was in a heavily build up area within Durham City, the proposed development being on land to the rear of 63 Crossgate. Members were referred to nearby features including Framwellgate Bridge and was very close to shops and amenity that the city had to offer. The Principal Planning Officer explained that the trees that were on site had been looked at and no all were in good condition and the current state of the site was untidy.

The Committee were referred to proposed plans and elevations, noting the sloping nature of the site, and the buildings being up to three storeys in height. It was added that given the location, within the historic city there had been consideration taken of this within the design. The Principal Planning Officer noted the site was at the rear of Crossgate Working Men's Club (WMC) and that the proposed properties would only be visible from those existing properties surrounding the site. He added the access from Crossgate was via a small vennel, shared with Crossgate WMC.

Councillors J Shuttleworth and A Laing left the meeting at 2.11pm

The Principal Planning Officer referred Members to proposed storage for bins and cycles on site. He noted that the Highways Section had no objections as the site was in a sustainable location and had cycle storage within the site. He added that Northumbrian Water had no objections, noting that care should be taken in respect of some of their assets in the area. The Principal Planning Officer explained that the Coal Authority had no objections subject to condition.

Councillor J Shuttleworth entered the meeting at 2.12pm

The Principal Planning Officer noted that the City of Durham Parish Council objected to the application, with reasons as set within the report, including: the application not safeguarding the nearby listed buildings, Conservation Area or setting; and there was no safe, satisfactory access to the site or adequate parking provision.

The Principal Planning Officer noted that the County Durham and Darlington Fire and Rescue Service (CDDFRS) had not commented on the application.

Members noted that the Council's Design and Conservation Section had offered no objections, given the site was concealed and did not adversely impact upon the surroundings. The Principal Planning Officer added that Ecology raised no objections subject to a s106 legal agreement relating to loss of biodiversity. It was added that the Landscape Section offered no objections in terms of visual impact and the Tree Officer noted none of the trees on site warranted a Tree Preservation Order (TPO). Councillors noted that the Nuisance Action Team raised no objection to the application and Contaminated Land and Archaeology offered no objections subject to conditions.

Councillor A Laing entered the meeting at 2.14pm

The Principal Planning Officer noted the City of Durham Trust objected to the development, citing reasons including: the proposals representing backland development; loss of trees; poor access to site for residents, construction workers, materials and machinery, and emergency services; no provision for bins storage, given a notice prohibiting such within the vennel.

The Principal Planning Officer noted that NPPF paragraph 11 referred to sustainable development being approved unless negative impacts of development outweighed the benefits. He noted that the application did represent a small contribution to housing supply, albeit as a small development this afforded limited weight. He added that saved Local Plan Policies Q8 and H13 referred to amenity and design impact upon the surrounding area, including layout across the site. Members were informed that the separation distances in terms of windows and gables were met and while there was close proximity to the WMC and city centre, Environmental Health had felt an informative was sufficient.

The Principal Planning Officer noted that in terms of saved policies E22 and E23 relating to impact upon the character and appearance of the Conservation Area and Listed Building, the secluded site and appropriate design meant that Officers felt the proposals were appropriate.

In terms of highway safety and access to the site, there was only the one access as described, via the small vennel.

The Principal Planning Officer noted the Highways Section had noted no on-site parking provision as required due to the city centre location, and that while access for construction materials and equipment may be difficult, this would be controlled via Construction Management Plan (CMP).

In respect of the issue raised in relation to the proposed access not being safe in the event of an emergency, CDDFRS were consulted and did not come back with a view and therefore the proposals were considered acceptable.

The Principal Planning Officer concluded noting that on balance Officers felt that the benefits of proposals outweighed any adverse impacts and therefore the application was recommended for approval, subject to a s106 legal agreement and conditions as set out within the report.

The Chair thanked the Principal Planning Officer and noted Councillor L Brown wished to raise a point of order. Councillor L Brown asked if, given Councillors J Shuttleworth and A Laing had left the meeting during the item would they be eligible to vote on the matter. The Solicitor – Planning and Development noted that it would be an issue for those Members to decide upon and to state if they did not feel able to take part in the decision. However, he noted that they were absent for only a very short time during the Officer's presentation.

Councillor J Shuttleworth noted the debate had not yet taken place and he had only left the room for mere seconds. Councillor A Laing apologised noting she had needed to take a drink following a coughing fit, adding that she too had not left the meeting for very long. Both Councillor J Shuttleworth and A Laing indicated they would take part in the decision making.

The Chair thanked Members and asked Parish Councillor John Ashby representing the City of Durham Parish Council to speak in objection to the application.

Parish Councillor J Ashby thanked the Chair and congratulated her as the newly appointed Chair to the Committee.

Parish Councillor J Ashby noted that the application had clearly raised a number of concerns with Officers and the Parish Council welcomed the considerable efforts put in by Officers to try to overcome the shortcomings of the scheme. He added that, unfortunately, some problems remained.

Parish Councillor J Ashby explained that the proposal site was classic backland development and that Saved Policy H10 of the City of Durham Local Plan stated:

“The development of backland and tandem sites will not be permitted unless there is:

- 1. A safe and satisfactory access and adequate parking can be provided in accord with policy T10; and*
- 2. the amenities of both the new and existing dwellings are not adversely affected; and*
- 3. It is in keeping with the character, density, and scale of surrounding or adjacent development.”*

Parish Councillor J Ashby noted that in this case the access was a narrow alleyway between substantial buildings, with no proposal or prospect of widening the alleyway. He added that in terms of adequate parking, no parking provision was offered, and that noise was a recognised amenity issue, with the site sitting between the Crossgate Workingmen’s Club and the North Road nightclubs. Parish Councillor J Ashby added that the proposal was not in keeping with the character of the surrounding area; it was in the very heart of the Conservation Area, and several of the buildings in Crossgate were listed in their own right and therefore Saved Policies E6, E22 and E23 were engaged.

He added that the Parish Council had major concerns about the practical difficulties caused by the narrow and long alleyway for construction equipment and, even more importantly, for the Fire and Rescue Brigade, and was surprised that solutions to these problems were not put before the Committee. It was noted that the Parish Council urged that Members satisfied themselves on those matters before considering whether the application should be approved.

Parish Councillor J Ashby noted the Officer’s report at paragraph 66 stated *“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.”* He explained that the Parish Council did not agree; the evidence base concerns whether there was sufficient approved housing land, and paragraph 72 of the Officer’s report correctly noted that *“The Council is able to demonstrate in excess of 6 years supply of deliverable housing land.”* He noted that therefore there was no requirement find additional housing development sites.

Parish Councillor J Ashby noted he would turn to the vexed question of Houses in Multiple Occupation (HMOs) for students. He added that it was agreed by all concerned that a planning application would be required if the development was to become a C4 HMO property. He added that it was felt it would comprehensively fail in terms of the County Council's Interim Policy on Student Accommodation.

Parish Councillor J Ashby noted that it has been obvious in recent years that many properties in the city were being used as student HMOs despite having C3 residential permission, not C4, with detection avoided by the landlord paying Council Tax instead of seeking student exemption. He noted that whilst local permanent residents reported their observations that neighbouring properties were quite obviously student HMOs, the Council continued to insist that Council Tax records were the most reliable and consistent evidence. Parish Councillor J Ashby explained that this particular application, if approved, would need especial vigilance against it becoming an unapproved C4 or Sui Generis HMO, with enforcement being absolutely key.

In conclusion, Parish Councillor J Ashby noted the Parish Council urged that, despite the sterling work of Officers to bring it up to acceptable standards, the application be refused as it represented backland development with unsatisfactory access, no parking provision, was not in keeping with the character of the surrounding Conservation Area and Listed Buildings, and was at risk of creating unauthorised C4 or Sui Generis HMOs adding to the burdens of the Council's Enforcement Officers.

The Chair thanked Parish Councillor J Ashby and asked the Principal Planning Officer if he would respond to issues raised.

The Principal Planning Officer noted that it was acknowledged that policy H10 was engaged, the development representing backland development, however, Officers had assessed the application against the relevant criteria. He added that the Highways Section had noted the access was acceptable for this location and there was no need for vehicular access. He reiterated that CDDFRS had not commented upon the application after being contacted for their views. In reference to amenity, the Principal Planning Officer referred to the section within the report that distance standards and layout and design were acceptable and, taking all those factors into account, in relation to Policy H10 Officer felt the application was acceptable. In reference to the properties becoming HMOs, this issue had been raised, however, the application before Committee was for C3 use, noting that the area was covered by the Article Four Direction and any change of use to HMO use would need to be via a further application.

The Chair thanked the Principal Planning Officer and asked Mr Keith Ryder, Architect for the Applicant to speak in support of the application.

Mr K Ryder thanked the Chair and Committee for the opportunity to speak and explained that the scheme as set out within the agenda papers had been developed in collaboration with the Planning Department, Ecology, Landscape, Design and Conservation to ensure the proposals were reflective of the architectural landscape of the area.

Mr K Ryder noted the concerns raised by the Parish Council, however, noted that the Officer's report was very positive, with a recommendation for approval. He added that there were technically three access points to the land in question, that already discussed along with two others to North Road and another point along Crossgate. He noted that a recently retired Fire Safety Officer had been asked as regards access to the site in an emergency and he had felt the access was acceptable and there would be capacity to be able to reach into the site with equipment.

Mr K Ryder noted as the application was for C3 residential dwellings, the Article Four Direction did not apply, this being for C4 HMOs, and reiterated the point made by the Principal Planning Officer that any C4 use would require a further planning application. Mr K Ryder reinforced that the Council's Design and Conservation Section had been consulted upon the design due to the sensitive nature of the site and they had raised no objections to the application. He added that the backland site was not very attractive and the development proposed would represent an improvement on the current state. Mr K Ryder concluded by noting it was felt the scheme was well designed, had been developed in consultation with the Planning Department and hoped that the Committee would agree with the Officer's recommendation for approval.

The Principal Planning Officer noted Officers were only aware of one access to the site. Mr K Ryder noted the applicant would be better placed to explain, the Chair allowed Mr L Smurthwaite, the Applicant to speak. Mr L Smurthwaite noted that there were additional accesses to the site: one running the left side of his property, Crossgate WMC; and another being marked on 100-year-old deeds, leading out onto North Road via some steps. The Principal Planning Officer noted the application only considered the access as described along the small vennel.

The Chair thanked the speakers and the Principal Planning Officer and asked 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 after hearing the comments from Officers and the speakers he had concerns as regards the suitability of the site, out of the way behind the WMC and close to several listed buildings. He noted he was familiar with the access via the small vennel and noted this would go past the location of the smoking shelter provided by the WMC. Councillor D Freeman noted four properties were proposed, though with no parking. He explained that as C3 dwellings, he would imagine in an ideal world these being for possible family use and that the lack of parking provision would mean this would be unlikely. He added that the land was previously undeveloped green space and that there was not sufficient cause to warrant development on greenfield land.

Councillor D Freeman noted the Parish Council had raised the issue of potential use as an HMO and added he felt this would be a likely end use for the proposed properties, with recent applications and appeals for HMOs use not providing him with reassurance. He concluded by noting he did not feel he could support the Officer's recommendation for approval.

The Chair asked Councillor D Freeman to clarify if he was proposing that the application be refused. Councillor D Freeman noted he was proposing the application be refused.

Councillor J Shuttleworth noted he felt that no parking provision was ludicrous and did not feel the application was a good idea and seconded that the application be refused.

Councillor D Brown noted that the site visit had shown that the site was very steep, not easily reflected via the photographs and drawings. He noted the best way he could describe the site was as very untidy and as a dump. He noted when on the visit there was adjacent developments that seemed perfectly adequate and well used with people out on a balcony enjoying the sunshine. He proposed that the application be approved.

Councillor S Iveson noted with the lack of parking provision and the inclusion of cycle storage she felt the intention was for student use. Councillor A Laing asked for more information as regards why there was no parking.

The Highway Development Manager, John Mcgargill noted that it was standard for no parking provision requirement within 400 metres of the city centre due to the sustainable location, with links to transport and amenities, including the bus and rail stations which were very close to hand. He added that the area was within the city Controlled Parking Zone, where even Residents were not permitted to park without a permit. He explained that Saved Policy T10 encouraged the restriction of parking to encourage sustainable modes of transport and gave weight to application.

He noted there were several examples of residential development within the city where access was only obtained via such small vennels, along Silver Street and Saddler Street, again with no parking provision.

The Principal Planning Officer noted that in terms of access to carry out the development, this would be agreed via a CMP to be submitted to the Planning Authority. The Chair allowed Mr K Ryder to clarify a point in this regard, with Mr K Ryder noting that the CMP would be drawn up when a contractor had been appointed and would be fine-tuned as necessary. He added that upon development the smoking shelter and current bins would be moved.

The Chair noted there had been a proposal for refusal and asked Members for their reasons.

Councillor J Shuttleworth noted he felt on the grounds of the lack of parking and accessibility to the site, he noted he could not see how equipment such as a JCB digger would be able to get on to the site in order to dig foundations and carry out groundworks. Councillor D Freeman felt that the application was contrary to saved Local Plan Policies H2, H13, E6, E16 and T10, together with the relevant policy in relation to not developing greenfield sites.

The Solicitor – Planning and Development asked as regards which element of Policy H2 Councillor D Freeman felt the application was contrary to. Councillor D Freeman explained that as he felt the application was contrary to Policies E6, T10 and not in accord with the Conservation Area and Listed Buildings nearby it was therefore contrary to Policy H2. Councillor D Freeman added that he felt the application represented a negative impact upon the Conservation Area and Listed Buildings only metres away, for example St. Margaret's Church, contrary to Policies E6 and E22. He added that he agreed with Councillor J Shuttleworth as regards the parking issues and therefore he felt the application was contrary to Policy T10. He concluded that there would be impact upon the character and amenity of the area, citing the very neighbours that Councillor D Brown had noted while on the site visit being those impacted upon, and therefore this was contrary to Policy H13.

The Solicitor – Planning and Development noted he had concerns as regards the robustness of any reason for refusal linked to Policy T10 given the comments of the Highway Development Manager that in his professional opinion the application was compliant. He added that in terms of adverse impact upon the Conservation Area, Officers from the Design and Conservation Section had offered no objections and therefore he felt any refusal based upon such reason may prove difficult to defend should there be any appeal.

Councillor J Shuttleworth noted that he felt the inadequate access to the site would be sufficient to rule out the application, not being able to get firefighting equipment to the site.

Councillor M Davinson noted he had listened to the arguments made and felt it was recorded that Members did not particularly like the application, however, he had listened to the advice given by the Solicitor – Planning and Development in terms of defending a refusal decision at appeal and therefore he would second the proposal by Councillor D Brown for the application to be approved as per the Officer's report.

The Chair noted that the proposal for refusal had been put by Councillor D Freeman and seconded by Councillor J Shuttleworth and therefore this would be voted upon first, upon a vote being taken the motion was **LOST**.

The Chair noted the proposal by Councillor D Brown, seconded by Councillor M Davinson was for approval, upon a vote being taken it was;

RESOLVED

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

d DM/19/00397/FPA - Land South of West Wynd, Stockton Road, Seaham, SR7 0PB

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 the erection of a domestic garage and was recommended for refusal.

The Planning Officer, JJ noted that the application site was side garden within the curtilage of the applicant's property, with the property being the last within a group of properties. She referred Members to plans and noted that the Green Belt covered all the areas, up to the neighbouring Tyne and Wear Green belt, excluding the industrial estate on the opposite side of the B1285. Members were referred to the site visit and photographs as regards the openness of the site and location within the green belt. Councillors were referred to proposed elevations.

The Planning Officer, JJ explained that Highways had offered no objections, and noted that should the application be granted then a condition such to prevent unauthorised use as a business should be included. She added the Landscape Officer had commented noting there would be some adverse landscape and visual effects. Councillors noted no objections from Environmental Health and that no objections had been received from neighbouring properties.

The Planning Officer, JJ noted that in terms of the principle of development, NPPF paragraphs 144-146 set out issues relating to development in the green belt. She added that the proposed triple garage was felt to be disproportionate and erode the openness of the green belt. It was noted the garden was enclosed in 2007, previously open grassland, and that permission granted at that time for construction of a property had removed permitted development rights in order to seek control of incursion of development beyond the approved built area.

The Planning Officer, JJ noted that the test set out in paragraph 144 of the NPPF noted that any development within the green belt by definition was harmful and impacted upon the openness of the green belt. She added that Officers did not feel that there was a clear justification for the garage and that there was no special circumstance that outweighed the harm that would be caused by the development. Accordingly, the Planning Officer, JJ noted that the recommendation was for refusal as application was contrary to Policy 4 of the saved District of Easington Local Plan and Part 13 of the NPPF.

The Chair thanked the Planning Officer, JJ and asked Local Member, Councillor S Morrison to speak in support of the application.

Councillor S Morrison thanked the Chair and noted apologies from the applicant and her fellow Divisional Councillor and Committee Member, G Bleasdale who was unable to attend the meeting today.

Councillor S Morrison noted she spoke on behalf of herself and Councillor G Bleasdale and they had two issues with concerns raised within the report, namely in connection with size and the position of the application site within the green belt.

In terms of the size of the proposed garage, Councillor S Morrison noted that Members had seen during their site visit that the existing single car garage on the opposite side of the property was not sufficient for such a large property and the number of vehicles parked on the drive was a testament to that fact. She added that there was equipment, such as ride-on lawnmowers, that were also stored within the existing garage, necessary for maintaining the large lawn areas around the property.

Councillor S Morrison noted the end of terrace location meant such equipment could be at greater risk of theft and therefore had to be secured properly.

Councillor S Morrison noted the Officer's report set out that the proposals represented a 32 percent increase in the developed area of the site, however, also noted that this may not necessarily be considered excessive. She added that she felt the design was good, and that other suggestions, such as rotating the garage through 90 degrees would be a poorer design.

In terms of the green belt, Councillor S Morrison noted that the Easington Green Belt did not in fact merge with that at Ryhope, with the industrial estate opposite and surrounding farmland. She noted the site had been a bus depot at one point and other properties along this part of the "high road" had high fencing and hedges and therefore unless you were travelling on a double decker bus you would not be able to see the green space beyond. She added the views of such were better obtained from the other route along the coast road.

Councillor S Morrison highlighted that there were no objections from neighbours, no objections from the public and therefore she asked the Committee to approve the application as she felt it was not disproportionately large and would not impact upon green belt.

The Chair thanked Councillor S Morrison and asked the Planning Officer, JJ to respond to the points raised.

The Planning Officer, JJ noted that while the footprint may not be considered excessively large, the frontage was large and represented a greater impact on the openness. She reiterated that in the past the edge of the site had not been enclosed as it is now and therefore the appearance has always been as greenfield. She reiterated that these were the reasons for the proposed development being recommended for refusal. Historical maps do not show the site as having been a bus depot in the past.

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

Councillor J Shuttleworth reiterated that he felt the views of Local Members should be given weight and he therefore proposed that the application be approved.

Councillor M Davinson noted the application site had been in the green belt for a number of years and asked what was different in this case, in comparison to approvals granted in the past, for example for the current property.

The Planning Officer, JJ noted that green belt was adopted as part of the 2001 Easington Local Plan and that the upcoming County Durham Plan would seek to retain this green belt. She explained that an initial application in 2003 had subsequently been withdrawn, and the application in 2004 had a significantly smaller foot print and had been approved. It was noted that the application in 2007 for a house and garage was granted, and the application had also sought change of use for the land to the south of the site for domestic use, this being the area where permitted development rights had been removed. The Planning Officer, JJ noted a 2012 application for a front porch had been granted, this not having an impact upon the green belt.

The Chair asked if there was a seconder to the proposal by Councillor J Shuttleworth for approval of the application. As there was no seconder, the Chair asked if any Members had any other proposals.

Councillor M Davinson noted he would proposed that the application be refused as per the Officer's report as it was not possible to discount that the application was within the green belt. He was seconded by Councillor D Brown.

RESOLVED

That the application be **REFUSED** for the reasons set out in the report.

e DM/19/01182/FPA - 3 Witton Garth, Peterlee, SR8 1NF

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 a first-floor extension and attached garage and was recommended for refusal.

The Principal Planning Officer noted the application was at Committee at the request of the Local Member in terms of consideration of visual amenity. He referred the Committee to plans, aerial photographs and elevations and noted that the key issue was of overlooking to the neighbouring property and separation distances.

Members noted there had been no objections from the Highways Section, though noted some concerns. It was added that Ecology had not objected, and that should the application be approved they would request that an informative be included as regards bats.

The Principal Planning Officer noted that the Tree Officer had raised no objections, however, they had advised to ensure that during construction care was taken to protect a neighbouring hedge. He added that there had been no responses to neighbour notification letters.

The Principal Planning Officer noted the application was in a sustainable location and the principle of an extension was acceptable. He noted, however, that the impact upon residential amenity for the adjacent bungalow was considered to be an issue. It was explained the guidance set out a separation distance of 13.5 metres between a gable wall and a window of and adjacent property. The Principal Planning Officer noted in this case the separation distances were 11 metres from the first-floor level, and only 6.5 metres from the garage. He added that the site levels meant that this impact would be felt more significantly, albeit the neighbour affected had not objected themselves, and therefore the recommendation was for refusal. The Chair thanked the Principal Planning Officer and asked Members for their comments and questions.

Councillor A Laing proposed that the application be refused as per the Officer report, she was seconded by Councillor J Shuttleworth.

RESOLVED

That the application be **REFUSED**.

f DM/19/00846/OUT - Land adjacent The Elms, High Hesleden

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 an outline application with all matters reserved for a proposed single storey dwelling and demolition of existing structures with associated works and was recommended for refusal.

The Planning Officer, SH explained there was an update to the report as circulated, noting that following assessments Environmental Health would not require a condition in terms of contaminated land should the application be approved.

The Planning Officer, SH explained referred Members to plans, aerial photographs and a proposed indicative site layout.

She noted the existing stables on site and referred to the small scale of the village of High Hesleden. Members were asked to note that there was the issue of sustainability, with the village only having a single public house and infrequent public transport.

It was explained that the Highways Section had no objections to the application, subject to a condition to upgrade the access and road along The Elms to an adoptable standard. It was reiterated there had been no objections from Environmental Health and noted there were no objections from Ecology, subject to a s106 legal agreement to secure contributions toward the Heritage Coast. The Planning Officer, SH noted 25 letters of support had been received and one letter had noted the unfinished state of the road along The Elms and suggested that the road be brought up to adoptable standard. It was reiterated that this was included within the application.

The Planning Officer, SH noted the main issue in planning terms was that of being a sustainable location. She reiterated the small nature of the village and lack of facilities and cited as recent appeal decision for a site within the village where the Planning Inspectorate had rejected an appeal against a refusal by the Council for three houses elsewhere within the village. She explained that the Officers' view was consistent with that of the Inspector. It was explained that the Landscape Officer had noted no objections, if the property was a bungalow it was felt it would fit in well and not be a detriment in terms of views.

The Planning Officer, SH reiterated that the recommendation was for refusal as the application was not considered to be sustainable development and therefore was contrary to saved Policies 1 and 35 of the District of Easington Local Plan and Part 2 of the NPPF.

The Chair thanked the Planning Officer, SH and asked the Committee Services Officer to read out a statement on behalf of Local Member, Councillor R Crute, in support of the application, noting his fellow divisional Member, Councillor L Pounder supported the statement.

“Writing in support of this planning application we consider that it turns on a number of key points, namely the principle of development, impact on the character amenity and appearance of the surrounding area, its ecological impact and finally highway access and safety. We note that these points are broadly similar to those set out by the planning case officer in the planning report and we propose to take each one in turn:

In terms of the principle of development we acknowledge that whilst High Hesleden does have limited services there is a regular bus service linking the village to facilities in Hesleden, Blackhall Colliery and Peterlee with its frequent public transport links to all of the main conurbations in the North-East region. An application for a housing development of a significantly larger size may pose difficulties in terms of sustainability but we feel that an application to erect a single property of this size would have a negligible impact.

In noting the design proposals, we consider that the development would complement the current character and appearance of the village, it being sympathetic to the existing development. In also noting that the proposal is to build on previously used land we agree with the planning case officer's assessment that the impact of this development is "not considered significant."

We note that statutory consultee comments in terms of the ecological impact of the development raise no objection.

In addition, we note that there are no objections from a highway safety perspective, and further we agree with the recommended condition that the highway be brought to an adoptable standard which we feel would adequately address any outstanding concerns from a highways perspective.

We note that there are no objections in relation to land contamination issues.

Finally, we would draw the attention of planning committee members to the significant local support for this development. 25 individual letters of support from village residents and businesses were submitted alongside a petition of 48 residents supporting the application and offering no objections. In our experience we find such local endorsement for a development proposal in a village the size of High Hesleden to be extraordinary. Although this alone would not constitute a material planning consideration we feel that this level of support from residents should be acknowledged in determining this planning application.

In conclusion, for the reasons set out in our comments above, we would strongly urge members of the planning committee to approve this planning application which we feel would be an asset to the village".

The Chair thanked the Committee Services Officer and asked the Planning Officer, SH to comment on the issues raised. The Planning Officer, SH reiterated that the main issue was sustainability as set out within the report.

The Chair thanked the Planning Officer, SH and asked Mr Arron Atmore, Agent for the application to speak in support of the application.

Mr A Atmore noted the apologies of the applicant, Mr R Catleugh, as he had been unable to attend the Committee meeting. He explained that Mr and Mrs Catleugh lived in High Hesleden and that due to factors including old age it was not possible for them to continue living in their existing property on The Elms. He added that they had hoped to build a bungalow at The Elms, so they could remain in the village and at The Elms.

Mr A Atmore noted the application was strongly supported by the Local Members, a 48-signature petition, 25 letters of support, and the one letter suggesting the improvement of the road to an adoptable standard. He explained that when looking at options in terms of access, other points onto Micklehill Road would not be suitable due to traffic calming infrastructure and junction. He added the proposal for access that would include the road at The Elms being made up to an adoptable standard would benefit a number of other residents.

In reference to sustainability, Mr A Atmore noted the site had previously been developed, there was the public house as mentioned by the Planning Officer and there was a bus route linked the village to the other settlements nearby. He noted that he felt the sustainability argument in fact had the potential to stagnate small villages and reiterated that the proposed development was for one bungalow, not a large number of properties. Mr A Atmore noted he hoped that the Committee would be supportive of the application and grant approval.

The Chair thanked Mr A Atmore and asked the Planning Officer, SH if she wished to comment on the points raised. The Planning Officer, SH noted the summary of the issues by Mr A Atmore was a fair one, in terms of only the one public house and an infrequent bus service.

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

Councillor J Shuttleworth noted he was sick and tired of sustainability being used as a reason to refuse applications for previously developed sites. He noted previous decisions in similar cases where applications had been recommended for approval and noted he felt some consistency was needed. He proposed that the application be approved.

Councillor M Davinson agreed with the comments made by Councillor J Shuttleworth and those of the Agent. He noted the application would allow for an improved quality of life for the applicant and allow another person or family to move into their existing property. He added that the benefits would include the completion of the road at The Elms to an adoptable standard, increasing residential amenity.

Councillor M Davinson noted the site was a brownfield site and added he felt the proposed development was a good thing and would second that the application be approved.

Councillor D Brown reminded Members that a development at the west side of the village had been approved approximately two years ago and he agreed with previous comments as regards consistency of decisions.

The Solicitor – Planning and Development asked if those Members proposing approval could elaborate on their reasoning, referring them to the NPPF paragraph 11 test as set out at paragraph 55 of the report. Councillor M Davinson noted that he felt that the development was sustainable and that the benefits included the improvements to the road, increased housing choice locally.

The Planning Officer noted that within 400 metres of the property the only facility was the public house and public transport was infrequent, however, she noted Members felt on balance the improvements to the road and additional housing provision were such that the adverse impacts of granting permission did not outweigh the benefits.

The Solicitor – Planning and Development noted that if Members were minded to approve the application it would need the usual suite of conditions and a s106 agreement as mentioned within the report. He asked if those proposing and seconding the application would wish for those to be delegated to Officers in consultation with the Chair or Vice-Chair of the Committee. Councillors J Shuttleworth and M Davinson agreed.

RESOLVED

That the application be **APPROVED** subject to a s106 Planning Obligation to secure a payment of £756.61 for coastal mitigation and a suite of conditions to be delegated to the Planning Officer, in consultation with the Chair of the Committee.

g DM/19/00855/FPA - Land at Flass Bungalow, Flass Vale, Durham, DH1 4BN

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 the erection of 1 no. detached bungalow and was recommended for refusal.

The Planning Officer, SH explained there was an update in respect of paragraph 45 of the report, with the Archaeology Section noting that there was the potential for finds and that if the application were granted then a watching brief on archaeological remains should be put in place.

The Planning Officer, SH referred to plans and aerial photographs, noting the site was on the edge of Flass Vale, a local nature reserve, a heavily wooded area. She added that the site was within the green belt, the Conservation area, an area of high landscape value (AHLV) and nature reserve. She noted the green belt was set out within the saved City of Durham Local Plan and the boundary ran part-way through the applicant's existing bungalow.

Members were asked to note the narrow access to the site, leading to the existing bungalow and then on to a public footpath leading into Flass Vale. The Planning Officer, SH noted there were several TPOs in the area, and there was the additional protection afforded by the Conservation Area.

The Committee noted no objections from the Highways Section, subject to conditions relating to parking and bin storage to be located no further than 25 metres from the public highway for collection. The Planning Officer, SH noted no objections from Environmental Health/Contaminated Land, and that the Landscape and Tree Officers had noted the issues as mentioned in relation to the Conservation Area, AHLV and TPOs and noted a number of surveys that would need to be provided in order to assess the proposal.

The Planning Officer, SH explained that the Ecology Section had noted there was a need for an assessment in terms of Priority Species, namely bats, badgers and Great Crested Newts.

Councillor D Freeman left the meeting at 4.05pm

It was noted the City of Durham Parish Council had objected to the application as it represented development within the green belt. The Planning Officer, SH added that the City of Durham Trust had objected, noting the AHLV and the archaeological importance of the adjacent Maiden's Bower Burial Mound.

The Planning Officer, SH noted that the application was for a development within the green belt, and was by definition inappropriate development, contrary to saved Local Plan Policy E1 and Part 13 of the NPPF.

She added that there been no special circumstances cited in support of the development within the green belt and any development would affect the openness of the green belt. Accordingly, the Planning Officer, SH noted the recommendation was for refusal.

The Chair thanked the Planning Officer, SH and asked Local County Councillor, and Parish Councillor, Councillor L Brown to speak in objection to the application.

Councillor L Brown thanked the Chair for the opportunity to speak and congratulated Officers in coming to what she felt was the right decision in recommending refusal of the application. She explained she was 14 years old when the first bulldozers went into Flass Vale in 1973 which were stopped at the very last minute. She added it took years for the ecological balance to recover and she had been thrilled when the area became a Local Nature Reserve in 1982. Councillor L Brown noted that apart from that, the application site was within the green belt, the Durham City Conservation Area, was alongside Maiden's Bower, a Bronze Age Burial Mound which also may have been part of the site of the Battle of Neville's Cross. She added there were therefore a whole raft of local saved policies and national planning policies that the application would be breaching and there was also a lack of an up-to-date arboricultural survey and no sign of any ecological survey.

Councillor L Brown noted she wished to bring a matter to the Committee's attention. She noted the Heritage Report referred to the site as a "brownfield site" due to the previous existence of Flass Quarry. She added that two decisions which had subsequently been considered at appeal were relevant to this application. Councillor L Brown noted the first was from January 2011, application reference 4/10/00476 and that within the decision of the Inspector it had been noted that a brownfield site could revert to a greenfield site because of "*years of disuse leading to revegetation and no visible remaining structures*".

Councillor L Brown noted the second was perhaps more pertinent, given that the application site was apparently "*returned to grass by the present owners*". She noted an appeal from October 2015, 14/02141/OUT in which paragraph 7 of the report reads: "*Whilst the definition of previously developed land does not include land that is or was developed with permanent structures it excludes from the definition land where the remains of the structures have blended into the landscape*" and also "*established garden land is excluded from the definition of previously developed land*".

Councillor L Brown concluded by noting she felt that both of the appeal outcomes set a precedent which supported the Officer's recommendation and she hoped that the Committee would vote with the recommendation.

The Chair thanked Councillor L Brown and asked Mr K Ryder, Architect for the Applicant to speak in support of the application.

Mr K Ryder noted he spoke on behalf of the applicant and that the proposal was for a single bungalow within the curtilage of the existing Flass Bungalow. He noted the applicant had lived on the land since the 1960s and before that the land was used by civil engineers in the city. He added that the City Engineer had commented that the development of the area was confirm on the town map, classified as “reserve open space”, but amended to be the operational yard and bus depot, both now developed.

Mr K Ryder noted that while the area was wooded, there was an awful lot of decay and dying trees as well as ivy and sand soil conditions. He added that the applicant was a regular volunteer with the Friends of Flass Vale. He added the proposal was for a modest two-bed bungalow, with vehicular access being taken via the existing access.

Mr K Ryder noted that some time had been taken in preparation of the application, with pre-planning talks as regards what could be acceptable, noting many comments that had been favourable. He added he scheme was well designed, and well concealed, only being visible in the immediate area with a minimal impact on the Conservation Area. He noted that the Landscape Officer had stated that there would be not be a significant reduction in visual amenity from the proposals.

Mr K Ryder noted the Parish Council had referred to potential damage to Flass Vale and Maiden’s Bower, he added this was an English Heritage site and that only the top represented a burial cist, the majority not being man made. Mr K Ryder concluded by noting that the proposals represented a caretaker development alongside existing development and asked the Committee to approve the application.

The Chair asked the Planning Officer, SH to comment on the points raised.

The Planning Officer, SH noted that while the land had previously been developed, in had significantly changes since the 1960s, now being a green site with mature trees. She added that any promises in the 1960s did not inform the City of Durham Local Plan in terms of the now existing green belt, AHLV and Conservation Area. It was reiterated that the main issue was that by definition any development within the green belt was harmful and in the absence of any special circumstances, the recommendation from Officer’s was for refusal.

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

Councillor M Davinson noted the history of the site with interest, however, he felt that it was clearly development within the green belt and therefore he proposed that the application be refused as per the Officer's report. Councillor R Manchester seconded the proposal for refusal.

RESOLVED

That the application be **REFUSED** for the reasons set out in the Officer's report.

Councillor S Iveson left the meeting at 4.20pm

6 Planning Development Management Performance Summary 2018/19

The Committee considered the Planning Development Management Performance Summary for 2018/2019 (for copy see file of Minutes). Members were informed that the report would be submitted to each of the Council's Area Planning Committees and the County Planning Committee.

In discussing the report, the Chair noted that while the Central and East Area had the most appeals in the 2018/19 cycle, it compared favourably in terms of other area teams, having only one in seven appeals being upheld.

Resolved:

That the content of the report be noted.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|--|
| APPLICATION NO: | DM/19/01369/FPA |
| FULL APPLICATION DESCRIPTION: | Change of use from clinic to hot food take-away at ground floor and office above. |
| NAME OF APPLICANT: | Mr Paul Bell |
| ADDRESS: | 21 Church Street Coxhoe Durham DH6 4DD |
| ELECTORAL DIVISION: | Coxhoe |
| CASE OFFICER: | Lisa Morina Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey mid terraced property located within a group of commercial properties located on Church Street, which is on the main thoroughfare through Coxhoe. Other businesses include a butchers and a wedding dress shop. Residential properties are located to the other side of the main road and residential properties are also located either side of the host property. The building is located within a block with a mix of both residential and commercial properties and the site is located within a Local Centre. The property was previously used as a Clinic (use class D1) and is currently vacant.

Proposal

2. The proposal seeks full planning permission for the change of use of the property to a hot food takeaway with an office above. Changes to the front elevation are proposed in the form of the creation of a shop front and extraction is proposed to the rear of the site. The existing front door will remain as access to the office as proposed above.
3. The application is referred to Committee at the request of Cllr Jan Blakey on highway environmental impacts.

PLANNING HISTORY

4. 4/95/00299/FPA - Change of use from residential to Community Health Clinic. Approved 4/7/95.

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 - 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.
7. 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.
8. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

9. 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

10. Policy T1 General Transport Policy requires all developments to protect highway safety and/or not have a significant effect on the amenity of occupiers of neighbouring properties.

11. Policy S1a Retail Hierarchy - seeks to protect and promote the vitality and viability of all centres in the local retail hierarchy of the City of Durham Area.
12. Policy S5 Local Centres, including Coxhoe, allows development falling within classes A1, A2 and A3 provided that it would not adversely affect the vitality and viability of any other local centre, it would not lead to a loss of existing community or recreational facilities, or in the case of A2 and A3 uses, it will not undermine the retail character of the centre.
13. Policy S10 Food and Drink - sets out that within settlement boundaries development for A3 food and drink uses will be permitted where there are no adverse effects on the amenities of neighbouring occupiers, achieve satisfactory access arrangements and is in scale with the character of the area.
14. Policy Q1 General Principles – Designing for people– requires that the layout and design of all new development should take into account the requirements of users in terms of personal safety and crime prevention; accessibility for people with disabilities and elderly and those with children.
15. Policy Q11 Shopfronts – Provision of new – new shopfronts will be permitted provided that they respect the scale, proportion, materials and character of the building and the area in which they are located

RELEVANT EMERGING POLICY:

16. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 27 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it 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:

17. The Highways Authority raise no objections to the proposal given the site is served by a shared public parking layby area on the B6291 adjacent to the main Terraced Front Street where there are a mixture of commercial businesses and local facilities that use this area for shared public parking. This area of highway is well protected with single yellow parking restrictions. The fore court footway area is also protected with steel bollards. The site is well connected for pedestrian movements to the wider footway network and is conveniently located next to a public service bus stop for journeys by public transport.
18. Durham Constabulary have provided no comment.

INTERNAL CONSULTEE RESPONSES:

19. Environment, Health and Consumer Protection (Nuisance Action Team) – Raise no objection to the proposal subject to a condition regarding the level of noise emitted from the extraction equipment.
20. Planning Policy states that the retail policies in the City of Durham Local Plan are based on out-of-date evidence and do not reflect more updated evidence in the NPPF. Therefore, the flexible approach in NPPF should be taken into consideration which would support the proposal, and in the context of para 11 of the NPPF the scheme should be permitted unless the adverse impacts demonstrably and significantly outweigh the benefits.

PUBLIC RESPONSES:

21. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. 17 letters of objection have been received raising the following points:
 - The area does not require a further hot food takeaway there is already too many in the area and it is not needed or wanted
 - The proposal does not state opening hours or type of food
 - The proposal will sell the same as another business and affect this current local business.
 - The proposal would add to the existing problems of smell, litter, traffic and anti-social behaviour.
 - Obesity levels is also a concern
 - Will there be a delivery service
 - Parking is already an issue and this will make it worse
 - The proposal will result in smells to adjacent businesses and residential properties
 - What criteria is used for the approval of proposed additional takeaways
 - Anti-social behaviour is already a concern and this will increase
 - The proposal of the applicant to put used fat into the sewers is also of concern. The drains are bad enough as it is
 - Council should object to developments within close proximity to schools
 - The Council should follow Gateshead Council in respect of their SPD.
 - The applicant fails to demonstrate there would be no adverse impact on the amenity of neighbours
 - The smell would make stock in adjacent shops unsellable
 - The noise from extractor fans would prevent businesses from expanding into their courtyards.
 - If the development goes ahead then other businesses would have to close
 - The bin storage and waste disposal needs for this type of business cannot be met in this property and would cause significant impact on nearby residents and properties.
 - The proposal will result in increase in traffic using the private car park of the nearby church.

APPLICANT'S STATEMENT:

22. None received

PLANNING CONSIDERATIONS AND ASSESSMENT

23. 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, impact on the visual amenity of the area, residential amenity and highways issues.

Principle of development

24. 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 the weight to be afforded to existing Local Plan policies will depend upon their degree of accordance with the NPPF.

25. 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.

26. On this basis, given the age of the CofDLP and information provided that informed the creation of specified shopping areas, the policies are considered out-of-date, and the weight to be afforded to the policies reduced as a result and paragraph 11 of the NPPF also engaged. 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.

27. Policy S5 of the City of Durham Local Plan states that food and drink uses will be permitted in local centres providing they do not affect the vitality and viability of the area. In addition to this, policy S10 states that proposals of this nature would be considered acceptable providing there is no significant impact on the amenity of nearby occupants.

28. Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In addition to this, paragraph 79 promotes the re-use of redundant or disused buildings.

29. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development.

30. For decision taking this means (unless material considerations indicate otherwise):

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

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

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

31. As such in this case planning permission should be granted unless doing so would significantly and demonstrably outweigh the benefits. Notwithstanding the above, the proposal needs to be determined in accordance with the Local Plan unless material considerations dictated otherwise including the National Planning Policy Framework 2018 (NPPF).

32. The site is located within a sustainable location within an established local centre. Whilst the background that formed the policy which created local centres is considered out of date, limited weight can still be given to this policy. The area in question is already an established mixed use area and as such these type of developments are supported in principle. The previous use of the property was a clinic (use class D1) which has already closed down, therefore the proposal does not result in the loss of an existing retail unit. In these circumstances, the vitality and viability of the shopping area is not considered to be negatively impacted upon.

33. In addition to this, the proposal would bring back into use a vacant property creating the potential for two businesses to be created with a hot food takeaway on the ground floor and an office at first floor level which is considered acceptable in principle. Objections have been raised that the proposal would result in too many hot food take-aways, however, it is not felt that the addition of a further hot food take-away would result in the over proliferation of hot food takeaways within this area.

34. In principle therefore, it is considered that the use of the premises as a mixed use commercial development of a hot food takeaway at ground floor with an office above is acceptable in principle subject to suitable consideration of the detailed issues below.

Impact on visual amenity of the area

35. Policy Q11 of the Local Plan states that new shopfronts will be permitted provided that they respect the scale, proportion, materials and character of the building and the area in which they are located.

36. The proposal includes the addition of a new shop front to serve the take away which is considered to be an appropriate addition similar to others within the area and therefore, would not have a detrimental impact on the character or appearance of the street scene. The office use would be accessed via the existing entrance door retaining its own entrance thereby being a separate business from the take-away.

37. The proposal therefore, is considered acceptable in respect of policy Q11 of the City of Durham Local Plan.

Residential amenity

38. Objections have been raised regarding smells, litter, anti-social behaviour and general disturbance being created as a result of the proposal.

39. As stated above, policy S10 states that proposals of this nature would be considered acceptable providing there is no significant adverse impact on the amenity of nearby occupants. In addition to this, Paragraph 127 (f) of the NPPF states that decisions should ensure 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

40. No opening hours have been submitted as part of the planning application, however the proposal is to be located between two existing residential properties. Given this, it is considered that care needs to be taken to ensure that the residential amenity of these neighbours is not significantly impacted upon. Takeaways tend to generate activity during evening hours through comings and goings of customers on foot and in cars, with some associated noise and disturbance. It is noted that other hot food takeaways are located in the area with one being positioned within the next block of properties to the south of the host property located to the opposite side of the entrance to the Church, therefore, existing night time uses are already in existence in the vicinity. This was granted planning approval in 1991 and has consent to be open until 11.30pm.

41. It is noted that the previous clinic use was predominantly a day time use, however, given there are other night time uses nearby, the area will already be subject to some evening activity, and it is not considered that an additional hot food takeaway would result in a significant increase in noise and disturbance that would justify a refusal of this application. In addition to this, the property is located on a main thoroughfare where some noise will currently be generated from traffic and pedestrian movements.

42. Details of the extraction system have been submitted as part of the proposal and have been assessed by the environmental health officers. They are satisfied that the equipment proposed would suitably protect amenities of the area and neighbouring occupiers. The details would form part of the approved plans condition and would be subject to a condition regarding noise levels to not exceed a certain level.

43. The creation of the office above the hot food take-away is not considered to result in significant adverse impacts on the neighbours. Offices are usually considered under Class A2 which are those visited by the public, such as professional and financial services, estate agents and banks or Class B1(a), which are offices not within an A2 use, for example a consulting agency or architects firm. Both of these use classes are considered acceptable and are not considered to cause a significant loss of amenity given the nature of the area. It is considered appropriate however to attach a condition restricting the use to either A2 or B1a to ensure the amenity of residents is protected, as other business uses within the general B1 use class may not be appropriate.

44. Given there are residential properties on either side of the host property, it is considered appropriate to impose a condition restricting the opening hours of the takeaway to no later than 11pm. Subject to this restriction, and the noise condition mentioned above, the proposal would be considered to accord with the requirements set out in policy S10 of the local plan as it is not considered that the proposals would adversely affect the amenities of nearby occupants to a degree that would justify refusal of planning permission.

Highway Issues

45. The county highway officer has confirmed that they have no objection to the proposal from a highways view point. Objections have been raised that the proposal would result in an increase in parking problems which already occur.
46. The proposal does not provide any parking, however the site is served by a shared public parking layby area on the B6291 adjacent to the main terraced Front Street where there are a mixture of commercial businesses and local facilities that use this area for shared public parking. The area of highway is considered well protected with single yellow parking restrictions. The fore court footway area is also protected with steel bollards.
47. In addition to this, the site is well connected for pedestrian movements to the wider footway network and is conveniently located next to a public service bus stop for journeys by public transport.
48. Concern has also been raised that the proposal would result in the use of the private car park for the church nearby to the proposed development, however, the Council are unable to control who parks in this area and this would need to be controlled by the owners of the site.
49. Taking all the above into consideration, the proposal is considered acceptable from a highways viewpoint in respect of both the take-away and office use and is considered to be in accordance with policies T1 and T10 of the City of Durham Local Plan in respect of highway safety and parking issues.

Other matters

50. Concern has been raised that the proposal would result in an increase in anti-social behaviour which is already an issue in the village. Durham Constabulary have been consulted, however, no response has been received. It is not felt that the addition of a hot food take-away would result in a significant increase in anti-social behaviour that would provide sufficient justification to refuse an application, given this would be dealt with under other legislation.
51. Concerns have been raised that the proposal would result in competition for other hot food takeaways within the area and that shops would be forced to close due to smells. However, competition is not considered to be a material planning consideration and as stated above the proposal has been assessed in respect of noise and smells and is considered appropriate.
52. Information has been submitted regarding policies that another Council have in respect of the amount of hot food take-aways. Durham County Council does not yet have a policy like this; whilst similar style policies are being considered within the emerging local plan this is not at a stage where weight can be given.
53. Bin storage is proposed to be located to the rear of the site which is considered acceptable in this regard.

Planning Balance

54. As the relevant policies of the City of Durham Local Plan 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

55. The development would bring back into use a redundant building within an established mixed use area with a use which is typical of this type of area.
56. The development would provide direct and indirect economic benefits within the locality in the form of expenditure in the local economy and will provide 3 full time jobs. In addition, construction jobs will be created whilst the development works are carried out. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area. Such benefits can be afforded some limited weight.

Adverse Impacts

57. The application demonstrates that there would be potential for adverse impacts on the amenity of surrounding neighbours, for example, additional activity generating noise and disturbance during evening hours. However, it is considered that this can be appropriately mitigated and controlled through the inclusion of conditions as indicated, and is not considered to be at a level that would justify refusal or outweigh the benefits of the scheme.

CONCLUSION

58. 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.
59. The site occupies a sustainable location within the local shopping area of Coxhoe and would bring back into use a redundant property whilst not having a significant detrimental impact on the surrounding area or the vitality and viability of the local centre.
60. The proposal is considered acceptable in respect of the aims of policies T1, S1a, S5, S10, Q1 and Q11 of the City of Durham Local Plan and the NPPF subject to appropriate conditions.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 – Approved Plans.

Reason: To define the consent and ensure a satisfactory form of development is Obtained in accordance with Policies T1, S1a, S5, S10, Q1 and Q11 of the City of Durham Local Plan 2004.

3. The rating level of noise emitted from all fixed plant/machinery on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014.
(On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level).

Reason: In order to protect neighbouring amenities in accordance with Policy S10 of the City of Durham Local Plan.

4. The hot food takeaway hereby approved shall not be open for business outside the hours of 11am to 11pm on any day.

Reason: In order to protect neighbouring amenities in accordance with Policy S10 of the City of Durham Local Plan.

5. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the premises shall be used for use class A2 or use class B1a only and for no other purpose

Reason: In the interests of the amenity of the area in accordance with Policy S10 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

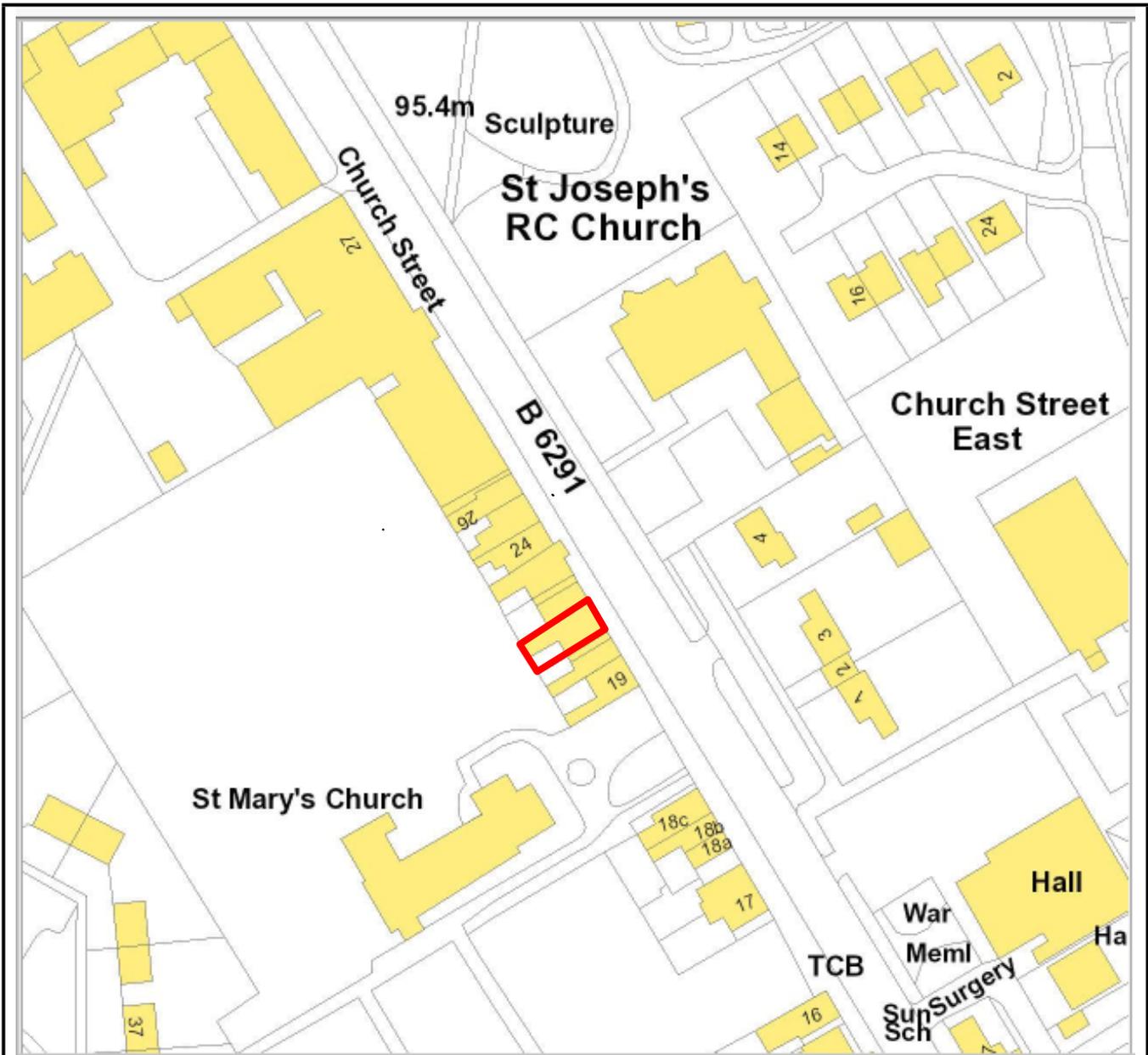
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

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>Change of use from clinic to hot food take-away at ground floor and office above at 21 Church Street, Coxhoe Application Reference DM/19/01369/FPA</p> | |
| <p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p> | | |
| | <p>Date July 2019</p> | <p>Scale NTS</p> |

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|--|
| APPLICATION NO: | DM/19/01234/FPA |
| FULL APPLICATION DESCRIPTION: | Demolition of former garage and construction of link road (between Renny's Lane and Damson Way). Construction of new retail unit (Use Class A1 with ancillary A3) and construction of signalised junction (A181 Sherburn Road and Damson Way). |
| NAME OF APPLICANT: | Durham County Council |
| ADDRESS: | Land To The East Of Unit A, Damson Way, Dragonville Durham, DH1 2YD |
| ELECTORAL DIVISION: | Belmont |
| CASE OFFICER: | Graham Blakey, Senior Planning Officer, 03000 264865 graham.blakey@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms part of the Dragonville Industrial Estate and West Sherburn, located approximately 2.5km to the east of Durham City Centre. The application is formed of two sites, one at the A181 / Damson Way road junction at West Sherburn, and the other between Damson Way and Renny's Lane at MKM Building Supplies and the former garage building associated with the builders merchants to the centre of Dragonville Industrial Estate. The southern site has industrial development to the north, residential properties to the east and west boundaries and the A181 and open fields to the south. The northern site is surrounded by mixed industrial and retail development.
2. Generally, the topography of the area is relatively flat with a shallow slope from north to south, being steepest to the Rennys Lane part of the northern application site. This northern most site features very little vegetation and is predominately made up of existing hard standing areas and the former garage building. The southern most application site features a mature tree planted area to the green space between the existing residential properties of Coronation Terrace, Booths Buildings and the last remaining properties of the terrace 'Dragonville'. The roadways to the immediate frontage of these properties once formed part of the original road network between Sherburn / Sherburn House and Durham until the construction of the A1 in the late 1960s. During this construction a new over bridge to the motorway was needed for the A181 and at the same time traffic was moved away from the residential properties either side of the A1 and the open spaces planted with trees as part of the landscaping scheme at the time. A small-scale caravan storage site lies to the rear and east of Coronation Terrace, access via the roadway to the immediate front of the small terrace of properties.

3. The southern site is located approximately 700m (or half a mile) north west of the Sherburn Hospital Local Wildlife Site (LWS), across the A1(M) but accessible via the road network; with the northern site being located 1.1km from The Scrambles LWS east of Belmont. National Cycle Network Route 14 runs near to the application sites along Dragon Lane and Rennys Lane.

The Proposal

4. This planning application seeks planning permission for the installation of two sections of new highway to provide access from Rennys Lane to Damson Way east of Dragon Lane and an altered junction at Coronation Terrace to the A181, that would provide an alternative route to Dragon Lane for traffic heading from Sunderland Road to the A181 Sherburn Road. The purpose of this link would be to ease traffic congestion and improve air quality along Dragon Lane, Sunderland Road and the A181. The proposed works fall into two separate areas at Rennys Lane / Damson Way and Damson Way / A181 Sherburn Road. These are referred to as the 'northern' and 'southern' application sites.
5. To the northern application site, works would involve the demolition of an existing garage building to the Rennys Lane / Damson Way section together with associated areas of hard standing removal, level changes and new road junctions being installed. All new junctions here would be standard T-junction designs, with a priority change to the east-west section of Damson Way traffic now giving way to north-south traffic. A previously approved retail unit, that was granted planning permission in 2015, would now be on the route of the proposed link road, is also included in this application site, but is now proposed in a position west of the new carriageway. The building has a revised design which sits better with the new highway arrangement producing frontages both east and south on to the public highway. The building retains its parapet roof design, reaching an overall height of 6.1 metres, and measuring 32 metres long by 10.25 metres wide running in a north-south axis. Materials would include a mixture of render, cladding and contemporary stonework to the feature south east corner.
6. To the southern application site, works here involve the creation of a new signalised junction of Damson Way with the A181. To achieve this, the existing alignment of Damson Way which turns relatively sharply from its north-south route in front of Booths Buildings is to be continued and straightened towards the A181 through a previously planted shelter belt of trees which have reached maturity. At this point, Damson Way runs through a gap in the residential dwellings of Booths Buildings and Coronation Terrace. Vehicular access to both would be retained by the proposals, with amended access proposed to Coronation Terrace together with an acoustic fence to this side of the revised junction layout close to the existing housing. The existing junction of Damson Way with the A181 would be sealed to create a cul-de-sac in front of Booth's Buildings and 60-62 Dragonville.
7. This planning application is being reported to Planning Committee at the request of Cllrs Eric and Lesley Mavin, Belmont Division Members, and Belmont Parish Council who wish the Committee to consider the impacts of increased traffic upon the amenity of neighbouring residents.

PLANNING HISTORY

8. DM/15/00833/FPA - The renovation and change of use of a former garage building to retail unit (Use Class A1) with ancillary cafe (Use Class A3) was approved in May 2015 under delegated powers.

PLANNING POLICY

NATIONAL POLICY

9. 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.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

15. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
17. *NPPF Part 12 – Achieving well-designed places*. The Government 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 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - 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.
20. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

22. Policy E14 – Existing Trees and Hedgerows – would not permit development that would result in the loss of ancient woodland, and to retain other areas of woodland or important groups of trees and hedgerows wherever possible.
23. Policy E16 – Nature Conservation – the Natural Environment. 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.
24. Policy S1A – Retail Hierarchy – seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
25. Policy S8 – Retail Warehousing Outlets – states that new retail warehouse development will be permitted on designated sites, providing, amongst other things, that there is demonstrable need, a sequential test has been carried out, and the vitality and viability of existing centres would not be adversely affected.
26. Policy EMP8.a – General Industrial Sites – designates general industrial sites, and identifies the site of Dragonville Industrial Estate as being suitable for B1, B2 and B8 development.
27. Policy H13 – Residential Areas- Impact upon Character and Amenity. Seeks to protect the character and levels of residential amenity those living in such areas can reasonably expect to enjoy.
28. Policy Q1 – General Principles Designing for People. Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
29. Policy Q2 – General Principles Designing for Accessibility. The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
30. Policy Q4 - Pedestrian Areas. Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
31. Policy Q5 – Landscaping – General – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
32. Policy T1 – Transport – General – states that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.
33. Policy T2 – Road Proposals – support will be given for new road proposals and road improvements schemes that facilitate inward investment, remove traffic through residential areas, improve road safety standards, and have the minimum adverse effect upon the local environment.

34. Policy T4 – Assessing the Route and Design of New Road Proposals. New roads should avoid severance of communities, harmful impact upon residential amenity, natural and built environments, safely provide for alternative modes of transport, and prevent flooding.
35. Policy T8 – Traffic Management. Support should be given to traffic management measures which seek to improve highway safety, amenity and ease congestion.
36. Policy T10 – 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.
37. Policy T19 – Cycle Routes – encourages the provision of facilities for parking cycles in the city centre and other locations which are secure, protected from the weather and clearly signed.
38. Policy T20 - Cycle Facilities. Seeks to encourage appropriately located, secure parking provision for cyclists.
39. Policy CC1 – Vitality and Viability – states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses, and sustaining the city centre shopping centre in accordance with other retail policies.
40. Policy U5 – Pollution Prevention. States that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property or that would unnecessarily constrain the development of neighbouring land.
41. 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.
42. 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:

The County Durham Plan

43. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Following consultation at ‘Issues & Options’, ‘Preferred Options’ and ‘Pre Submission Draft’ stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 27 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it 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 relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

44. *Belmont Parish Council* - Acknowledge that the present and future developments on the various Dragonville Retail sites will cause an increase in both commercial and customer vehicles. No objections are raised to the proposed non-food retail unit and café aspects of this application, subject to the adherence of conditions with respect to working hours and noise / dust mitigation measures.
45. The construction of the road is more problematic. The Parish Council understands the aim of the proposed scheme to ease traffic capacity issues to Dragon Lane, its associated junctions and improve flow on the A181. Particular concern for the Parish Council is in respect to the proposed signalised junction of Damson Way with the A181 and the impacts upon the nearest surrounding properties of Coronation Terrace, Booths Bungalows and old Dragonville.
46. The proposed design of the junction requires the cutting away of a swathe of long-established trees and hedgerow which at present form a natural barrier to noise/vibration and pollution from the traffic along the A181. The tree survey may not identify individual trees of merit, but collectively the tree belt provides valuable screening. The proposed road construction would divert considerable volume of traffic from the Sherburn Road / Dragon Lane junction to the Damson Way junction. The Council cannot comprehend how the adverse noise impact and vibration levels at the properties located nearest to the Damson Way junction can be assessed as negligible and not significant.
47. At present traffic on Damson Way is slowed on its approach to the A181 by the long bend in the road. The Parish Council suggest that serious consideration is given to retaining this route, upgrading and signalling the present junction with the A181, easing the left-hand exit towards Sherburn and making it fit for purpose. This option having the advantage of retaining the tree belt almost in its entirety with its valuable screening capacity.
48. Air quality is improved by these proposals in some locations (Dragon Lane/A181 Jct) but would have detrimental effect at others (by increased waiting at the Damson Way/A181 Jct). The Parish Council wish to propose that HGVs are banned from using the south boundary section of the link road approaching the Damson Way/A181 junction, which would benefit all the residents in the vicinity of the junction and could be done with appropriate signage and consultation with local unit occupiers.
49. The Parish Council therefore ask that this application in its current form be refused contrary to CDLP Policy T1 (General) - the Planning Authority will not grant permission for development that would generate traffic which would have a significant affect on the amenity of occupiers of neighbouring property.
50. *Highways Authority* – Raises no objections. The construction of the link road will permit consented development and background growth onto the local road network without and severe impacts on network operations. Assessment of five junctions through modelling through to the design year 2029, including Saturday and Sunday peak time scenarios has shown that traffic will be redistributed across the revised network and link road.

51. Of note, the Sunderland Road / Dragon Lane junction would be over capacity to all directions by 2029 without the link road. The A181 Sherburn Road / Dragon Lane junction is currently over capacity today, and the addition of the link road will ease this but queues will remain in 2029. An unaltered A181 Sherburn Road / Damson Way junction would see extensive queuing on Damson Way by 2029, with the proposed signalisation and the link road in place the junction would operate well within capacity by 2029. Finally, the Dragon Lane / Damson Way (Tesco) junction shows improvement by 2029 should the link road be constructed.

INTERNAL CONSULTEE RESPONSES:

52. *Spatial Policy* – Advises that the proposed retail building is currently allocated employment land, however the up-to-date evidence base (Employment Land Review, 2019) points towards de-allocation from employment protection and reduce weight to CDLP Policy EMP8 (A) in this instance. The site is also covered by Policy S8 which permits new retail warehouse development, however NPPF Paragraphs 86-90 provide more up-to-date guidance for applications of this type. As such CDLP Policy S8 is considered out of date in respect to determining this application. In terms of the requirements of the sequential assessment, these have been met by the applicant. The site is an out of centre site and whilst other in centre and edge of centre sites exist there are logical reasons as to why they can be discounted.
53. In regard to the proposed new link road element of the proposals, CDLP Policies T2, T4 and T8 are considered relevant to the proposals. The NPPF seeks to promote sustainable transport and recognises that transport issues need consideration from earliest stages of the development processes, the CDLP Policies support new road proposals which relieve pressure from the city centre, facilitate inward investment, or remove traffic from residential and other environmentally sensitive areas, amongst others, and are broadly consistent with the aims of the NPPF.
54. *Landscape (Arboriculture)* – Tree loss is explained within the submitted arboricultural report to the southern application site to facilitate the proposed signalised road junction. These are maturing trees in a woodland belt and are prominent in the landscape making a good visual contribution. Removal of the level of trees proposed will have some negative visual and ecological impact and it is recommended that this harm is considered in the planning balance.
55. *Ecology* – Raises no objections. Submitted ecological assessment confirms that there will be a loss of trees and hedgerow habitat, whereby the applicant proposes off-site mitigation through the form of a contribution of £4,525.
56. *Environmental Health and Consumer Protection (Air Quality)* – Development like this would give rise to emissions of particulate matter, against which there are short and long term air quality objectives and requirements to reduce exposure of these by the public. Management of dust at the construction phase is required by condition. At the operational phase, the development includes a section of the Air Quality Management Area (AQMA) in and around the junction of Dragon Lane and Sunderland Road, where levels of nitrogen dioxide have previously exceeded or have been close to the air quality objective.
57. A quantitative assessment of the impact of the proposed link road on existing residential properties assesses the impacts depending upon their location. Greatest reductions would be at the Dragon Lane / Sunderland Road junction, signalling that the link road is of benefit for the AQMA. There is a negligible or slight increase in levels of nitrogen dioxide at Cooperative Terrace (close to the A181 junction). An installed monitoring site at Booth's Bungalows indicates that the increase in predicted modelled levels at this location will not give rise to levels of particulates that will exceed the annual mean air quality objective.

58. In conclusion, the assessment demonstrates the effect of the proposed link road on air quality will not be significant at existing residential properties.
59. *Environmental Health and Consumer Protection (Contaminated Land)* – No objections are raised. Officers advise a conditional approach in relation to land contamination to secure a phase 2 assessment and mitigation where required.
60. *Environmental Health and Consumer Protection (Pollution Control)* – Advise that the submitted noise assessment has been carried out to appropriate methodologies. The assessment demonstrates that the noise increase associated with the link road is unlikely to be perceptible, being less than 3dB once operational. This is primarily due to the high background (existing) noise levels at West Sherburn from existing traffic using the A181, Damson Way and the A1(M). Therefore, while the proposed development would facilitate an increase in traffic numbers and give the impression of an increase in noise, the actual increase in noise is minimal. As such the impact, when considered against the Planning Practice Guidance Notes (PPGN) Noise exposure hierarchy, is ranked as 'noticeable and not intrusive' and therefore at a 'No Observed Adverse Effect level'.
61. Assessment of vibration from the operational link road has been provided, despite roads not generally being associated with high vibration levels. However, the assessment takes into account the existing vibration level at Damson Way, based upon the view that this is already used by a high number of HGVs. The maximum level VDV (Vibration Dose Value) recorded was 0.040, below the thresholds as stated by BS6472-2 which demonstrates a potential for adverse impact is unlikely to occur until vibration levels are at VDV 0.4-0.8. It is not expected that the increase in traffic is sufficient so as to reach the 10-fold increase required to hit the aforementioned threshold.
62. *Access and Rights of Way* – Raise no objections.
63. *Durham Police* – Raise no objections. An HGV ban to Damson Way would be considered by two factors, these being structural limits to highway infrastructure or environmental restrictions such as forward visibility. There are no structural concerns at Damson Way, but the tight bend currently at Booth's Bungalows limits forward visibility for all traffic. There have been no reported incidents linked to road safety reasons to necessitate a weight limit restriction here in the past. The proposed new junction works would remove this bend, therefore removing the issue of forward visibility in this location.

NON-STATUTORY RESPONSES:

64. *Northumbrian Water* - Raises no objections. Multiple items of infrastructure lie in the vicinity of the proposed works and due consideration should be taken so that these remain unaffected or appropriate works are undertaken.

PUBLIC RESPONSES:

65. The application has been publicised by way of individual notification letters to neighbouring residents, local members and publication upon the weekly list, and in total three representations have been received.

66. One of these representations has been received from a local resident, raising the following issues: -
- Major increase in traffic volumes directly adjacent to residential properties (Noise, Vibration, Litter all increasing),
 - Increased air pollution levels,
 - Increased light pollution from extra street lights and traffic signals,
 - Removal of mature woodland which currently gives excellent noise protection to residential properties from A181 traffic,
 - Increased speed potential at residential properties due to the redirection of road and removal of bend,
 - Severe impact on visual vista from residential properties,
 - Severely impaired vehicular access to rear of Coronation Terrace,
 - Commensurate reduction in property values,
 - No 'Plan B' countermeasure to implement when the proposed junction becomes saturated with Traffic.
 - Proposed alternative options have all been ignored by the Council. Concessions made from the Council include the painting of white lines on the road to control speed (will not work) and the erection of a 2 metre high fence directly adjacent to private property to control noise (hardly considerate in respect to outlook from the dwellings).
67. *Cllrs Eric and Lesley Mavin (Belmont)* - Requested that the application be heard at Planning Committee.
68. *City of Durham Trust* - Trustees wish to object to this application because of the inadequate provision for cycling and walking on the new link road and its junction with Rennys Lane, poor design features of the proposed new junction with the A181, and the absence of any upgraded provision between the two. The new pedestrian footways, toucan crossings, and cycling provision proposed fall short of the design standards mandated in the new County Durham Strategic Cycling and Walking Delivery Plan, and therefore should be redesigned. Creating a link road from the A181 to McIntyre Way without ensuring that the whole route meets appropriate standards for pedestrians and cyclists is not acceptable.

APPLICANTS STATEMENT:

Background to the Proposals

69. The quadrant between Dragon Lane, the A181 and Sunderland Road has seen much development in recent years. Noticeable congestion and journey time delays are experienced across the network, particularly at the signalised junctions on Dragon Lane. The signalised junction of Sunderland Road/Dragon Lane is within an Air Quality Management Area, with air quality levels above EU thresholds.
70. With further development planned in the area, there is a need to find a solution to facilitate this growth without further impeding on the local highway network or worsening the existing air quality issues.
71. The proposed solution would create a continuous link between Renny's Lane and the A181 via a new link road (Renny's Lane to Damson Way) and a new signalised junction (A181 to Damson Way). This would provide an alternative north-south route for traffic to alleviate congestion on Dragon Lane junctions.

72. Various other options were initially considered, but this option has quantifiably shown that it achieves a better balance of traffic levels across the local network. It reduces congestion and reduces air quality below thresholds.

National Cycle Route (NCN) 14

73. It is proposed to divert the existing NCN14 route via a shared use footway from Bent House Lane to the existing NCN14 at Renny's Lane via A181, Damson Way and the new link road. This would provide an off-carriageway option for non-motorised users for the majority of the diversion, which would offer betterment to the current layout on Dragon Lane. The proposed signalised junction will have adequate push-button facilities and crossing phases built into the traffic signal arrangements for users to cross A181 and Damson Way. Advisory on-carriageway cycle lanes are proposed on both the north and south side of Renny's Lane from the link road to the underpass. All relevant road markings, road traffic signs and dropped crossing point will be incorporated into the overall design.

Existing Road Alignment

74. Speed surveys were carried out and it was shown that the 85th percentile of highest speeds observed was above the speed limit on Damson Way. So to address this issue, a road marking and road traffic sign scheme will be introduced on Damson Way to narrow carriageway lanes, to reduce speeds.
75. When introducing a signalised junction for road safety issues, users should be able to achieve forward visibility and oncoming traffic should be able to see the back of the queue. The current road alignment wouldn't achieve this were it to be adapted to a signalised layout.
76. The proposed signalised junction would include detection loops in advance of the stop lines. These work as part of an intelligent system where if queues are detected, the signals will allow more 'green time' to clear queues on that particular leg. The proposed signal phasing is based on traffic modelling which informs the design and ensures that the correct priorities are given to the correct demands, reducing the likelihood of the signals becoming saturated.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/>

PLANNING CONSIDERATIONS AND ASSESSMENT

77. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: The principle of the development, highway safety and access, residential amenity and pollution, landscape and visual impact and other issues.

Principle of Development

78. 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.
79. The CDLP was adopted in 2004, however, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. Paragraph 213 also sets out that due weight should be given to existing policies, 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).
80. This proposal contains two elements, the road scheme and a retail unit. Policies contained within the CDLP cover both types of development and each will be taken in turn below.
81. CDLP Policy S1(A) defines a retail hierarchy of centres within the Durham City area, placing Durham City Centre first, District Centres (including Dragon Lane / Sherburn Road) second and Local Centres third. The approach to defining a retail hierarchy is consistent with the guidance within the NPPF which states a need to define a network and hierarchy of centres that is resilient to anticipated future economic changes (Paragraph 85), the Policy is therefore up to date in this respect and can be given full weight in the planning process. CDLP Policy CC1 identifies that the city centre of Durham be protected or enhanced to ensure its vitality and viability through promoting mixed uses. Policy CC1 states that the “sequential approach” to site selection should be followed in respects to major retail and leisure development. The NPPF similarly requires the sequential approach to be adopted. Development out with the city centre should be subject to the ‘sequential approach’ of major retail development being located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Policy CC1 is considered largely consistent with the content of the NPPF, though not fully consistent as Policy CC1 explains that the sequential approach will be applied to retail and leisure developments whilst the NPPF requires a broader application. Both the CDLP and NPPF (at paragraph 86) require a sequential test to be undertaken in regards to the development and this is discussed below.
82. The northern application site is allocated under CDLP Policy EMP8 (a) as the site forms part of the wider Dragonville Industrial estate, however the up-to-date evidence base (Employment Land Review, 2019) suggests de-allocation from this employment protection and so results in a reduction in weight to CDLP Policy EMP8 (a) in this instance. This policy is permissive of business (B1), general industrial (B2) and warehousing (B8) uses. The development does not propose a B use development type. However, part of the Dragonville industrial estate allocation which over washes the site is specifically allocated under Policy S8. Under CDLP Policy S8 new retail warehouse development selling certain comparison goods can be considered acceptable subject to a number of criteria including that there is an identified need for the retail warehouse floorspace and that utilising the sequential approach the development cannot be located in a more sequentially preferable location.

83. CDLP Policy S8 is not fully up to date. The policy was based upon an identified need for retail warehouse development contained within evidence which informed the CDLP prior to its adoption. More up to date evidence based work (Retail and Town Centre Study, 2018) no longer identifies such a need and as a result the weight to be attributed to the policy is considered to be reduced and Paragraph 11 of the NPPF is also engaged. In addition, the NPPF does not expressly require that a planning application is accompanied by a demonstration of need.
84. The proposed retail unit would offer a primarily A1 (shop) with ancillary A3 (café/restaurant) usage. It is considered that in terms of the sequential assessment, these have been met by the application. The site is in an out of centre location away from the Sherburn Road / Dragon Lane District Centre, and whilst there are other in centre and edge of centre sites (which are preferable in principle by the NPPF), these have been discounted by the sequential assessment for sound reasons. The submitted sequential test has been assessed by Spatial Policy and regard has been had to key guidance on the correct approaches to the sequential test within the NPPF and PPG including consideration of the requirement to demonstrate flexibility. The retail unit therefore passes the sequential test required by the CDLP and NPPF.
85. CDLP Policy T1 refers to the protection of highway safety and adjoining property amenity from proposed new development. Policy T2 specifically supports new road improvement schemes that facilitate inward investment and economic prosperity and removes traffic from residential areas while having the minimum adverse impact upon the local environment. Policy T4 builds upon both of these policies to require the routing of new roads to avoid severance of communities and again protected residential amenity, the natural environment and provide for alternative modes of transport. Finally, Policy T8 supports the improvement of traffic management measures which seek to improve highway safety, amenity and ease congestion. Detailed consideration of all implications of the proposed road link is discussed in the remainder of this report, however, the principle of the road proposal is considered to draw support from these policies. Each of these transport policies are considered to be consistent with the content of the NPPF.
86. Paragraph 109 of the NPPF highlights that development should only be refused on highway grounds if the residual cumulative impacts upon the highway network are severe. More generally, the NPPF gives significant support to sustainable development, including managing the safety and amenity impacts of traffic together with promoting more sustainable modes of transport. For these elements, the policies in the CDLP above are considered to be consistent with the NPPF and therefore carry weight in the decision making process.
87. In conclusion, as a result of CDLP Policy S8 being considered out of date, assessment of the application is required under Paragraph 11d of the NPPF. which advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposals or whether there are any policies in the NPPF that protect areas or assets of particular importance which provide a clear reason to refuse the development. Clearly, this assessment can only be considered following an examination of all of the issues within the planning balance.

Highway safety and access

88. CDLP contains various policies, in the form of T1, T2, T4 and T8 which all seek to ensure that development does not prejudice highway safety, reduce congestion and protect amenity. These principles are aligned with advice at paragraphs 108 and 109 of the NPPF which amongst its advice requires that safe and suitable access should be achieved, and development should only be prevented or refused on highways grounds where unacceptable impacts on highway safety would occur or the residual cumulative impacts on the road network would be severe.

89. Paragraph 111 of the NPPF requires applications which proposed significant amounts of traffic movements should be supported by a Transport Assessment (TA) enabling the projected impacts upon the surrounding highway network to be analysed. Concerns have been raised by the local resident and the Parish Council in respect to highway safety impacts and queuing traffic as a result of the proposed relief road.
90. Dragon Lane and surrounding roads north (Sunderland Road) and south (A181, Sherburn Road) have been highlighted by the Highways Authority as already operating above their designed capacities through volume of traffic and it is acknowledged by the modelling undertaken within the TA. The TA models the future distribution of traffic from built and committed development in the immediate area of Dragon Lane and Damson Way both with and without the proposed relief road. The Highway Authority have reviewed the TA and have provided comment on its findings.
91. Without the proposed relief road, junctions in the surrounding area would see increased congestion and longer queues as a result of increased traffic flows in the Dragonville area. The Sunderland Road / Dragon Lane junction would be at capacity within ten years. The A181 Sherburn Road / Dragon Lane traffic lights are already at capacity and would see increased queuing. And the A181 Sherburn Road / Damson Way junction would see extensive queuing without the proposed new junction. Improvements to all of these areas have been modelled to occur as a result of the proposed Rennys Lane / Damson Way link road and the signalisation of the A181 Sherburn Road / Damson Way junction.
92. The Highway Authority consider that the provision of the relief road and junction modifications would accommodate consented development and background growth onto the local highway network without severe impacts upon network operations, which would occur should the proposals not be forthcoming.
93. Both the Belmont Parish Council and a neighbouring resident at Coronation Terrace have raised concerns with regard to the proposed works within the southern application site to signalise and realign Damson Way where it meets the A181 and the subsequent increase in traffic that would flow through this junction past the nearby residential dwellings. The TA indicates that vehicular movements on Damson Way will increase in the next 10 years to a level that is considered to make the current junction design unsuitable to carry the number of vehicles that are predicted, should the link road not be constructed. Therefore, it is reasonable to expect that some form of highway works would be required by the Highway Authority to enable them to maintain healthy traffic flows. Concerns from the neighbouring resident relate primarily to the subsequent impacts of increased traffic flows in terms of noise, vibration and light pollution etc. and these will be addressed in detail later in this report.
94. The Parish Council have suggested that the existing junction arrangement be amended to provide a wider exit from Damson Way to allow for westbound A181 traffic to flow more freely together with a ban on heavy goods vehicles using this southern section of Damson Way. The Highway Authority have considered these views and believe that amending the junction in the manner proposed by the Parish Council would not bring sufficient capacity to the network to cope with the predicted future demand, therefore being unsuitable with regard to highway safety. Introduction of an HGV ban to this section of Damson Way would be considered unworkable by the applicant. During the course of the application, the idea of an HGV ban was discussed with Durham Police and the applicant proposed that a weight limit restriction would be the only logical way to restrict HGV movements over this section of Damson Way. These would only ever be considered on factors of structural ground (i.e. vehicles too heavy for the infrastructure) or visibility grounds.

One of the stated reasons the applicant is seeking to amend the junction layout at this point is due to the visibility problems that occur due to the sharp bend at Booth's Bungalows. The Highway Authority solution is to propose the signalised junction with straightened alignment which would remove this issue, and subsequently Durham Police have raised no objections to the proposals and would not consider a weight limit restriction to be appropriate in this location.

95. Concerns have been raised over vehicular access to Coronation Terrace and to the properties themselves. Rear access to No.2 is immediately adjacent to Damson Way and is taken from the front of the property and the old road alignment. The objection from the resident has arisen due to the proposals which would introduce a roadside footway and erect a 2 metre high acoustic fence adjacent to this rear vehicular access. A minimum of 2.7 metres would remain between the back of the footway and proposed fencing, and the existing kerb alignment to the front of Coronation Terrace, which is considered sufficient by the Highway Authority.
96. The City of Durham Trust has raised a concern over the lack of cycle provision within the new highway designs as originally submitted, with the submitted Transport Assessment making reference to the realignment of the National Cycle Network Route 14 through this part of the city. The applicant has confirmed that this aspect of the proposed link road required additional funding and that this was being sourced at the time of submission of this application. Following a review of the proposals with the applicant, the funding for the diversion of National Cycle Network Route 14 has been secured from an external source and the proposed link road layout has been amended to include the provision of shared surface footpath to accommodate Route 14 and pedestrians together. This would run the length of the development from the new A181 / Damson Way signalised junction, up the existing Damson Way adjacent to Fearch Plast factory and Peter's Bakery, and the new link road section to Renny's Lane. A small section of the shared surface pathway adjacent to the proposed new retain unit and retaining wall would be slightly below the required width of 2.4 metres being only 2 metres, however there are technical construction reasons for this reduction over a short 50 metre distance. This is not considered to be of sufficient detriment to future users as to prejudice highway safety. As a result, the upgraded footway and cycle provision would improve the accessibility of the scheme to more sustainable forms of transport in accordance with CLDP Policies T19 and T20 (both consistent with the NPPF).
97. The proposed retail unit would take vehicular access from the new section of the proposed link road in the northern application site. This would serve a total of 11 parking spaces, of which 2 are disabled bays, and a further 3 on-street parking bays are provided in front of the retail unit. HGV swept path is also included on the proposed site layout for the retail unit showing that safe access to the proposed delivery access on the north elevation of the building can be achieved. The Highway Authority have raised no objections to the design and quantity of vehicle parking and the proposed access. Overall, the proposed retail unit and its associated highway infrastructure would be considered to be in accordance with CDLP Policy T1 (consistent with the NPPF). CDLP Policy T10 is also an applicable policy and advises on parking provision. However, advice within the NPPF advocates a more flexible approach on parking, including and advising against maximum parking standards unless there are compelling reasons for doing so. As a result, very little weight is attributed to Policy T10.
98. In conclusion, and on the basis of highway impacts alone at this stage, the proposals are considered necessary to avoid a severe impact upon highway safety to the network around Gilesgate Moor, Dragonville and West Sherburn, and so would be in accordance with these requirements of CDLP Policies T1, T2, T4 and T8 as well as Paragraph 109 of the NPPF.

99. CDLP Policy H13 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. CDLP Policy U5 states that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property. Both of the policies show consistency with Paragraph 170 of the NPPF whereby new or existing development should be prevented from being adversely affected by unacceptable levels of air and noise pollution amongst others. Therefore, both CDLP Policies are considered consistent with the requirements of the NPPF in this regard. Concerns have been raised in respect to air, light and noise pollution and impacts from increased vibrations.
100. Air quality is a fundamental issue which is increasingly causing residents close to new developments concerns. The NPPF under Paragraph 180 provides protection against new developments causing impacts of pollution upon health and living conditions whilst Paragraph 181 advises more specifically in regards to air quality including that opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management. The application is supported by an Air Quality Assessment which covers the wider Gilesgate Moor, Dragonville and West Sherburn area and the presence of the Air Quality Management Area (AQMA) at the Sunderland Road / Dragon Lane junction. AQMAs are designated in locations where levels of nitrogen dioxide have been at or exceed the air quality objective level, signalling potential impacts upon health levels in the vicinity.
101. The assessment has been reviewed by the Council's Senior Air Quality officer who has confirmed that the methodology and scope of the report is appropriate. The assessment outlines that the proposed link road would have different impacts upon air quality in different locations. Reductions of the greatest factor would be achieved at the Sunderland Road / Dragon Lane junction signifying that the proposals would lead to a benefit to the AQMA.
102. However, the link road and changes to the A181 / Damson Way junction are assessed to lead to a 'negligible or slight increase' in pollution levels at Coronation Terrace. The Council as part of their on-going monitoring of air quality around the city and the AQMA had installed a monitoring station to Booth's Buildings (west of Damson Way) and this has been able to provide a view of the current situation at this location. Together with the highway modelling of traffic flows, these indicate that the increase in predicted traffic flows at this location will not give rise to a level of particulates that will exceed the annual air quality objective. The assessment shows that the increase would not be to a level that would be considered to pose a risk to health over the observed situation at the site.
103. In respect to impacts from increased street lighting upon neighbouring residential properties, these are solely associated with the properties at Booths Bungalows and Coronation Terrace. Currently, the road layout takes traffic in front of Booths Bungalows to A181, and there are existing streetlighting columns in this location. A pre-existing street light is in place to the corner of No.4 Coronation Terrace also. The revised junction would see new lighting installed around the new areas of road proposed, with two new street lights proposed in the proximity of Coronation Terrace, one of which would be a smaller column used by the Highway Authority in residential areas. These standard installation street lighting columns would not be considered to have a resultant adverse impact upon neighbouring residential properties.

104. A noise and vibration assessment has been submitted in support of the application, which considered the existing noise climate and vibration risk from the development on the nearest residential properties (considered the mostly likely to observe impacts of this nature). The Council's Environmental Health and Consumer Protection Team have reviewed the assessment which has focused upon the properties at Booths Bungalows and Coronation Terrace. The report, through field study, highlighted that the immediate area around these properties has a high background noise climate as a result of the existing highway network close by (A181, Damson Way and A1(M)).
105. The modification to the A181 / Damson Way junction (including the loss of the trees and the operation of the link road) would increase noise in the area by 3dB, which is unlikely to be perceptible in the view of the Senior Environmental Health Officer. As such, they consider when this level of change is put against the National Planning Practice Guidance (NPPG) noise exposure hierarchy it is ranked as 'noticeable and not intrusive'. Here, the NPPG states noise can be heard but does not cause any change in behaviour or attitude, where the acoustic character of an area can be slightly affected but not such that there is a perceived change in quality of life. The NPPG therefore states that impacts are at a 'Not Observed Adverse Effect level' and that no specific mitigation measures are required, however the application does propose a 2 metre high acoustic fence as part of the revised road layout to the rear of the instated footway closest to the properties of Coronation Terrace to assist in further reducing any impact upon these properties.
106. Assessment of vibration from the operation link road is also provided within the assessment. The Council's Senior Environmental Health officer acknowledges that it is unusual to consider impacts from vibrations in relation to a road-based scenario such as this proposal, as high vibration levels are not generally associated with roads. The assessment provided has undertaken a field study of the existing vibration levels at Damson Way, particularly as the route is already used by HGVs. The maximum Vibration Dose Value (VDV) recorded was 0.040, this is the value used to quantify vibration impacts by the British Standard 6472-2. That guidance states that a potential for adverse impacts is unlikely to occur until vibration levels are at a VDV of 0.4-0.8. The Senior Environmental Health officer considers that the modelled traffic flows of the operational link road would not be sufficient as to reach a 10-fold increase required to hit the aforementioned threshold.
107. In order to limit the potential disturbance for existing residents during construction, the Environmental Health and Consumer Protection Team recommend that a construction management plan be in place for all parts of the development to deal with construction related impacts. The Environmental Health and Consumer Protection (Air Quality) Team advise in regard to the construction phase of the development that a dust action management plan be secured also. A Construction Management Plan has been submitted as part of this application to cover the link road element of the proposals. Both teams have considered the proposals and confirmed that it would be acceptable for the highway works proposed. A condition requiring a separate plan for the construction of the new retail unit would be required by condition. Subject to the imposition of such a condition, construction related impacts could be adequately mitigated.
108. Overall, the air, noise, light and vibration pollution impacts of the scheme would be considered to not adversely impact upon the nearest neighbouring properties of Booths Bungalows and Coronation Terrace to a degree which would justify refusal of the application. The proposals would therefore be compliant with CDLP Policies H13 and U5 and Paragraphs 170 and 180 of the NPPF.

Landscape and Visual Impact

109. CDLP Policies Q1, Q2, Q4 and Q5 together require safe, inclusive, accessible and good quality, well landscaped developments. Policy E14 requires proposals that affect trees and hedgerows should not result in the loss of ancient woodland, and to retain other areas of woodland or important groups of trees and hedgerows wherever possible. These policies are considered to be consistent with the NPPF. The northern most application site features only small areas of amenity grass land around Damson Way. However, to the southern site a mature copse of trees lies between the residential properties and the A181.
110. The proposed re-alignment of the junction to the position proposed would see the loss of a proportion of the maturing trees from the belt originally planted in the late 1960s, at the last time the highway network was modified in this location with the A1(M) construction. As Landscape officers note, 34 trees are proposed for removal from the woodland belt which is prominent in the landscape when viewed from the south. This would, in the view of the Landscape officer, lead to harm and conflict in part with CDLP Policy E14 and its requirement to retain trees and woodland wherever possible. The loss, therefore, would need to be assessed in the planning balance and whether this loss would significantly and demonstrably outweigh the benefits of the scheme when taken as a whole.
111. The proposed new retail unit would feature a contemporary palette of materials in the form of rendered walls, aluminium cladding coloured grey and modern stonework cladding. These would be generally acceptable in this location, subject to confirmation of final finishing materials by condition.
112. In conclusion, the landscape impact from the loss of trees would not be considered to result in a severe adverse impact upon the character of the area that would significantly or demonstrably outweigh the benefits of the proposed development in the context of Paragraph 11 of the NPPF. The proposed retail building would be considered to be in keeping with the surrounding built development and so would be acceptable. Therefore, the proposals would be considered to accord with CDLP Policies Q1, Q2, Q4 and Q5 and Paragraph 127 of the NPPF.

Other Issues

113. In relation to land contamination, the applicant has submitted a phase 1 desk top study which identifies that there is a low risk of contaminants being present on site and is subject to site investigation works. After reviewing the submitted report, Environment, Health and Consumer Protection (Contaminated Land) Officers advise that the submitted Phase 1 Assessment is acceptable and recommends a conditional approach to further land contamination investigations in accordance with Part 15 of the NPPF and CDLP Policy U11 (consistent with the NPPF).
114. Northumbrian Water furthermore raised no objections to the proposed development, highlighting the presence of drainage and supply infrastructure in the vicinity of the development which the applicant has taken note of prior to submission of the application. The proposed retail unit does not include full engineering details at this stage therefore it would be considered appropriate to condition drainage details to be provided prior to construction of the proposed unit, and therefore adhering to CDLP Policy U8a (consistent with the NPP).

115. The loss of trees discussed in the above section would also lead to a loss of habitat also, and Paragraph 170 requires proposals to minimise impacts on biodiversity. Policy E16 of the CDLP supports protecting and enhancing nature conservation assets, designated or otherwise, and so is consistent with the NPPF as a result. The Council's Ecology Team have, in negotiations with the applicant, secured a contribution of £4,525 to off-set those losses identified above. This financial contribution would be ring fenced and utilised in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy. The contribution cannot be secured by planning obligation as it would not be possible for the Council to enter into a legal agreement with itself as land owner of the area from which the habitat loss would occur, subsequently the money is to be paid upfront by the applicant. Therefore, the proposed development would achieve a net no overall loss in biodiversity, adhering to CDLP Policy E16 and Paragraph 170 of the NPPF.

CONCLUSION

116. As a consequence of CDLP Policy S8 being out of date with respect to some of the evidence which underpins the policy, consideration would need to be given to the balance set out in paragraph 11(d) of the NPPF. There are no applicable policies within the NPPF that protect areas or assets of particular importance which provide a clear reason to refuse the development. Therefore, paragraph 11d(ii) requires that planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits when assessed against the Policies of the development plan taken as a whole.

Benefits

- Provision of the link road would better redistribute traffic flows upon the highway network of the area, reducing congestion and avoiding a severe impact upon the highway network. This benefit is considered to be significant.
- Subsequent improvements in air quality at the Sunderland Road / Damson Way junction, located within the AQMA, would help in an area where there are pre-existing air quality issues. This benefit is considered to be significant.

Adverse Impacts

- Slight to negligible increase in pollution, in the form of air and noise pollution, upon the properties of Booths Bungalows and Coronation Terrace from an increase traffic flows at the Damson Way / A181 junction. These impacts would not be considered significant at existing residential properties.
- Loss of trees to facilitate the provision of the signalised junction would have an adverse impact upon the appearance of the area. These impacts would not be considered significant in wider landscape views.

117. Overall, it is acknowledged that the proposal does result in some adverse impacts through loss of trees and increased traffic flows over the current situation. However, these impacts are not considered to be substantial and so would not significantly and demonstrably outweigh the benefits afforded to the AQMA and the wider highway network, and in turn would complement development plan policies and relevant advice within the NPPF in this regard. Accordingly, planning permission should be granted.

118. The proposal has generated some public interest, with a number of letters of objection having been received. The objections and concerns raised have been taken account and addressed within the report.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of an internal transfer of funds to the Council's ecology section to secure the following:

- £4,525 is required to be used towards off-setting biodiversity impacts from the development in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy.

and subject to the following conditions:

Time Limit

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.

Approved Plans

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

| <u>Plan</u> | <u>Drawing No.</u> | <u>Date Received</u> |
|----------------------|--|----------------------|
| 1381700_DCC_HE_03_01 | Engineering Layout Rev A | 27/06/2019 |
| 1381700_DCC_HE_03_02 | Engineering Layout | 12/04/2019 |
| 1381700_DCC_HE_04_01 | Overlay Details | 12/04/2019 |
| 1381700_DCC_HE_05_01 | Drainage layout | 12/04/2019 |
| 1381700_DCC_HE_08_01 | Typical Sections Sheet 1 of 2 Rev A | 27/06/2019 |
| 1381700_DCC_HE_08_02 | Typical Sections Sheet 2 of 2 Rev A | 27/06/2019 |
| 1381700_DCC_HE_09_01 | Cross Sections Main Link sheets 1 of 2 Rev A | 27/06/2019 |
| 1381700_DCC_HE_09_02 | Cross Sections Main Link sheets 2 of 2 Rev A | 27/06/2019 |
| 1381700_DCC_HE_09_03 | Long Sections Rev A | 27/06/2019 |
| 1381700_DCC_HE_10_01 | Cross Sections Damson Way Rev A | 27/06/2019 |
| 1381700_DCC_HE_12_01 | Road Markings Lining Damson Way Rev A | 27/06/2019 |
| 1381700_DCC_HE_12_01 | Road Markings Lining Link Road Rev A | 27/06/2019 |
| 1381700_DCC_HE_PA_01 | Block Plan | 12/04/2019 |
| 1381700_DCC_HE_PA_02 | Location Plan | 12/04/2019 |
| 1388643_DCC_HE_03_01 | Engineering Layout Rev A | 27/06/2019 |
| 1388643_DCC_HE_04_01 | Overlay Details | 12/04/2019 |

| | | |
|-----------------------|---|------------|
| 1388643_DCC_HE_05_01 | Drainage Layout | 12/04/2019 |
| 1388643_DCC_HE_08_01 | Typical Sections Rev A | 27/06/2019 |
| 1388643_DCC_HE_09_01 | Cross Sections A181 Sheet 1 of 2 Rev A | 27/06/2019 |
| 1388643_DCC_HE_09_02 | Cross Sections A181 Sheet 2 of 2 Rev A | 27/06/2019 |
| 1388643_DCC_HE_09_03 | Cross Sections New Link Rev A | 27/06/2019 |
| 1388643_DCC_HE_09_04 | Long Sections | 12/04/2019 |
| 1388643_DCC_HE_PA_01 | Block Plan | 12/04/2019 |
| 1388643_DCC_HE_PA_02 | Location Plan | 12/04/2019 |
| 1388643_DCC_HE_PA_03 | Tree and hedge clearance | 12/04/2019 |
| | A181 Road Markings | 12/04/2019 |
| Dragonville Link Road | Street Lighting | 12/04/2019 |
| Lighting Design | A181 junction REV B | 27/06/2019 |
| Proposed Walls | Dragonville – Proposed Walls | 12/04/2019 |
| 909 – 15a | Proposed site plan REV A | 27/06/2019 |
| 909 – 16 | Proposed Plans & Elevations REV A | 27/06/2019 |
| 909 – 17 | Proposed Visuals REV A | 27/06/2019 |
| 909 – 18a | Proposed site plan & enclosure (no boundary) | 27/06/2019 |
| 909 – 19a | DCC Title Plan (Retail Unit) | 27/06/2019 |

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies S1A, S8, EMP8.a, Q1, Q2, Q3, Q4, Q5, T1, T19, CC1, U8a and U11 of the City of Durham Local Plan and the National Planning Policy Framework.

Working Hours

- No external construction works, works of demolition, deliveries, external running of plant and equipment during the construction of the link road and the retail unit hereby permitted shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

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

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

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

Link Road

Contaminated Land

4. Prior to the demolition of the existing garage building, shown as Phase 2 of Plan Ref: TIP/001/PPP/001, a land contamination scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

Contaminated Land (Phase 4)

5. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

Construction Management Plan

6. All works during the construction period for the proposed link road and signalised junction shall be carried out in accordance with the "Construction Management Plan, Dragonville Link Road & A181 Signalised Junction, Ref: 1381700-CMP-01 Rev B" dated 14th June 2019.

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.

Tree Protection

7. Prior to the construction of the signalised junction at A181 / Damson Way all retained trees, as indicated by plan ref: "1388643-DCC-HE-PA-03 REV 0/-" shall be protected by the erection of fencing and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Protection measures shall remain in place until the cessation of the development works in this area.

Reason: In the interests of the visual amenity of the area having regards to Policy E14 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF. Required to be pre-commencement as landscape features must be protected prior to works, vehicles and plant utilising land nearby.

New Retail Unit

Building Uses

8. The retail floorspace hereby approved, excluding the A3 café floorspace, shall be used for the sale of furniture and floor coverings, DIY goods, house and garden equipment, garden centre products, bulky alcohol products, bulky kitchen and bathroom products, pet and equine products, electrical goods, bike sales and repair, camping and climbing equipment only and for no other purpose.

Reason: To safeguard the vitality and viability of town centres in accordance with policies S1A and S8 of the City of Durham Local Plan 2004.

Building Floor space

9. The Class A1 retail floor space hereby permitted shall not exceed 360 square metres gross, of which no more than 60 square metres gross shall be utilised for ancillary Class A3 (café) floor space.

Reason: To safeguard the vitality and viability of town centres in accordance with policies S1A and S8 of the City of Durham Local Plan 2004.

Construction Management Plan

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

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

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

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

Drainage

11. Prior to the construction of the retail unit hereby approved a detailed scheme for the provision of foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme for surface water drainage shall include details of the management and maintenance regime for those drainage systems. The drainage scheme shall be completed in accordance with the details agreed.

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

Materials

12. Prior to the construction of the retail unit hereby permitted, final details of the proposed external finishing materials of the permitted building shall be submitted to and agreed in writing by the local planning authority.

Reason: To ensure that the appearance of the proposed new building is sympathetic to its surrounding in accordance with Policies Q1 and Q2 of the City of Durham Local Plan and Part 12 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- City of Durham Local Plan
- Retail & Town Centre Study (2018)
- Statutory, internal and public consultation responses



Planning Services

DM/19/01234/FPA

Demolition of former garage and construction of link road (between Renny's Lane and Damson Way). Construction of new retail unit (Use Class A1 with ancillary A3) and construction of signalised junction (A181 Sherburn Road and Damson Way).

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Comments

Date 9 July 2019

Scale Not to scale

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|--------------------------------------|---|
| APPLICATION NO: | DM/19/00171/FPA |
| FULL APPLICATION DESCRIPTION: | The construction and operation of gas powered generators for the provision of flexible energy generation. |
| NAME OF APPLICANT: | Reliance Energy Ltd |
| ADDRESS: | Land at Mill Hill, North West Industrial Estate Peterlee |
| ELECTORAL DIVISION: | Easington |
| CASE OFFICER: | Chris Shields, Senior Planning Officer, 03000 261394 chris.shields@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application site measures 1.09 Hectares (ha) in area and is located in the north east of North West Industrial Estate, Peterlee. The site is currently undeveloped with a generally flat topography that rises steeply to the road level on the eastern side of the site. The site is accessed from the unclassified Mill Hill Road, which connects to the A19 trunk road approximately 800m to the south (although the A19 passes by the site approximately 165m to the east). The site is bordered by industrial premises on all sides.
2. The nearest residential properties to the site are located on Westmorland Rise, approximately 350m to the south east of the site beyond the A19, Durham Lane approximately 950m to the north and Stockton Road approximately 650m to the north west. There are no heritage assets within the vicinity of the site and the site is not within any ecological or landscape designations. Castle Eden Dene National Nature Reserve, Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) lie approximately 2.1km to the south east of the application site. Tuthill Quarry SSSI lies approximately 2.1km to the north west of the site. Durham Coast National Nature Reserve, SAC and SSSI lie approximately 3.0km to the east. There are two connected public rights of way approximately 320m to the north of the site, these are Footpaths No's 10 and 11 (Easington Village). The site is within a Coalfield Low Risk Development Area.

Proposal

3. The proposed development is for the installation and operation of a Flexible Generation ('FlexGen') facility to provide support services to the National Grid during hours where the electricity network is under unusual stress. The development would consist of 16 containerised gas generator sets with turbo generators, 2 transformers, 66Kv substation compound, 4 switchgear containers, 4 Organic Rankine Cycle (ORC) containers, 2 banks of ORC coolers, control container, gas kiosk, oil tanks perimeter security and acoustic fencing and CCTV, access track and internal service road.

4. The gas generators would be housed within containers measuring 3.3m wide, 15m in length and with a height of 3.5m. Additional equipment would be mounted to the containers, including radiators and the exhaust flues which would have a total height from the ground of 10m. The switchgear cabin would measure 12m by 3.2m with a height of 4m.
5. The proposed development would provide 34MW of gas generated power, fuelled by gas that would be fed to site by pipeline from the nearby gas main located to the west of the site. The generator engines would consist of 2MW units located within individual modular acoustic enclosures, which are constructed of galvanised steel protected by polyester powder coated paint.
6. The proposed development would operate for upto 4000 hours per year, equating to approximately 46% of the time. The generators would operate whenever called upon by the National Grid but as electrical demand is greatest in the morning and early evening this is when the facility would be most likely to be delivering power to the grid.
7. This application is being reported to Planning Committee as it is classed as a major development with a site area greater than 1ha.

PLANNING HISTORY

8. No relevant planning history.

PLANNING POLICY

NATIONAL POLICY

9. 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.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

12. *NPPF Part 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.
13. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. 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.
14. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
16. *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.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

17. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality, flood risk and coastal change, climate change and noise.

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

LOCAL PLAN POLICY:

District of Easington Local Plan (DELP) adopted 2001

18. *Policy 1 – General Principles of Development* – permits development that accords with the principles of sustainable development together with any benefits to the community and local economy.
19. *Policy 18 – Species and Habitat Protection – Species And habitat Protection* – precludes development that would have a significant adverse effect on protective species or their habitat without special justification and mitigation.

20. *Policy 35 – Design and Layout of Development* – requires the design and layout of development to embody the objective of energy conservation, reflect the scale and character of the area, be screened appropriately where required, and have no serious amenity impact.
21. *Policy 36 – Design for Access and the Means of Travel* – requires the design and layout of development to provide (inter alia) safe and adequate access capable of serving the amount and nature of traffic to be generated.
22. *Policy 53 – General Industrial Estates* – states the development within use classes B1, B2 and B8 will be acceptable on land allocated for general industrial use.

RELEVANT EMERGING POLICY:

The County Durham Plan

23. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 27 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it 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.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Easington District Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

24. *Peterlee Town Council* – has objected to the proposal on the grounds of noise and disturbance, emissions, odours and hazardous materials.
25. *Haswell Parish Council* – has objected on the grounds of health and safety and potential harmful emissions.
26. *Easington Parish Council* – is concerned about the noise impact on the surrounding area and requests that provision is made to mediate the effect on the surrounding area.
27. *Highway Authority* – has raised no objections to the proposal noting that a new highway access would be created on to Hackworth Road. Officers request that an informative be included to ensure that the new access is constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980.
28. *Environment Agency* – has raised no objections to the proposal and has provided advice to the applicant in respect of environmental permitting, testing backup generators, permit compliance and monitoring.

29. *Drainage and Coastal Protection* – have no objections to the proposed development. However, officers note that the proposal should comply with the NPPF which states that those proposing development are responsible for drainage designs which reduce flood risk to the development and elsewhere, potentially through the use of Sustainable Drainage Systems (SuDS). The design should take into account quantity and quality in relation to surface water management. A condition requiring the submission of details of the disposal of surface water is recommended.

INTERNAL CONSULTEE RESPONSES:

30. *Environment, Health & Consumer Protection (Nuisance Action)* – has raised no objections to the proposals stating that development would comply with the thresholds set out in the Technical Advice Notes (TANs) but has requested a condition to ensure that noise levels from the development do not exceed background levels at noise sensitive properties and that night time operation be restricted to times of National Grid emergency.
31. *Environment, Health & Consumer Protection (Air Quality)* – Raise no objections noting that the maximum modelled level of nitrogen dioxide and carbon monoxide fall within acceptable levels both for this plant individually and cumulatively with the similar plant allowed on appeal to the north. Officers have suggested that a condition restricting operation of the plant to 4000 hours or less per annum would secure it's intended use.
32. *Environment, Health & Consumer Protection (Contaminated Land)* – Raise no objections and note that there is no requirement for a contaminated land condition.
33. *Landscape* – No objections are raised but it is requested that a landscaping scheme be secured by condition.
34. *Ecology* – initially objected to the proposal due to the loss of habitat that would result from the development. However, it has been subsequently agreed that the impact to the site could be offset with offsite mitigation to be delivered through a calculated payment. Ecology officers have withdrawn their objection on the basis that this payment is made.

PUBLIC RESPONSES:

35. The application has been advertised by means of individual notification letters, site notice and press notice. One letter has been received offering general support for the development but requested that there is a clear point of contact in case there are any problems with the installation, binding noise limits, a process to investigate any complaints and an agreement to not operate at night.

APPLICANTS STATEMENT:

36. Reliance Energy (Reliance) is a highly experienced developer of energy projects.
37. Its core business is focussed on the development of flexible energy generation (FlexGen) facilities. These facilities provide dependable and cost-effective service to the National Grid and, in turn, local consumers.
38. The overarching benefit of FlexGen facilities is they help 'keep the lights on'. They do this at a National level, by generating when consumer demand is higher than the generation (usually due to the amount of intermittent, renewable energy generation). They also do this a Regional level by making the local energy distribution network, less inclined to fail by generating the power closer to where local consumers are actually based. This improvement in local energy network reliability of supply is particularly important in the North East where outages are a known issue.

39. In addition to these services provided for the common good, Reliance and its partners are open to the possibility of forming specific commercial relationships with large, local consumers to provide power in the form of private wires or corporate power purchase agreements. In many cases, these arrangements make the locality an attractive place to situate high consumption industries.
40. The principle of the development, in this location, is supported by National and local planning policies and adheres to the principle of sustainable development. The proposed facility on the Mill Hill industrial estate is ideally located thanks to its proximity to both grid and gas connections, all the while not adversely impacting on the current occupiers of the area. The provision of biodiversity and landscape enhancement assists in ensuring that the built form can be accommodated into the existing industrial estate context.
41. The site was selected as it met all of the site selection criteria:
- A sufficiently large grid connection has been secured from the District Network Operator and the site is in close proximity to the grid connection.
 - The site sits in close proximity to a viable gas supply to fuel the engines.
 - The land is free from restrictive covenants and the landowner is supportive of the development.
 - A 25-year lease has been secured.
 - The Area Planning Committee, in debating a planning application for another similar facility to the north of Hackworth Road on agricultural land, considered that brownfield land should be considered first and that the nearby industrial estate (i.e. Mill Hill) would be more suitable.
42. The development will deliver benefits, direct and indirect, to the local economy during construction and operation of the facility.
43. In conclusion, as evidenced above and in the planning application documentation, it has been demonstrated that the FlexGen facility is compliant with relevant National and local policies and there will be no detrimental impact on the environment. In light of this, Reliance Energy respectfully requests that the Committee resolves to grant planning permission.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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

Principle of Development

45. 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 a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 2 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends on the degree of consistency with the NPPF.
46. The EDLP was adopted in 2001 and was intended to cover the period to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to them, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given to them). Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.
47. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
 - c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Policies in this Framework taken as a whole.
48. The key policies for the determination of this application are EDLP Policies 1 (General Principles of Development) and 53 (Existing General Industrial Estates). The site is located within an undeveloped area on Peterlee North West Industrial Estate, outside of the allocated Enterprise Zone. Policy 53 states that land identified for general industrial use is suitable for employment uses within use classes B1, B2 and B8. This Policy is slightly restrictive in that uses compatible with industrial areas may not always fall within the prescribed use classes. Due to this approach the Policy is considered to be only partially consistent with the NPPF, which does not place such strict barriers on development. Instead, emphasis is placed upon balancing harm of development against the prospective benefits. Policy 1 is considered to be consistent with the NPPF in most respects but is also overly prescriptive in terms of locational criteria. Policies 1 and 53 are therefore considered out-of-date for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to the Policies reduced as a result. The prescription of how much weight should be given to these Policies in the decision is a matter for the decision-maker, having regard to advice at Paragraph 213 of the NPPF.

49. The purpose of the proposed development is to rapidly meet short term demands from the electrical grid. The location was chosen as it provides close connection points to a suitable gas supply and electrical connection with few constraints. This development is one of many proposed nationally to address capacity shortfalls in the grid due to peak demands, the unpredictability of renewable energy and the inability for large centralised power stations to react quickly.
50. The 2018 Employment Land Review (ELR) scored Peterlee North West Industrial Estate as good and assessed that within the A19 corridor there is 35.57ha of similar quality land available whilst 69.89ha of average quality land is also available in this area. Whilst it may have been preferable to locate this type of development on lower quality land it would only occupy 1ha of land that has remained undeveloped since allocation. The operation of the development does also require strong gas and electric grid connections, which may not be available elsewhere. Operating in tandem with the nearby 5MW solar farm and wind turbines at Hare Hill and Haswell Moor the proposal would create a very resilient local energy supply.
51. An appeal decision was issued in March 2019 (APP/X1355/W/18/3205662) allowed a similar development for a gas fuelled generation plant on land at Westmoor Farm, approximately 500m to the north of this application site. The application was originally refused due to the countryside location of the development would creating adverse impacts in terms of unacceptable visual amenity and loss of best and most versatile agricultural land. The Planning Inspector, in arriving at his decision, considered that the development would not have unacceptable visual impact and that the loss of best and most versatile agricultural land would be modest, concluding that the impacts of the development were not sufficient to outweigh the benefits of energy security and support for renewable energy.
52. The proposal would conflict with EDLP Policy 53 as it is not a use falling within class B1, B2 or B8 as it is a 'sui generis' use, however, the benefits of the development in terms of energy security through decentralisation of power stations and the support it provides for renewable energy development are sufficient to outweigh the loss of employment land. The creation of a decentralised energy supply would accord with Part 14 of the NPPF. However, this is weighed up further in the planning balance. The proposal would generally accord with EDLP Policy 1.
53. An assessment of the relevant environmental impacts of the proposal is set out below.

Landscape

54. Paragraph 170 sets out key areas for conserving and enhancing the natural environment. This is reflected in EDLP Policy 1, which seeks to protect landscape character.
55. The application site is on an undeveloped area of an industrial estate, surrounded by industrial uses. The site has a flat base with steep rises on the north, south and east boundaries up to the road and surrounding units. The site has a partial hedgerow on the north and east sides although this has not been maintained and there are some gaps. The key viewpoints of the site would be from Mill Hill Road but the development would be viewed against similar structures on the adjacent Hexion plant including tanks, piping, framework and other buildings.

56. The design and appearance of the development would be entirely utilitarian with most elements housed within containers, kiosks or cabins. The most prominent element would be the 10m exhaust flues associated with the generator units. Although they would be large it would not be inappropriate in the location and would be of similar scale to surrounding development. Full details of colours and finishes would be agreed through condition, along with details of the perimeter security fence. A landscaping scheme has been requested to mitigate the loss of the 5 trees that would be lost during construction.
57. Landscape officers have considered the proposal and have requested that a condition be included to require the submission of a landscaping scheme. Taking into account the surrounding land uses, allocated use of the site and comments from Landscape officers it is considered that subject to the above condition the proposal would have minimal harm to the landscape and would potentially deliver some improvements to the site in hedgerow and tree planting. The proposal would therefore accord with EDLP Policy 1 and Part 15 of the NPPF.

Access and Traffic

58. Paragraph 108 of the NPPF states plans and decisions should take account of whether: opportunities for sustainable transport modes have been taken up; safe and suitable access can be achieved; improvements can be undertaken to limit significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. EDLP Policy 1 requires developments to incorporate satisfactory and safe provision for pedestrians, cyclists, public transport, cars and other vehicles. The objectives of Policy 1 are expanded upon in Policy 36 which requires development to include a safe and adequate access capable of serving the amount and nature of traffic to be generated. Policy 36 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
59. The site would be accessed from the A19 via the unclassified Mill Hill road that currently serves the industrial estate. The proposed development would create a new access onto Mill Hill road. Highways officers have considered the proposal and raised no objections to the proposal but have requested an informative to ensure that the access is constructed to appropriate standards.
60. Whilst the development would generate a degree of construction traffic for the 12-18 month construction period it would be not be unacceptable in this location. Following construction, the site would be automated and would only be attended periodically for maintenance purposes. A condition is recommended to ensure that vehicles accessing the site are adequately cleaned before leaving to ensure that debris is not carried onto the public highway. Subject to this condition the proposal is considered to accord with EDLP Policies 1 and 36 and Part 9 of the NPPF.

Residential Amenity

61. The nearest residential properties to the site are located on Westmorland Rise, approximately 350m to the south east of the site beyond the A19, Durham Lane approximately 950m to the north and Stockton Road approximately 650m to the north west. No objections have been received from the nearest residential properties, although objections have been raised from Peterlee Town Council and Haswell Parish Council in respect of noise and disturbance, emissions, odours, hazardous materials and health and safety. Easington Parish Council has raised concerns about the noise impact on the surrounding area. A neighbouring business has sought assurance that noise levels would be set and that the plant would not operate at night, as well as providing a complaint procedure.

62. Paragraph 170 of the NPPF states that planning decisions should ensure that new development is appropriate for its location, taking into account the effects of pollution on health, general amenity and the potential sensitivity of the area to adverse effects from pollution. EDLP Policy 1 requires that development should safeguard the visual and general amenity of people living and working within the vicinity of the site. This is supported by EDLP Policy 35 which requires the design and layout of development to have no serious adverse effect on the amenity of people and existing adjacent land uses in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. Policy 35 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
63. The proposed gas generators for the site have the potential to cause pollution through noise and exhaust emissions. The application is therefore supported by air quality and noise assessments. The air quality assessment considers the baseline conditions for the site and provides maximum (worst case) predictions for emission outputs for the site both individually and cumulatively with the recently approved (allowed on appeal) 40MW gas generator development to the north. This is then assessed against local air quality objectives and long and short-term impacts on human health. The air quality assessment concludes that impacts due to the operation of the proposed development would be negligible with predicted impacts to all sensitive receptors being acceptable. Environment, Health & Consumer Protection officers have considered the proposal and air quality assessment and consider that the development would have an acceptable impact. In addition, the generators proposed in this application would result in a lower air quality impact than those in the previous application as the generators are more efficient.
64. The submitted noise assessment considers the baseline conditions for the area and provides predictions for the operation of the proposed plant, including generator and battery storage units, transformers and gas kiosk, for the site. The assessment also considers the impact of the development on the nearest noise sensitive properties. The assessment provides background noise levels from points close to the nearest noise sensitive properties and demonstrates that the predicted noise level from the generators at the nearest noise sensitive properties would range between 30dB and 42dB as a worst-case scenario which assumes all of the plant to be operating simultaneously. During daytime operation the noise levels would be between 0dB and 32dB below existing background noise levels. Whilst the plant is unlikely to operate during night time hours (2300 to 0700) it may occasionally do so in the event of National Grid emergencies. Environment, Health & Consumer Protection officers have considered the proposal and the noise assessment and consider that the development would be acceptable but have requested daytime operations (0700 – 2300) be restricted no noise levels no greater than background. The applicant has also agreed that the plant would not operate during night time hours (2300 – 0700) unless there is a National Grid emergency. In addition, it is recommended that a condition be imposed requiring a construction management plan to ensure protection of residential amenity during the construction phase of the development and also that the operation of the plant is limited to 4000 hours per annum.
65. Peterlee Town Council raised concerns relating to odours and hazardous materials and Haswell Parish Council raised health and safety as an issue. The facility would burn natural gas in internal combustion engines, which would produce odourless exhaust emissions. There are no other processes at the site that could cause odour. Whilst the site would be using natural gas as a fuel it would be permitted and audited for safety by the Environment Agency.

66. Subject to the imposition of the conditions recommended above it is considered that development would provide an acceptable standard of residential amenity in accordance with EDLP Policies 1 and 35 and Part 15 of the NPPF.

Flooding and Drainage

67. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 15 of the NPPF takes account of the impact of any development upon the natural environment.
68. The application is accompanied by a flood risk assessment (FRA) which identifies that the application site is located entirely within Flood Zone 1 and would not increase the risk of flooding.
69. Drainage and Coastal Protection officers have considered the proposals and although no objections have been raised it is noted that the application does not provide details of surface water management measures and it is requested that these details be secured by condition. The Environment Agency has also raised no objections to the proposal.
70. Subject to the proposed conditions being adhered to, the proposed development would not lead to increased flooding and the site would be out of the floodplain area. The proposal is therefore considered to be in accordance with EDLP Policy 1 and Part 14 of the NPPF with regards to flood risk.

Ecology

71. 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) and Paragraph 119 of the NPPF. 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. Regulation 9(1) of the Conservation of Habitats and Species Regulations requires 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 where there is likely to be a disturbance to a European Protected Species.
72. 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. EDLP Policy 18 states that development which would significantly adversely effect, either directly or indirectly, any protected species or its habitat will only be approved where the reasons for the development clearly outweigh the value of the species or its habitat. Policy 18 is considered to be consistent with the NPPF and can be afforded weight in the decision making process.
73. A Preliminary Ecological Appraisal (PEA) and subsequent Biodiversity Mitigation report have been submitted in support of the application. The PEA sets out the baseline data for the site and relevant ecological designations in the vicinity. Identified habitats on the site include broadleaved woodland plantation and semi-improved grassland. The PEA concludes that the development would lead to a minor loss of self-seeded scrub plantation and semi-improved grassland of local value.

No European Protected Species (EPS) were identified on site and the report concludes that the development would result in negligible harm to EPS suitable habitat. In order to limit the impacts of the development, opportunities for onsite mitigation were provided in the Biodiversity Mitigation report, however, this only provided 0.2ha of enhancement against a total loss of 1.54ha, leaving a residual 1.32ha habitat loss.

74. In order to compensate the loss of the habitat from the site, the applicant has agreed to pay a sum of £40,294, calculated using the Warwickshire biodiversity calculator, to the Council for offsite biodiversity projects. This would absolve the applicant from needing to carry out any further biodiversity mitigation works to the application site. In accordance with Paragraph 175 of the NPPF, compensation is the least sequentially preferable option, however, given the available space and existing habitat quality it is highly unlikely that onsite mitigation could adequately offset the loss of biodiversity. In addition, the site is remotely located from any surrounding land that could provide connecting habitat.
75. Ecology officers have considered the proposal to compensate for the loss of habitat, rather than attempting to mitigate the harm on site and in this case it is considered to be an acceptable option. It is therefore considered that the proposal would accord with EDLP Policy 18 and Part 15 of the NPPF

Other Issues

76. The site is located within Coal Mining Low Risk Development Area and as such standing advice would be provided to the applicant should planning permission be granted.
77. The proposal is of a type that would be subject to a permit required through the Environmental Permitting (England and Wales) Regulations 2010 which would regulate issues at the site relating to pollution control. There are powers to enforce should this not be complied with. The operator would require a Medium Combustion Plant Directive (MCPD) permit from the Environment Agency, complete with MCPD emission limit values, before operations can commence. The requirement to operate with a permit would also address the concerns of the neighbouring business as the operator would be required to provide contact details at the site entrance.
78. To ensure that the site is restored if the development becomes redundant a condition is recommended to require restoration of the site it's pre-development state if the plant is inoperative for a period of 6 months.

Planning Obligations

79. Paragraph 56 of the NPPF and Regulation 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.
80. In this case the planning obligation is required to offset the biodiversity requirements necessary to overcome the harm to habitat that would be caused to the site by the proposed development. The amount of money required to offset this harm has been calculated using an industry accepted method and has been agreed by both parties. On this basis it is considered that the proposed planning obligation meets with the tests set out in Paragraph 56 of the NPPF and Regulation 122 of The Community Infrastructure Levy Regulations 2010.

Planning Balance

81. This proposal is considered to be in conflict with EDLP Policy 3 due to being a 'sui generis' use on a site allocated specifically for B1, B2 and B8 uses. However, as a result of relevant policies being out of date, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11 of the NPPF. There are no specific policies within the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the development and therefore planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits.

Benefits

82. The development would provide local energy security through decentralisation of power stations and would provide support for renewable energy development by picking up gaps in supply due to the unpredictability of wind and solar generation.
83. Development of the site would result in a net biodiversity gain as a result of a mixture of on-site habitat creation through tree and hedgerow planting and providing a financial contribution for offsite mitigation.

Adverse Impacts

84. The development would result in the loss of employment land, however given the relatively small size of the site (just over 1Ha) this should be afforded limited weight.

CONCLUSION

85. The proposed development would provide a peaking power generation facility that would support centralised power stations by responding quickly to peak electricity demand. Going forward this would assist in providing a stable and reliable National Grid for both local and national requirements.
86. The proposal would conflict with land use criteria set out in EDLP Policy 53. However, in this case the NPPF, a significant material consideration, sets out that on the basis of the out-of-date nature of this Policy, that the presumption in favour of sustainable development is engaged and development is 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 taken as a whole.
87. Whilst utilitarian in appearance the proposal would be well screened both visually and acoustically from noise sensitive receptors. The loss of employment land in this instance would not be significant and, to mitigate the loss of existing grassland, biodiversity enhancement has been offered through hedgerow creation, setting aside a small portion of undeveloped land and installing bat and bird boxes. In this case it is considered that there are no adverse impacts associated with the proposal and any residual harm would not significantly and demonstrably outweigh the benefits of the development in terms of energy supply and security, support for renewable energy and biodiversity enhancement and accordingly, planning permission should be granted.

88. The proposal has generated some public interest, with letters of objection and comments having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits.

RECOMMENDATION

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

- £40,294 for offsite biodiversity mitigation works.

and subject to the following conditions:

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

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

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

- Drawing No. SK5 Rev.E 'Proposed Layout'
- Drawing No. SK6 Rev.A 'Proposed Site Wide Elevations'
- Drawing No. GPP/RE/MHP/19/04 Rev.1 'Build Development – Tree Removal'
- Document 2665 PAEL Mill Hill Biodiversity Mitigation Dated 13 May 2019
- Document C101-P01-R01 Air Quality Assessment for a Flexgen Facility Dated January 2019
- Document P1808-REP02-REV C-BDH Environmental Noise Impact Assessment Dated 16 January 2019

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

3. The development hereby approved shall not be brought into use until a surface water drainage system has been installed in accordance with details to have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding from any sources in accordance with the Part 14 of the National Planning Policy Framework.

4. No development shall take place until a Construction Management Plan has been 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 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;
- Details of methods and means of noise reduction;
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;

- Details of 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.
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operations for the loading and unloading of plant, machinery and materials;
- Details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic;
- Details of the erection and maintenance of security hoarding;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works; and
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

Reason: In the interests of protecting the amenity of neighbouring site occupiers and users from the impacts of the construction phases of the development having regards to Easington District Local Plan Policy 1 and Part 15 of the NPPF. Required to be a pre-commencement condition and the details of the construction management statement must be agreed before works on site commence.

5. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed the background noise level, as calculated using BS4142:2014, at any noise sensitive receptor between the hours of 0700 and 2300. Night time operation, 23:00-07:00, of the facility will be limited to emergency situations only as defined by the National Grid.

On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

Reason: To ensure residential amenity is protected from noise pollution in accordance with Easington District Local Plan Policy 1 and Part 15 of the National Planning Policy Framework.

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

Reason: In the interests of residential amenity and highway safety in accordance with the Easington District Local Plan Policy 36 and Part 15 of the National Planning Policy Framework.

7. Prior to the commencement of development precise details fencing, gates, lighting of the colours and finishes for all buildings, fixed plant and machinery shall be agreed in writing with the Local Planning Authority and the development carried out in accordance with agreed details.

Reason: To ensure the development is carried out in accordance with the approved documents and in the interests of visual amenity in accordance with Easington District Local Plan Policy and Part 15 of the National Planning Policy Framework. Required to be pre-commencement in order to assess the appearance of the development.

8. Prior to commencement of development details of a landscaping scheme shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall be designed in accordance with Section 5.0 of the approved Biodiversity Mitigation plan (Penn Associates, 13 May 2019). The approved landscaping scheme shall be implemented on site in the first planting season following the development being brought into use. The tree planting shall be maintained and replaced as required for the life of the development.

Reason: In order to provide landscape enhancement and screening for the development in accordance with Easington District Local Plan Policy 1 and Part 15 of the NPPF.

9. The development shall not operate for more than 4000 hours in any 12 month period. On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above hours of operation.

Reason: In the interests of air quality protection in accordance with Easington District Local Plan Policy 1 and Part 15 of the NPPF.

10. In the event that the gas generators and battery storage are inoperative for a period of 6 months or longer the development hereby approved shall be removed and the site restored to its pre-development state within 18 months from the time at which it became inoperative.

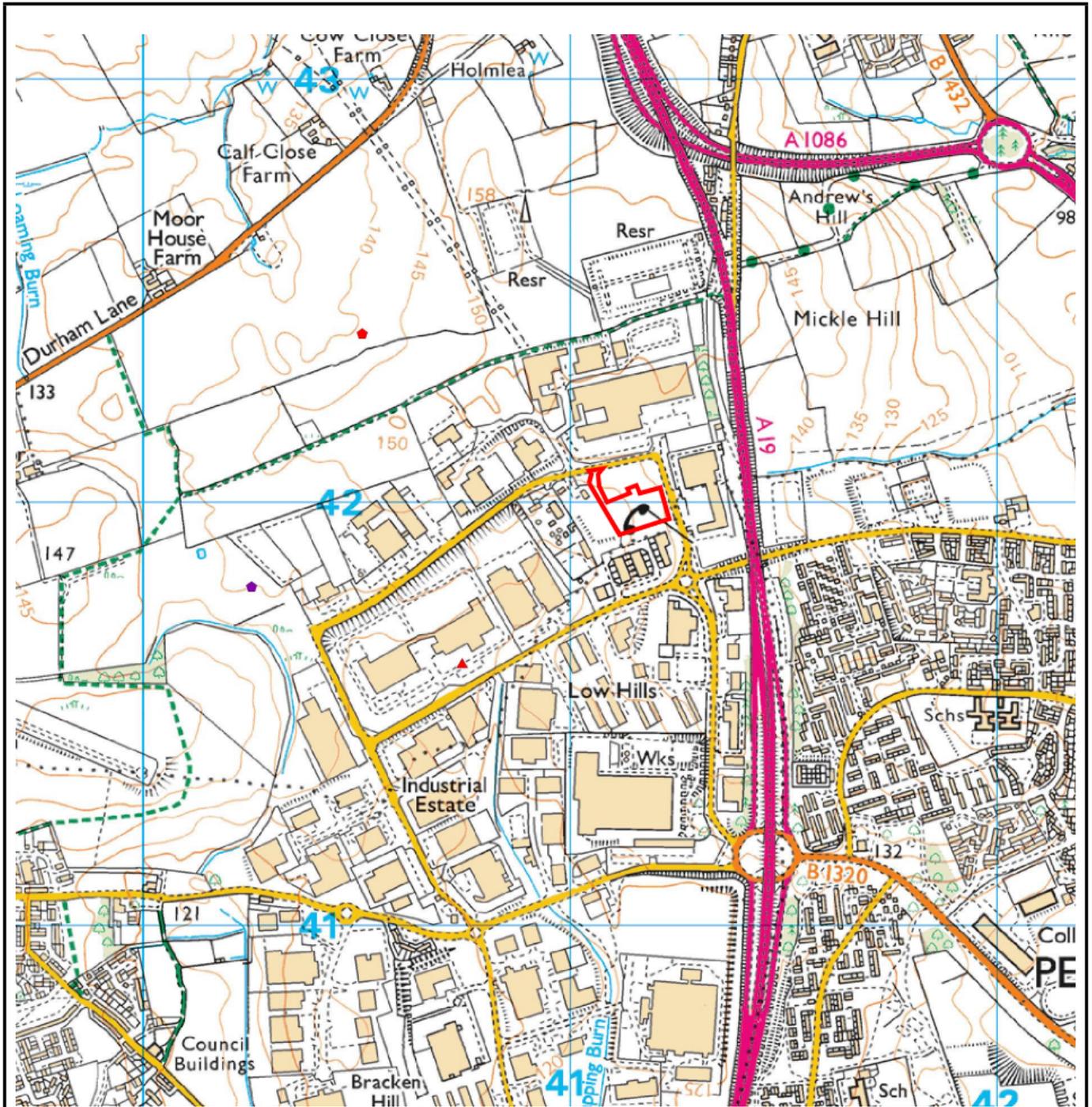
Reason: In the interests of visual amenity and pollution prevention in accordance with Easington District Local Plan Policy 1 and Part 15 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2018)
- National Planning Practice Guidance notes.
- Easington District Local Plan 1997.
- Employment Land Review 2018
- Statutory, internal and public consultation responses.



Planning Services

DM/19/00171/FPA The construction and operation of gas powered generators for the provision of flexible energy generation at Land at Mill Hill, North West Industrial Estate Peterlee

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Comments

Date July 2019 **Scale** NTS

