



County Planning Committee

Date Tuesday 28 July 2020
Time 9.30 am
Venue This meeting is being held remotely via Microsoft Teams

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meeting held on 1 July 2020 (Pages 3 - 50)
5. Applications to be determined
 - a) DM/20/00669/FPA - Land To The East Of Mill Lane, Sherburn, DH6 1HP (Pages 51 - 78)
12 additional dwellings (132 dwellings in total) linked to applications DM/16/00400/OUT & DM/18/03759/RM for the erection of 120 dwellings.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration
7. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information

Part B

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

8. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
20 July 2020

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

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

Councillors J Atkinson, A Bell, J Clare, K Corrigan, K Hawley,
I Jewell, C Kay, A Laing, G Richardson, A Shield,
J Shuttleworth, A Simpson, M Wilkes and S Wilson

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DURHAM COUNTY COUNCIL

At a Meeting of the **County Planning Committee** held **remotely** on **Wednesday, 1 July 2020 at 9.30 am**

Present:

Councillor J Robinson (Chair)

Members of the Committee:

Councillors J Atkinson, A Bell, J Clare, K Corrigan, I Jewell, C Kay, A Laing, G Richardson, A Shield, J Shuttleworth, A Simpson, F Tinsley (Vice-Chair), M Wilkes and S Wilson

Also Present:

Councillors A Hopgood and W Stelling

1 Apologies for Absence

Apologies for absence were received from Councillor K Hawley.

2 Substitute Members

No notification of Substitute Members had been received.

3 Minutes

The minutes of the meeting held on 4 February 2020 were confirmed as a correct record by the Committee and would be signed by the Chair.

4 Declarations of Interest

Councillor A Shield noted he had been advised by the Head of Legal and Democratic Services to declare an interest in Item 5b - DM/19/03567/MIN and DM/19/03569/VOCMW - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS. He explained it was as Co-Chair of the Banks Bradley Surface Mine Liaison Committee and member of the Banks Funding Committee and added he had been advised the conflict was either "other relevant interest" or "perception of bias".

Councillor A Shield advised the Chair he would speak as a Local Member on those applications, not as a Member of the County Planning Committee, and would then leave the meeting during the consideration of that application.

Councillor I Jewell declared an interest in Item 5b - DM/19/03567/MIN and DM/19/03569/VOCMW - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS as a member of the Banks Bradley Surface Mine Liaison Committee and Chair of the Banks Funding Committee and would therefore leave the meeting during the consideration of those applications.

Councillor J Clare explained he had taken advice from the Solicitor and Head of Legal and Democratic Services and noted that while he was Cabinet Support Member for the Economic Regeneration, and also Climate Change Champion, it was judged he did not have an interest that precluded him from taking part in the meeting in an objective manner.

Councillor M Wilkes noted there was an error within the report for Item 5a - DM/19/03209/FPA - Eddis Business Park, Finchale Road, Framwellgate Moor, DH1 5HE. He explained the report incorrectly stated he was in objection to the application. He added an e-mail from a colleague had contained an error and this was in reference to the original application, prior to amendments since October 2019. Councillor M Wilkes noted for clarity that he has not stated his support or objection for the current application and, while he had spoken to the Solicitor to the Committee and the matter had been cleared, he wished for it to be clear for Members. The Chair thanked Councillor M Wilkes for the clarification for both Committee Members and members of the public watching the meeting.

5 Applications to be determined by the County Planning Committee

a DM/19/03209/FPA - Eddis Business Park, Finchale Road, Framwellgate Moor, DH1 5HE

The Senior Planning Officer, Laura Eden, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The application was for the demolition of existing buildings and erection of new buildings for uses within Use Classes A1 (shops) and Class A3 (food and drink) with new vehicular access, parking, servicing areas and landscaping (revised description 18/12/2019) with the recommendation for the Committee to be minded to approve, subject to conditions, with the application to be referred to the Secretary of State via the National Planning Casework Unit.

The Senior Planning Officer noted typographical issues and updates to the report as circulated: paragraph 126 of the report should state trade diversion of “1.1” percent, not “14.1” percent; paragraphs 65, 105, 129 and 191 should read “80” full-time equivalent (FTE) jobs rather than “95”.

Members were informed of the public right of way to the outside of the western boundary and the setting of the site with the nearby Arnison/Mercia District Centre to the north and residential properties to the south and east. The Committee were shown the proposed layout for the site, with the four proposed units for a discount food store, frozen food store, home good store and drive thru coffee shop. Whilst a hot food takeaway (use class A5) was initially proposed, this was later removed from the scheme.

The Senior Planning Officer referred to the plans showing the new proposed access and 267 car parking spaces and added that the electricity sub-station on the site would be retained, as would two telecommunications masts. She added details as regards landscaping. It was explained as regards a signalised pedestrian crossing to enable access to the site from the opposite side of Pit Lane.

In reference to consultation, the Senior Planning Officer noted advice from Spatial Policy in terms of the submitted sequential test and impact assessment submissions made under the application, given the proposal sought planning permission for a major town centre use development outwith of a town centre location, together with analysis of the impacts of the loss of the existing employment uses located on the site. She added that it was advised that as the policies within City of Durham Local Plan (CDLP) most important for determining the application were considered out of date, the assessment of the application would be required under Paragraph 11(d) of the NPPF.

The representations received in relation to the application were summarised, being set out within the report, with objections from Framwellgate Moor Parish Council and noting no further objections from the internal or statutory consultees.

The Senior Planning Officer noted objections from the Local Members to the application in its original form and in respect of the amended application there had been 19 letters of objection from local residents, one letter of objection from an existing business operating on the site, objection from the Pegasus Group on behalf of the Co-operative Group and objection from the City of Durham Trust. She added that one letter of support for the application had been received.

The Senior Planning Officer concluded by summarising the benefits and potential adverse harm of the development in the context of the balance test under Paragraph 11(d) of the NPPF and noted that the recommendation of Officers was for Members to be minded to approve the application, subject to referral to the Secretary of State for consideration.

The Chair thanked the Senior Planning Officer and noted there were several speakers in relation to the application, he asked Councillor A Hopgood, Local Member, to speak in relation to the application.

Councillor A Hopgood thanked the Developer and Officers for their work in trying to mitigate many of the issues with the application in its original form. She noted that unfortunately not all of the concerns had been addressed and reiterated the report in stating that the application represented a “major scheme” and reminded the Committee it was on the edge of another major retail scheme, which already generated a volume of complaints associated with traffic and lack of parking provision for employers. She added that the site was within walking distance to a large housing estate, once the largest in Europe, and also the headquarters of Northumbrian Water Limited (NWL) and the Arnison Centre. Councillor A Hopgood explained that the nature of the shops and development would mean that people would not walk to these shops, rather they would travel by car rather than travel on foot or by public transport carrying heavy or frozen food goods. She noted this would create a huge influx of cars and was contrary to the Council’s own regulations in terms of 267 parking space, below the requisite level of 277 and this, together with the requirements of 80 staff parking, would likely lead to parking on the housing estates nearby similar to the experience of other nearby developments, citing an example where residents only parking was having to be implemented as a result. She noted that the Developer had ignored requests to put in a footpath link at the back of the site to allow those that worked at NWL and the industrial estate to access the site without having to use their cars to do so.

Councillor A Hopgood noted that if the Committee were minded to approve the application, she would ask that consideration be given to the starting time for development works, given the close proximity of park homes for those aged 55 years and older, with 7.00am for 7.30am start being unacceptable and added that a strict construction management plan (CMP) should ensure that those properties would not suffer from the vibrations and detrimental effect from construction and construction traffic. Councillor A Hopgood noted that there were at least four empty units at the Arnison Centre that could accommodate such additional shops, with another likely to become empty shortly.

The Chair thanked Councillor A Hopgood and asked Mr Jonathan Rainey from the Pegasus Group to speak in objection to the application on behalf of the Co-operative Group.

Mr J Rainey thanked the Chair and noted the Co-operative Group had two stores within local retail centres at Newton Hall and Framwellgate Moor, approximately one kilometre away from the application site. He added the Co-operative Group only objected to applications where it was felt there were legitimate planning reasons affecting local shops and services, those which provided facilities especially for those without access to a car or public transport. He noted that the COVID-19 pandemic had highlighted the benefit of such local provision and noted that the effect of trade diversion on smaller retailers, often operating on a knife edge, could be large adding the Co-operative Group having predicted a potential trade diversion from its stores resulting from the application in the order of 15 percent in respect of its store at Newton Hall, in the context of the cumulative impact, including the Arnison Centre. Mr J Rainey noted that it was felt the application should be refused as the proposals were contrary to national planning policies in paragraphs 85 to 90 of the NPPF and also in conflict with Saved Local Plan Policy S1A which seeks 'to protect and promote the vitality and viability of all centres within the local retail hierarchy of the City of Durham area' including the local centres of Newton Hall and Framwellgate Moor which were identified on the proposals map. He concluded by noting that if the Committee were in any doubt as regards the impacts of the development, they should at least defer the application in order to obtain an independent review.

The Chair thanked Mr J Rainey and noted Mr Phil Malyan, a local resident, had registered to speak, however had submitted his apologies. The Chair asked if the Senior Committee Services Officer, Ian Croft could read out the statement on behalf of Mr P Malyan.

The Senior Committee Services Officer noted the statement from Mr P Malyan read as follows:

“I have submitted far more detailed objections formally, as have many others, but for summary purposes, I would ask Committee Members to consider the following submission from myself. There are three objections that I wish to highlight today, and they are as follows: Objection 1 – Insufficient public consultation; Objection 2 – Highways issues are not resolved by access from Pit Lane; Objection 3 – Insufficient weight has been given in the report by officers to the impact of the Highways issues.

Objection 1 – Insufficient public consultation. Although there are five paragraphs out of 204 paragraphs in the committee report outlining some objections but not in detail, (85 - 89), there is insufficient weight given to the objections, which is unsurprising given the lack of communication.

- a. Since the neighbour notification notice issued to potentially affected parties on 16 October 2019, there has been no contact with me by Council officers to discuss the scheme.*
- b. I wrote to the Council on 4 June 2020, to point this out and never even received an acknowledgement.*
- c. Since the beginning of 2020 alone, there have been 14 amended drawings submitted by the applicant, 11 additional comments by statutory consultees and five new pieces of supporting information from the applicant. There has been no further public consultation on these new documents.*
- d. The advice on gov.uk regarding public consultation in planning matters states “Following the initial period of consultation, it may be that further additional consultation on changes submitted by an applicant, prior to any decision being made, is considered necessary.” I believe that, given the volume of changes made, this should apply here, and further public consultation should have taken place.*

Objection 2 – Highways issues are not resolved by access from Pit Lane/ Finchale Road.

- a. Clearly this development is meant to be a mini Arnison Centre, in the officer’s words” a major retail scheme” (para 201) and benefit from its proximity. For this development to be workable, access to it should be from the roundabout off Abbey Road, either alongside the footpath adjacent to Northumbrian Water or by driving past the Pulman garage and through the small warehouse site, both of which already have large lorries accessing commercial premises.*

- b. *There is no indication that this option has been explored in the same detail as the rest of the proposal. I do not know why this has not been carried out, it has not been explained anywhere. It would seem to me that a “major retail scheme” requires some major access for large delivery lorries and the general public. The current proposals are insufficient for this.*

Objection 3 – Insufficient weight has been given by officers to the impact of the Highways issues.

- a. *The projected increase in traffic has not been adequately presented in the body of this report. I have carried out visual surveys of traffic entering and leaving the site using the current access on a variety of different days since this application was made, some 9 months ago. Usually there is a total of between 30 and 40 vehicles either entering or leaving the site between 9.00am and 4.00pm on weekdays, even less on a weekend. Table 6.7, page 39 of the Transport Assessment Plan shows “vehicle trip generation” of 2,556 vehicles each Saturday between only 11am and 3pm.*
- b. *It is worth noting here that this is a closed site with only one way in and out by car or lorry onto Finchale Road. After hours, high metal gates are locked to prevent anyone accessing the site. Lorries occasionally come and go by remote access to the gates.*
- c. *The document submitted by the applicant shows that the site will have vehicles coming and going starting at 5am and up to midnight. (JN1888-Rep-0001.2 Transport Assessment 20 September 2019) A total of 3,768 journeys by vehicles entering and leaving the site each day, (i.e. 1,884 vehicles) including 410 between 2.00pm and 3.00pm when school traffic backs up already along Finchale Road as St Godric’s School and Framwellgate School come out. Even with traffic lights, there will be substantial delays on the road, and within the retail park.*
- d. *This projected substantial increase from about 40 a day, coming and going, to 3,768 a day, nearly 100 times more, is not reflected in the Council report submitted, and provides sufficient evidence for the application to be rejected by the Committee, as along with other factors, this means the development will not meet NPPF objectives, in the way described, for the reasons below:*
 - (i) *NPPF Part 8 Promoting Healthy and Safe Communities – “Developments should be safe and accessible”*
Answer - The highways issues, even with traffic lights and pedestrian assistance, will not meet this
 - (ii) *NPPF Part 9 Promoting Sustainable Transport – “Developments that generate significant movement should be located where the need to travel will be minimised”*
Answer - This location is unsuitable without different access.

- (iii) *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.*
Answer - The increase in traffic on Finchale Road by 100 times will not be conducive to an improved environment or safe and healthy living conditions for the general public”.

The Chair thanked the Senior Committee Services Officer for reading the statement of Mr P Malyan and noted the supporters registered to speak in relation to the application, Mr Jonathan Wallace of Lichfields, representing the Applicant and Mr Nigel Cook of Eddis Transport.

Mr J Wallace noted that since the initial application submitted in September 2019, there had been a lot of close working with Officers from the Planning Department and a number of changes made to the application, as noted by the Case Officer and Local Member, Councillor A Hopgood. He noted this included the removal of the drive thru restaurant, amended layout to minimise impact on adjacent residents, a revised, more efficient car park layout and new vehicular access arrangements to meet the requirements of the Council's Highways Team.

He added that the proposals represented an improvement to the visual aspect from Pit Lane and would provide significant benefit to the community, with many positive comments in this regard from residents at the consultation stage. In addressing comments from Councillor A Hopgood, Mr J Wallace noted that car parking levels were pretty much in line with policy and were agreed by Officers. He added it was felt there was need to strike a balance in terms of the provision of parking for the development, the generation of traffic and provision of pedestrian access. In terms of the potential impacts of the construction phase, he noted that the Council's Environment Health Officer had required a condition that restricted the hours of operation, no earlier than 7.30am on a weekday with a 8.00am start on Saturdays, with no works on Saturday afternoons and no works on Sundays. Mr J Wallace explained that in relation to the public right of way at the north-west of the site and providing access to the application site, there was an area of land owned by a third party and also creating a link would require a route across a service yard which would not be acceptable in terms of security and health and safety. In respect of the objections from the Co-operative Group, Mr J Wallace noted he strongly disagreed with their comments and suggested they were a commercial objection and should not be given significant weight, referring to the impact assessment as submitted as part of the application. He concluded by noting that the four proposed units were under offer and could provide 80 FTE jobs and construction jobs that could help with the post COVID-19 recovery within County Durham.

Mr N Cook noted he was the Managing Director at Eddis Transport, a local family owned road haulage and warehousing business based in Consett, owners of the application site since the late 1970s. He added the business employed 320 staff, 260 in the North East, 170 being based at Consett. He noted the use of the application site had reduced in more recent years and was not required by the business for operations, with a number of units having been let, however, the units were now of an age and in poor condition and at the point of significant investment or redevelopment. He added the units generated sub-market levels of rent on short-term flexible lease arrangements adding little to the wider business in commercial terms. He explained that the site had been looked at in terms of redevelopment for the business, however, it was concluded it was not viable and the location and proximity to residential properties was not suitable in terms of access by large heavy goods vehicles (HGVs) and warehousing machinery. Mr N Cook noted after various approaches over the years it had been agreed to sell the land to the Applicant, subject to obtaining planning permission. He noted that the proceeds from the sale would be reinvested in the company, including at the headquarters in Consett and noted Eddis staff from the application site could be redeployed and more jobs could be created at the site, 80 FTE, together with wider public benefits. He concluded by noting he hoped the Committee would support the application.

The Chair thanked Mr J Wallace and Mr N Cook and asked the Committee for any questions in relation clarifications on the report or issues raised.

Councillor S Wilson asked for comments from the Highway Development Manager in relation to traffic and signalisation. Councillor F Tinsley asked the Officers' view in relation to the potential impact of the application, given the assessment within the application and provided by the Co-operative Group being at odds. The Chair added he would appreciate clarification from Officers in relation to the issues associated with the proposed footpath link.

The Senior Planning Officer noted there had been extensive discussions in terms of the potential footpath link. She noted a footpath link had not been included within the application for the reasons stated by the Applicant's agent and was listed as an adverse impact, however, Officers considered the site performed well in all other regards therefore did not have significant concerns in relation to its locational sustainability. In relation to the start time for construction, she referred to Condition 25 set out within the recommendations which restricted works in line with standard Council conditions. She added that Condition 7 required a Construction Management Plan (CMP) to be submitted to and agreed, and this would seek to mitigate any adverse impact during the construction phase and therefore Officers considered the conditions as being appropriate.

The Highway Development Manager, John McGargill noted the issue of 267 proposed parking spaces, with 4 such units individually requiring 277 spaces. He explained that a lot of the generated traffic would in fact already be on the highway network and people could be also visiting other nearby shops when visiting the proposed development and the shops within the proposed development itself. He noted a consultant was asked as regards a parking accumulation model and traffic modelling was informed by trip generation. He explained the modelling predicted the potential of 0.4 percent each Saturday for overdemand for parking, a low likelihood. He referred to the nearby Arnison Centre, where parking saw peak demand during “high days and holidays” and added that if developments were built to meet those types of demands the car parks would be very large and in general not be full and would impact on developments. In reference to the comments received from Mr P Malyan relating to gaining access to the site from the roundabout, he noted this was not possible as this would be via third party land. In terms of the volume of traffic, the Highway Development Manager noted that the Council had insisted on the addition of a traffic signal junction to manage the arrivals and departures from the development and had been proposed at that specific location to allow for queues of vehicles to be managed as per modelling, a maximum of thirteen vehicles, this model including background traffic. He added that in terms of Highways it was felt a robust approach had been taken, modelling had been taken from first principles where vehicles had been considered as new to the road network where in fact many would already be on the road network.

Councillor S Wilson asked as regards the current use of the site and the proposed use of the site and if the number of HGVs accessing the site would be comparable. The Highways Development Manager noted that was correct and that the current uses would equate to use should the site become a retail centre.

The Principal Policy Officer, James Cook noted that Councillor A Hopgood had referred to four empty units at the Arnison Centre and noted at the time of the application there had been three vacant units and the Applicant’s assessment in terms of the sequential test had shown those units were not of sufficient size to accommodate the scheme and those conclusions were accepted. In relation to the comments made on behalf of the Co-operative Group, he clarified the Applicant had provided an impact assessment in terms of the local centres where the Co-operative stores were located and Officers agreed with the assessment in that there would not be significant adverse impact with those stores meeting the top-up demands of shoppers in those local centres.

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

Councillor A Laing noted, after careful consideration of the report and the comments made by all parties at Committee, that there was a need to look at the development plan and she noted Officers had stated that the proposals were technically contrary to policy. She noted, however, that looking at all material concerns, there was significant employment associated with the proposals over and above those already existing on site and while the requirement to relocate existing businesses was regrettable, Business Durham had not objected to the application and therefore they must have felt the relocation would be possible and added that the net increase of employment was a positive and a material planning consideration. She noted the concerns that had been raised in terms of highways and also noted the response provided by the Highways Team in terms of parking and highway safety and felt that while there may be some occasions where the development could lead to local impacts upon the highway she did not feel that it would be so significant to resist the scheme. She also noted the comments of Officers and the report in terms of retail impact and was satisfied that impact on City Centre traders would also not be significant and noted she had been pleased to see amendments to the application had been made to lessen the impact on adjacent residents. Councillor A Laing concluded that, on balance, the Committee had been provided with an application that contained a number of significant planning benefits of the redevelopment of an aging site with a significant net employment gain and felt Members should support the application as a departure from planning policy and moved the Officer's recommendation for approval.

Councillor M Wilkes noted he would firstly like to thank all the Officers involved with the application over the last nine months, especially the Senior Planning Officer and the Highway Development Manager for their work with the Developers in improving the application. He noted the removal of the drive thru restaurant and the additional of the signalised junction were very good and welcomed, adding that without those amendments he would not have been able to see any positive balance. He questioned whether the amendments that had been made were sufficient and noted he felt there were three issues to consider. He explained the first issue was that of sustainability, with the parking provision being less than the County Council would normally recommend, however, it was not by a significant number and therefore would not warrant refusal by itself. However, he felt there was an additional consideration to be made in terms of the western boundary, around 100 metres long, where there was a public footpath. Councillor M Wilkes explained the footpath was next to the headquarters for NWL and other businesses where around 1,000 people were employed. He noted that given that fact he felt it was shocking that the Applicant had been unable to include a footpath link to the public footpath despite repeated attempts by Council Officers to encourage this.

He noted that it would not only allow access on foot by the workers within the area, a footpath link would also allow residents from Pity Me to be able to access the site, reducing additional traffic impact. He felt that on those grounds alone the application could warrant refusal and added that he felt it went against the Council's climate change goals, reduced the sustainability of the site and would increase highways issues. He noted the Developer had said it was not possible to create the link on safety grounds, however, there would be access to the area for staff with 16 car parking spaces being provided. He noted that in terms of the protected area, Councillor M Wilkes noted he had spoken to the Council's Ecologist and they had noted they were not against any link if it was provided in accordance with the rules, rules Councillor M Wilkes noted the Developer would need to be adhere to when developing the rest of the site. He noted there was a 100 metre boundary and added the Developer was unable to provide a two metre access on to this footpath, adding this was not acceptable and the application therefore not sustainable.

Councillor M Wilkes noted his second concern was the impact on the viability and vitality of the local shopping centres, including Durham city centre, noting that the report set out at paragraph 125 that the cumulative impacts of the application would be a 9.2 percent hit to retail in the city centre. He noted this was a pretty significant amount and the analysis by the Co-operative Group had noted an impact of up to 15 percent at Framwellgate Moor and Newton Hall, both areas having empty shops in addition to those empty properties previously mentioned at the Arnison Centre. He noted that there was nothing within the application being offered in terms of a financial contribution to help mitigate the impacts in these local centres.

Councillor M Wilkes noted the largest proposed unit was for a food retailer and he noted no objection to this use on the site. He added that when coupled with the other three units the cumulative impact upon the city centre and other surrounding shopping areas was too great, especially in the current uncertain retail environment. He noted the third issue he had with the application was the removal of prime employment land, which could after some reconfiguration of the site as a business park to provide high skilled jobs, likely in the region of the number put forward by the Applicant. He noted there was reference to an oversupply of business land within the County, however, he noted the report failed to note there was not such availability on this side of Durham should a business which to relocate to a business park. Councillor M Wilkes noted the businesses currently on the site had not been contacted to see if they needed help and one business owner had been extremely concerned as regards their business. He added that he had spoken to some commercial agents and one had noted that they received around ten enquires each week as regards the only other business park in the area.

He noted that the site was identified for business use within the emerging County Durham Plan (CDP) and the report had noted Business Durham had not made a submission. Councillor M Wilkes noted he therefore had spoken to Business Durham and they confirmed there was no other land allocated for business this side of Durham city centre and there was a significant shortage of smaller business units, under 5,000 square feet, across the entire county. He noted that the CDP states the site is for employment land for business and light industrial use and added that therefore the application was not only in breach of the current Local Plan it was also going to be in breach of the emerging CDP. Councillor M Wilkes noted that if the application had included access for the thousands of employees at NWL and residents of Pity Me to the site he would have been more inclined to support the application. He added if the application had been just for a supermarket with the rest of the site being redeveloped for business use, including for skilled jobs, he would have been more inclined to support the application, in addition to the lessened impacts upon traffic flow and the city centre and other retail centres from such an application. He noted that despite the efforts of Officers to secure improvements to the application he felt that on balance he felt there were too many problems for the benefits to overcome them. He explained that he had hoped the Applicant would have come back at a later date with an application that would not breach planning policies or the future CDP, protected high skilled jobs, provided pedestrian access to the rear of the site, did not create unnecessary car journeys and did not cause as much retail damage to the city and the surround retail offer. Councillor M Wilkes noted for those reasons he would ask colleagues to refuse the application.

Councillor A Shield noted he shared some of the concerns as raised by the Local Members. He noted that while we were not sure of the post COVID-19 impact in terms of online shopping, he felt that if there was a return to normal then the additional provision of services would mean more use of cars and greater use of the highways network. He added that he felt not including a footpath link was a strange decision. Councillor A Shield noted that paragraph 74 of the report set out there had been objections raised by the Durham City Business Improvement District (Durham BID) as regards the impact the proposal would have on Durham City. He noted he had serious concerns and noted Councillor M Wilkes had made a valid point in terms of the loss of employment land and asked if it was right for the Committee to potentially ride over that roughshod.

Councillor S Wilson noted the assurances from Officers in terms of the highways issues raised and signalled junction and noted the issue of a footpath link across a service yard was the security for those businesses. He noted on the basis of the additional employment provided through the application he was happy with the Officers recommendation.

Councillor J Atkinson noted he would second Councillor A Laing in supporting recommendation for approval.

Councillor J Shuttleworth noted he was not against development, however, he felt it was always important to take into account the views of Local Members, especially in terms of the impact in terms of traffic and also noted comparisons with Durham City, Bishop Auckland and Consett in terms of retail provision, with many empty shops in those retail centres.

Councillor F Tinsley noted the issue as raised by Local Members in terms of a footpath link and added that given there would be a requirement in terms of acquiring third party land, he could not see how it could be a requirement to have such a footpath link. He noted the valid concerns as regards the potential impact on the city centre, however, upon looking at the types of businesses proposed: a discount food store; a frozen food store; a household bulky goods store; and a coffee shop, he did not feel these represented direct competition to the city centre offer and therefore the impact would be minimal. He took the point as regards the loss of employment land in the area, however, he would encourage businesses to relocate to the other areas available within County Durham.

Councillor J Clare noted he had listened to the discussion with some interest and noted that he felt it would be very difficult to refuse the application in terms of transport, given the Officers noted that the application had met the relevant criteria. He noted Councillor M Wilkes had a valid point when highlighting the proposed use for the site did not correlate with the proposed use within the emerging CDP, however, it was not a valid planning point to suggest alternative uses for a site, rather it was for Committee Members to consider the application before it on its merits, in this case to be considered under the balance test from Paragraph 11 of the NPPF and that for an application to be refused, Members would need to agree that the negative adverse impact demonstrably outweighed the benefits of the application.

Councillor I Jewell noted the responses from Officers in respect of issues raised by objectors and Local Members and noted that those Members may wish to pursue a footpath link if it would provide such benefit.

Councillor M Wilkes noted the reason given of third party land on a proposed route, however, he reiterated that the site adjoined the public right of way along a 100 metre length and felt a footpath link could be designed safely within the site and Policy Q2 of the Local Plan in terms of design and accessibility and policies within the emerging CDP was relevant. He added that the report was clear in noting a 9.2 percent impact upon the retail offer within the city centre. Councillor M Wilkes noted the 2.25 hectare employment land site did not have any comparable sites within the area.

He concluded noting he felt the points he had made were based upon planning policies and he would follow up as required.

Councillor A Bell noted the footpath link seemed to be a stand-out issue and wondered if there was any movement from the Applicant to reconsider. He also noted that the Arnison Centre was a gem within County Durham and the application would help in terms of jobs, especially post COVID-19 and therefore he felt it was important to look at the employment aspect and the regeneration of the site to make it as presentable as the Arnison Centre. He noted the businesses that would need to relocate and asked if Business Durham could step in to provide assistance.

The Solicitor – Planning and Development, Neil Carter noted that in terms of the footpath link, it was not possible to force the applicant to provide this, and they had stated that it would involve land they did not control. He added that the Senior Planning Officer had noted the application was sustainable and the application before Committee for consideration did not include a footpath link.

Upon a vote being taken it was

Resolved:

That the Committee were **MINDED TO APPROVE** the application subject to; referral of the application to the Secretary of State via the National Planning Casework Unit; and in the event of the application not being called in, the Head of Planning be authorised to approve the application subject to the conditions as set out within the report.

b DM/19/03567/MIN and DM/19/03569/VOCMW - Land to the west of Bradley Surface Mine, Leadgate, Consett, DH8 6RS

The Principal Planning Officer, Claire Teasdale, 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 and video footage. It was noted there were two applications: DM/19/03567/MIN - Proposed surface mining for the extraction of up to 90,000 tonnes of coal and 20,000 tonnes of fireclay with restoration of the site to include woodland, species rich grassland and haymeadow, scrub, water features and agriculture; and DM/19/03569/VOCMW - Variation of Conditions 1 (Approved documents), 5 (Matters requiring subsequent approval), 7 (Extraction date), 8 (Restoration date), 11 (Working period) and 15 (Number of HGV numbers) pursuant to Appeal Decision

AAP/X1355/A/11/2150277 (DCC Ref. CMA/1/37) to facilitate an extension to the existing Bradley surface mine.

The Principal Planning Officer noted the coal extracted would be used within the UK industrial manufacturing processes such as steel, together with ancillary industrial uses including but not restricted to heritage railways, food manufacture and agriculture, and would not be used for energy generation. She noted that the fireclay extracted would be used by the Todhills Brickworks within the County. She explained both applications were recommended for approval, subject to a Section 106 Legal Agreement, a Section 39 of the Wildlife and Countryside Act 1981 Agreement and conditions as set out within the report.

The Solicitor – Planning and Development provided an update since the publication of the report, on the letter Committee Members received from Solicitors acting for the Campaign to Protect Pont Valley, amongst others, which suggested that if Members were to make a decision on the application that it would be unlawful. He noted that his advice to the Committee was that making a determination on the applications would not be unlawful and asked the Principal Planning Officer to set out her observations on the three main issues highlighted in the letter. The Principal Planning Officer noted it was the Officers' view that it was reasonable to have regard to reduced greenhouse gas emissions as a benefit of mining indigenous coal as there would be lower transport impacts as compared with importations. She added that the Inspector at the Appeal for the existing site placed weight on this issue as a benefit, however, how much weight to afford to the issue was for Members to decide. She directed Members to paragraphs 462 - 466, 537 and 566 of the report where those issues were discussed in more detail.

The Principal Planning Officer noted it was the Officers' view that the EIA assessment was adequate and not flawed. She explained the objector advanced a technical argument based on indirect effects of coal extraction, however, it was not considered that it was necessary to assess the emissions from the end use of coal and indeed this would be impossible to quantify. She added that emissions from end uses would have to be assessed as part of any separate proposal for that end use, and there was no requirement to assess emissions resulting from the transportation of fireclay the extraction of which was ancillary to the coal. She directed Members to paragraphs 461, 464-466 and 473 of the report on these issues.

The Committee were asked to note the third issue raised referred to County Durham Minerals Local Plan (MLP) Policy M8 and the emerging CDP Policy 54 and the Principal Planning Officer explained that Officers remained of the view that MLP Policy M8 on piecemeal working was both out of date and inconsistent with the NPPF and less weight should therefore be afforded to it as a result.

She added that, however, how much weight was a matter for Members to decide. She noted it was not considered that it was a determinative issue in the balancing exercise under NPPF Paragraph 11.

The Principal Planning Officer explained that promotion of a similarly worded policy in the CDP was a separate matter, with the report being clear on the issue of weight to be afforded to the CDP at the present time. She directed Members to paragraphs 189-197 of the report where those issues were discussed.

The Principal Planning Officer added a letter had been received from a resident of Wolsingham requesting deferment of determination of the applications on the grounds that it was undemocratic that the Council could not meet in person, given that the social distancing rules were to be relaxed, also noting that it was a very important decision to be taken with a large number of objections. She added that the request also raised concerns regarding the Officer's report and specifically in terms of climate change, the need for coal in the steel industry and that there would be no certainty that the coal would not be used for electricity generation. The Principal Planning Officer explained that the resident has been informed that the Council was conducting the virtual meeting in accordance with legislation which enabled the Council to do so and accordingly there was no reason why the decision ought to be deferred. She added that the resident disagreed with the Officer report, but he was informed that it was for the County Planning Committee to determine the applications and in doing so they would take into account the development plan, the NPPF and other material considerations including representations received.

The Principal Planning Officer noted she was aware that the Campaign to Protect Pont Valley had emailed Members with a 250 named petition against the proposals, with issues raised including: "*No need for this coal in 2020, Bradley has not yet been approved by central government, Climate Emergency pledge blocks coal extraction in Wales, The Covid-19 pandemic*" She added she was also aware that the Coal Action Network had emailed Members regarding carbon emissions.

Members were referred to the Principal Planning Officer's presentation slides, showing plans setting out the extent of the proposed extension, access to the site and two public rights of way to the north of the site that would require temporary diversion over the duration of the proposed works.

The Committee were asked to note the nearest residential properties and the distances (paragraphs 6, 243 and 244) and reference to the nearby Our Lady and St Joseph RC Church.

The Principal Planning Officer noted part of the existing operation was within an Area of High Landscape Value (AHLV) as was the plantation in part of the proposed extension, though no heritage assets were within the application site, the nearest being Our Lady and St Joseph RC Church, St. Ives Church and Leadgate War Memorial.

The Committee were referred to aerial photographs and drone video footage of the site and informed that restoration of the site would be completed by 17 August 2021, with existing works, restored areas, site boundaries, nearby properties and the application site being highlighted by the Officer.

The Committee were shown the proposed working plan and the proposed restoration plan, noting access and operations would be facilitated through the existing site, hence the Section 73 application to enable those operations as variations to the existing permission with details of the proposed changes set out in paragraphs 29 to 38 of the report. The Principal Planning Officer noted restoration for the proposed extension would be integrated into the restoration of the existing site and would follow the same timescale, to be completed by August 2021. It was added some land would be gifted to a wildlife or conservation body that would then manage the land in the long term.

In respect of consultation and representations received a summary was set out within the Committee report, with the Principal Planning Officer noting no objections from statutory or internal consultees subject to conditions where appropriate. She noted however that there had been enormous interest from within the UK and abroad in the application. Following publication of the report, from those that were contacted as regards the application, 153 people had queried why they had been contacted, not recalling that they had made representations in respect of the application. She added that of those queries many later recalled signing a petition as part of an environmental group, however, 38 people asked for their names to be removed from the representations and 145 notifications were not deliverable to the e-mail addresses on file. It was noted that in total there were around 12,000 representations, with approximately 6,000 for each of the two applications, with the majority being in objection to the application. The figures on the presentation slide reflected the amended figures and so differed from the report slightly: 12,337 representations received in total - 6,250 to DM/19/03567/MIN and 6,087 to DM/19/03569/VOCMW with the number of objections being 11,908 in total, 6,023 to DM/19/03567/MIN and 5,885 to DM/19/03569/VOCMW.

In terms of support, she explained there had been 423 responses in total, 223 to DM/19/03567/MIN and 200 to DM/19/03569/VOCMW, with the letters of support received being from: residents living in the vicinity of the proposed extension site; a few from further afield; Banks employees; and suppliers.

The Principal Planning Officer noted the range of organisations that had made representations and explained representations from internal and statutory consultees, objectors, supporters and the Applicant were set out within the report at paragraphs 110 to 178.

She noted that the issues raised included: climate change; the need for coal; noise; duration of the development; restoration; employment and economic benefits; and the Applicant.

The Committee were asked to note that in terms of the decision making policy framework, it was considered that the most important policies for determining the applications were out of date therefore Paragraph 11d of the NPPF applied. The Principal Planning Officer added there were no specific policies within the NPPF that protect areas or assets of particular importance which provide a clear reason for refusing the development. She noted therefore, planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. She noted that the report set out the likely impacts of both proposals have been considered. It was noted that inevitably there would be some disturbance and disruption from temporary operations for those living close to the proposed extension, but this would be for a limited period. She explained that it was considered that impacts upon local amenity associated with noise, dust, blasting and visual impact would be at acceptable levels and would be controlled through the implementation of appropriate mitigation measures, including site design and planning conditions.

The Principal Planning Officer added in was considered that there would be no adverse impact upon the AHLV designation or flora or fauna, including protected species and in addition it was also considered that there would be no adverse impact on the setting or significance of the designated heritage assets close to the site. She explained that, subject to conditions where appropriate, the impacts upon recreational amenity, hydrology and hydrogeology, access and traffic, contamination, geotechnical and stability, mine gas and cumulative impact were also considered to be acceptable.

Members were asked to note that although there would be a loss of agricultural land it was not high grade and would be reinstated upon restoration, as would footpaths that had been diverted, and restoration proposals would deliver a quality restoration and after use of the site with opportunities to increase biodiversity interests and extended management.

The Principal Planning Officer noted that benefits of the proposal included the restoration proposals extended management and gifted land, increased community fund, contribution to economic growth through supply of domestically produced coal reducing reliance on imports and additional CO₂ emissions from transportation over great distances, securing the end use of the coal, job retention, direct and indirect expenditure, payment of mineral rates, taxes, coal royalties and the contribution of the development to the balance of payments, payment of business rates and the supply of fireclay.

She explained that, having taken those matters into consideration, on the balance of planning considerations it was considered that the proposed development meets the tests for acceptability of opencast coal proposals as set out in MLP Policy M7(a) and surface mined coal as set out in Paragraph 211(a) of the NPPF in addition the proposed national, local and community benefits of the scheme would outweigh the short term environmental damage and loss of amenity that would be caused having assessed the proposals under Paragraph 11(d) of the NPPF.

She noted it was acknowledged that there was significant public interest in the two planning applications with representations reflecting issues and concerns of local residents directly affected by the proposals as well as from people from further afield. She added that the impact of upon climate change had been at the forefront of objections, however, given the duration of the proposed developments it was not considered that they would impact upon longer term climate change targets. She noted representations received had been weighed along with other responses including those of statutory consultees who had raised no overriding objections based on the submitted details and assessments. The Principal Planning Officer noted that whilst mindful of the nature and weight of public concerns it was considered that these were not sufficient to outweigh the planning judgement in favour of the proposals comprised in both applications.

Accordingly, the Principal Planning Officer noted the recommendations for the two applications were for approval, subject to a Section 106 Legal Agreement, a Section 39 of the Wildlife and Countryside Act 1981 Agreement and the conditions as set out within the report.

The Chair thanked the Principal Planning Officer for her comprehensive report and asked Councillor J Clare if a point he wished to make related to a clarification on the Officer's report.

Councillor J Clare noted it was a point of clarification in terms of the NPPF Paragraph 11(d) weighted balance test which required adverse impacts to be demonstrably shown in order to refuse an application, whereas the NPPF Paragraph 211 test required that the benefits must clearly outweigh the negatives in order for an application to be approved and he felt was apparently contradictory. The Principal Planning Officer noted that the application was considered in terms of Policy M7 and M8 and Officers had to consider whether the policies within the MLP were up-to-date and consistent with the NPPF. She added they were not felt to be consistent and therefore the balance test in Paragraph 11 of the NPPF would apply. She explained that there was also Paragraph 211 of the NPPF that referred to opencast coal and therefore this was another test that should be considered.

She reiterated that Officers felt that Paragraph 11 did apply, however, other material considerations would apply, and some weight could be attached to MLP Policies M7 and M8 and therefore an assessment needed to be made against Policy M7 and NPPF Paragraph 211 in order. It was explained there were two tests within that: whether the application was environmentally acceptable or can be made so by conditions; and if it could not then if there were community or national benefits to the scheme. The Principal Planning Officer referred to paragraphs 183 to 188 of the report as well as paragraph 562 referring to the NPPF Paragraph 11 balance test which was somewhat similar to the test in NPPF Paragraph 211.

Councillor M Wilkes asked for clarification of the use of business rates as a consideration when assessing an application, he understood New Homes Bonus (NHB) or Community Infrastructure Levy (CIL) could be considered, however, he thought business rates could not be taken as a material planning consideration and noted that there were financial considerations in the opposite direction in terms of addressing CO₂ emissions. The Principal Planning Officer noted that she could not see any reason for business rates not to be considered, with NPPF Paragraph 211 looking at national, local and community benefits, with paragraphs 545-560 setting out all the potential benefits. She added that paragraph 554 dealt with business rates and noted a moderate benefit and therefore it was not afforded much weight. The Solicitor – Planning and Development noted business rates could be considered as a material planning consideration.

The Chair noted Councillor A Shield would speak as Local Member in relation to the application and then leave the meeting. Councillor A Shield explained he had a question relating to clarification on a point prior to speaking. Councillor A Shield asked as for clarification regards paragraph 505 of the report: *“the proposed cash deposit would replace the existing performance guarantee but flexible wording in the new planning obligation would allow the cash deposit to be replaced by an alternative bond in the future, should the applicant so wish”*.

He added that he would be happy for his fellow Divisional Member for Leadgate and Medomsley, Councillor W Stelling to speak first as Local Member. The Solicitor – Planning and Development firstly noted that Councillor A Shield could stay in the meeting to hear the other registered speakers give their statements, however, leave the meeting prior to the Committee debate upon the application. In reference to the bond, the Solicitor – Planning and Development noted the present application operated on the basis of a performance guarantee, issued by a bank, which guaranteed a sum of money in order to ensure restoration works would be completed if not done so by the site operator. He added that the new application set out a new guarantee, via the Section 106 Legal Agreement, which would be comprehensive and include the original site and the proposed extension.

He noted that the new guarantee was not to be provided via a bank, rather a sum of money that would be held by Durham County Council. The Solicitor – Planning and Development noted the flexibility was to enable the operator to substitute a bond at a later date for the sum of money, as currently in place, with the Council having the same security whether this was via cash or a bond.

The Chair thanked the Members and Officers for their comments in terms of clarifications on the report and asked Councillor W Stelling, Local Member to speak in relation to the applications.

Councillor W Stelling thanked the Chair and Committee for the opportunity to speak first. He noted it was difficult to know where to begin, adding that if he started at the beginning, he would be speaking to Committee all day as the issues with the site stretched back even before 1969 when the site hit the headlines. He added that in all that time, Durham County Council had refused all applications put in on this particular site, previously known as the Medomsley site, Billingside site, the Drovers site and now known as the Bradley site. He reminded the Committee that only once was it overturned, in 2015 at a second Planning Appeal, with the first Inspector refusing the application, the second Inspector deciding that the operations could go ahead.

He explained he had lived in the area all his life and noted that while it appeared there was more support for the application from local residents than objecting he had experience as Local Member for 20 years, going into the village and speaking and listening to people as well as those from further away. He noted the issues were global and the Committee were being watched by the world as there was great interest in the decision to be made. He noted that in terms of local people that had spoken to him as regards their support for the application, they had been of the opinion of the opencast getting on with their operation and clearing out as soon as possible.

He noted the various reasons set out by objectors to the application such as climate change, landscaping, noise, dust and blasting amongst other reasons that would be set out later by speakers in objection to the application. He noted that, as residents in support in the near area outnumbered the objectors in the near area, the Applicant thought the application should go ahead. He noted that in 2015 there were many thousands against that application and that application was rejected by Durham County Council and then was subject to Appeal. Councillor W Stelling added that he felt the Bradley West site was a new application and he noted his objections were many and that the views of the community would be given by the speakers.

He noted that the drone video footage did not show the full extent of the AHLV, or what came before the operations on site, namely a wetland that was removed and relocated to an area further down the valley. Councillor W Stelling noted his main objection to the application was in terms of climate change, noting that while it was a global issue, his number one case was to stop the burning of coal. He noted that the issue had been mentioned by the Case Officer as the main reason cited by objectors and stated that coal was no longer king in North West Durham, or County Durham, or indeed the world and it should not be burned. He asked that the AHLV be left alone, and while he acknowledged that restoration would be good, he noted that it would not repair or be a repeat of what was there prior to extraction and it would not need restoration if it was left in its current state. Councillor W Stelling noted that Members should be looking at the bigger picture and stop the burning of coal, for whatever reason, and for whatever size of site. He concluded by noting that Durham County Council should refuse the application.

The Chair thanked Councillor W Stelling and asked Councillor A Shield to speak as Local Member in respect of the applications.

Councillor A Shield thanked the Chair and noted prior to speaking he would wish that it be made clear for the Committee, wider community watching and recorded for the minutes, that he had been participating as Co-chair for the Banks Liaison Committee and Funding Committee during the last two years of mineral extraction. He noted in that time there had not been, and never had been, any particular allegiance to any group, Banks, Durham County Council and residents, and that he had always exercised an independent, impartial and non-partisan approach to any issues that had arisen. He noted he did not believe there was any conflict of interest involved having represented both Durham County Council and especially the residents of his community that he was elected to serve dealing with issues with the Applicant, Banks. He noted, however, that he was obliged to accept the legal advice provided by the Head of Service.

He noted he must however register his frustration and serious disappointment that, at this eleventh hour, a legal decision had been made which excluded him from participating as a bona fide Committee Member. Councillor A Shield noted that this was the second time in successive planning meetings where legal advice had been provided at an extremely belated time advising him not to participate in the debate. He noted that this meant that there had been insufficient time to allocate a Substitute Member to represent his group on the Committee. He noted he must advise that this decision may have a direct consequence on him being able to participate in future community meetings if it would conflict with his position as a Member of Durham County Council Planning.

Councillor A Shield noted that, as a Local Member, when the indication that Banks would be looking to extend the Bradley site were made his initial thoughts were “here we go again”, 50 years of repeated planning applications from a variety of companies wanting to opencast in the beautiful Derwent and Pont Valleys.

He advised that he had received a somewhat mixed response from local residents across the area. He explained that some saw the additional benefits, especially the additional £48,000 into the Banks Bradley Opencast Community Fund, however most believed that enough was enough and that there was insufficient justification and mitigation measures to extend the mining operation. Councillor A Shield noted that the issue had been one of the most difficult planning applications to be considered, adding it was extremely contentious and controversial, as well as being local to his area. He noted that the reasons to support the application were substantial and the application had some compelling arguments, however, he felt there was an equal base for constructive reasons to refuse the application. Upon repeated reading of the application he noted that the planning balance, in terms of the benefits both local and national versus the impacts must be considered to determine Members’ decision.

He noted the Officer had already given an outline of the benefits and summarised that they were: that 39 FTE jobs would be retained, providing support for local retail outlets for an additional 12 months; potential ecological and biodiversity development and the promise of gifted land; the extraction of coal and restoration within the given timescale for the Bradley site, August 2021; the additional £48,000 into the community fund, noting if only UK Coal had offered a similar fund the community would have had around £250,000 to share amongst the three villages, rather than fighting over the remaining £48,000; an increase in restoration funding; and the potential national benefit of mined coal for steel making, albeit with a question mark.

Councillor A Shield noted that it was necessary to clearly understand and note the adverse impacts including the affect and impact on landscape harm, with paragraph 543 of the report noting the Planning Inspector's comments that the previous mitigation did not clearly outweigh the residual adverse impact. He asked if those comments applied to the current application, adding he felt that the answer was probably yes. He noted the impact upon residential amenity, the close proximity of the properties to the application site and felt that the application would impact climate change, whether the coal was used for steel production or for power generation it would directly effect in terms of greenhouse gas emissions and therefore, especially in light of Durham County Council's Climate Change update on 17 July 2019, the impact of the continuation of the opencast could be huge, impacting locally, regionally and globally.

He added he would be interested to hear the comments from the Council's Climate Change Champion, Councillor J Clare and noted the report from Professor Paul Ekins, Economist, who made challenging arguments in terms of the steel industry and cement production and dismissed the environmental statement from Banks in terms of greenhouse gas emissions as economic nonsense.

Councillor A Shield noted the continued harm to the Derwent Valley needed to be carefully considered, with the previous Chair of the Pont Valley Network, Miss K Adamson giving a passionate speech when speaking against the UK Coal application in 2011 which compared the natural and untouched beauty of the Pont Valley with the Mona Lisa and the artificial, cosmetic development after extraction to a cross between the Bride of Frankenstein and the TV character Vicky Pollard, nothing natural. He referred he Committee to paragraph 254 and 255 of the report which in turn referred to NPPF Paragraph 170, 180 and 205 which noted planning conditions which must contribute to and enhance the natural local landscape by preventing any new development contributing to the risk of adversely effecting, and referred Members to the closeness of nearby properties, especially in terms of blasting, well within the 250 metre threshold imposed in terms of the development at Hedley Terrace, Douglas Terrace and High Stables. Councillor A Shield asked how it was enhanced for residents living within 33 metres of the proposed boundary and 178 metres of the blasting sites, and also the Jolly Drover Public House being only 27 metres from the boundary and 75 metres from blasting. He asked would residents let their children in the garden, have barbecues and would they need to wash their cars and windows more frequently and would take comfort from knowing the dust particles would only affect them for five and a half days per month over 12 months. He noted that Banks had spoken to the nearby residents as regards the impact, however, those residents should ask those living at Douglas Terrace and High Stables as regards their experiences.

Councillor A Shield noted that, in his experience, the settling of the ground in relation to the opencast was continuing, with continuing stone migration. He added that a site visit with the Liaison Committee was prior to a mechanical pick and advised Members that one pick did not resolve the situation. He explained that the piecemeal working of surface coal sites was contrary to Policy 54 of the soon to be adopted CDP and noted the report state MLP Policy M8 was out-of-date, however Policy 54 of the CDP was a direct replication. He noted the definition of piecemeal was in stages, not as a whole and asked the question would all of the site, including the West Bradley site, received planning permission. He noted that the Planning Inspector that granted permission for opencast in 2015 was not minded to support the application as the mitigation measures did not clearly outweigh the residual impacts.

He noted that instead the national benefit of the scheme was a key factor in the decision to approve, however, the Inspector noted that approval did not provide a foot in the door for future applications. Councillor A Shield noted the world had changed since that decision and the national benefits were very different from 2015 and added he was not convinced by the Officer's report, as comprehensive as it was.

He explained he had not supported the previous applications and noted he believed the disbenefits outweighed the local and national benefits of the scheme. He added he did not believe the application complied with NPPF Part 15, NPPF Paragraph 211, Policy EN6 of the Derwentside Saved Local Plan, or Paragraphs 170, 180 or 205 of the NPPF in that it would not conserve or enhance the national or local environment, was development within an AHLV and also in terms of impact upon the environment and human health the risk of dust and noise and particle emissions NPPF Paragraphs 254 and 255. He added he felt the application did not comply with MLP Policy 37 in terms extraction of minerals within 250 metres and with a blasting distance of 500 metres, noting examples previously given where this was not the case. He noted that it failed to satisfy Policy M7 and some conflict with Policies M23, M34 and M36 as noted by the Inspector at the second Public Inquiry.

Councillor A Shield appreciated that the application was controversial and contentious and noted that Planning Committees liked to hear the views of Local Members. He reminded the Committee that the two Local Members had spoken at length giving the background of the issues blighting the area for over 50 years, also giving examples of non-compliance of planning policies. He concluded by urging the Committee to listen to all the speakers, both in objection and support of the application, and to carefully and seriously consider the issues and vote accordingly.

The Chair thanked Councillor A Shield and asked Mr Dmytro Vasyanovych to speak in objection to the application.

Mr D Vasyanovych noted he represented himself, a member of the public, and explained that he was totally opposed to the extraction of coal whether local to him or further afield. He noted that the Pont Valley was a very beautiful place and his opinion was that further coal extraction would worsen the situation and that the use of fossil fuels was an old technology and would worsen the climate. He noted the report referred to 90,000 tonnes of coal to be extracted and did not show any signs to stop expansion and if the expansion was allowed, he felt another application would be submitted. He added that if there was to be 800,000 tonnes to be extracted in the region then other places would lead to other similar applications being approved. He explained approval of the application could lead to an environmental catastrophe. He noted the use of coal was bad, the damage caused by extraction and the irreversible damage caused, which could be prevented. He noted the benefits that had been set out in terms of the production of steel, electricity, metals and cement. He noted there would be profits for companies, however there would be 200,000 tonnes of CO₂ per 50,000 tonnes of coal, 100,000 tonnes of SO₂ and 300,000 tonnes of various NO_x and other toxic and noxious gasses.

He explained that there would be an injection of 300,000 tonnes of gaseous mercury which was proven to be bad for health and also the physical particles of ash. He noted his mathematics was simplified, however, for each tonne of coal extracted there would be five times the emission of noxious chemicals released. He added this could enter rainwater and produce acid which would harm crops, soil and living creatures and damage buildings. Mr D Vasyanovych noted that it angered him to see the greed and wish for today's gains at the cost of the future and would ask the Committee to consider the damage to the Earth and the futures of our children and grandchildren and of other living creatures. He added that the application went against climate change goals and urged that old technology was left in the in the ground where it belonged.

The Chair thank Mr D Vasyanovych and asked Mr Alan Holmes to speak in objection to the application.

Mr A Holmes thanked the Committee for the opportunity to speak against the application and noted he represented the Campaign to Protect Pont Valley; a local community group formed in opposition to Banks taking over the planning permission obtained in 2015 by the now liquidated UK Coal. He explained that there were local, national and global grounds to reject the application to extend the current opencast coal site at Bradley and added that there was no doubt the Committee's decision today would attract national attention.

He noted the Officer's report was long, however, it lacked critical analysis, overstating benefits and understating adverse impacts. He explained that local people had very different experiences of living close to opencast operations than the Applicant's PR would have you believe. Mr A Holmes noted that numerous complaints submitted to the Council had included those associated with noise, dust and two reports of run-off potentially containing heavy metals, which the Operator was not even aware of until reported by members of the public.

Mr A Holmes explained that the application was also much closer to houses, with Members being asked being asked to permit blasting only 150 metres from homes at Leadgate, while it was considered necessary to have a 500 metres stand-off zone from blasting on the eastern side of the current operational site. He noted that the report stated, "*The retention of 39 full time jobs at the site would be a benefit*" and added that these were the same jobs cited as benefits in the 2015 appeal decision and must therefore be discounted.

He explained that employees at the Bradley site were either on temporary contracts or would expect to move to another of the Applicant's sites adding that there was only the five to six month's work for five drivers, during the coal extraction phase, that could be considered as additional. He noted that if the Committee accept that expansion of the site was not piecemeal development, it opened the door for further extension applications in the North East direction.

Mr A Holmes advised that the Committee should also be aware that the Applicant did not have an unblemished record on restoration citing Pegswood 'Leaky Lake', as an example, now 'gifted' to a community organisation, which was still a problem 16 years on. He noted that the report cited fireclay as a benefit, ignoring the provision for fireclay included in the CDP. He added that the Todhills fireclay excavation would supply the Todhills Brickworks with "76 years of permitted reserves" as cited in the CDP 'Addendum to Potential new mineral and waste sites in County Durham 2019'. He noted that the fireclay the Applicant wants to extract from Bradley West was strategically unnecessary and the Plan asserted that "*that no new surface coal mined site ... could be viewed as being strategic.*"

Mr A Holmes reminded the Committee that Durham County Council had declared a climate emergency, and the Committee report's sole mention of that was within the summary of the 6,000 public objections. He noted the CDP asserted that climate change issues should be considered in every aspect of strategy and decision making, however, the Committee report recommended that no weight was afforded to the emergent CDP, even though it would form the basis of decision making well into the future.

He added the report also asserted the coal seams at Bradley “*typically contain very high volatile grade coal, of the type ideally suited for use in steel manufacture*”, yet previous Environmental Statements had identified only 14 percent of coal from the target seams as coking coal. Mr A Holmes noted the Applicant relied on a non-binding letter of support from TATA Steel as evidence of a market for coal from the Pont Valley, however, TATA had not said it would, or has, bought coal from Bradley so far only from Shotton. He added that the Welsh government had recently refused a permit to continue opencast mining at Nant Helen, with Nant Helen being much closer to TATA's Port Talbot steelworks, the Welsh government decided that climate considerations were more pressing than local supply.

Mr A Holmes noted Professor Paul Ekins had already been mentioned and he had stated that “*Basic economic theory suggests that ... an increase in the supply of a commodity such as coal will reduce the price of the commodity, leading to increased demand, and therefore increased emissions.*”

He noted that 90,000 tonnes of coal dug out of a Durham valley would not result in 90,000 tonnes being left in the ground elsewhere in the world. It would merely produce more greenhouse gases and added that there was no doubt this application was a last-minute money grab made by the only remaining expansionist coal company in the UK. He noted that the Council was in possession of a letter from Solicitors questioning the legality of making a decision today and noted that should be considered by Members.

The Chair thanked Mr A Holmes and asked Mr Michael Lichfield to speak in objection to the application.

Mr M Lichfield thanked the Chair and Members for the opportunity to speak to the Committee regarding the Bradley West application and the Officer's report. He explained he represented the Derwent Valley Protection Society, (DVPS), representing views of the people of the Derwent Valley, still a beautiful place except for the scar of Bradley Opencast mining which Members had all seen. He noted that the application was a commercial grab by the Applicants to further rip apart a valuable part of our environment for short term commercial gain and that once they had done the least possible to satisfy planning conditions and avoid enforcement action, they would leave behind an area, which even their own report recognises would take around twenty years to recover. The retained land would have to be restored from and maintained from a public purse and the land sterilised from any future potential use for housing or employment land.

He asked the Committee to excuse the pun stating that the extent of the Applicant's ambition had no boundary and that if they won Bradley West it would be the next site to the north, east or both. Mr M Lichfield noted opencast needed to be stopped here and now and asked why the Applicant was coming back to inflict more damage on the Derwent Valley, he added it was money. He noted that this was not for the benefit of local people in the long term and added that at the pre-inquiry meeting for the current opencast site on 2nd June 2014 the Applicant set out the excavation distance the distance at around 250 metres from Douglas Terrace, yet the Committee were now looking at this application with excavations just 150 metres from homes at Pont Lane and spoil heaps at just 40 metres. He asked why Banks thought the residents of Pont Lane deserve to be treated considerably worse than those at Douglas Terrace.

Mr M Lichfield noted that the DVPS had reviewed the Officer's report and while it was a comprehensive review of policy, it was an unquestioning acceptance of the submissions by the Applicants coming back for "a second bite of the cherry".

He noted that within the amended CDP it was apparent that the Council had recognised the risk of sequential planning applications and set this out in Policy 54 which stated '*in order to minimise the environmental impacts of surface coal extraction and provide certainty, the piecemeal working of surface mined coal sites will not be permitted*'.

He stressed that policy must be afforded weight and that the DVPS totally disagree with the Officers report and could see no justification in the assertion that Policy 54 be given no weight. Mr M Lichfield noted that the NPPF stated that decision makers could give weight to policies in emerging plans and that by giving weight to Policy 54 the incremental and opportunistic application before the Committee could be refused.

Mr M Lichfield explained that since the Applicants won the appeal to start open cast mining at Bradley the world had moved on and, in terms of the NPPF, no nationally strategic need was demonstrated for the Bradley phase two site. He added that environmental standards and renewable sources of energy had almost eliminated the market for Coal, and that since April the country has not used coal fired stations for 67 days, with the Department for Business, Energy and Industrial Strategy estimating that coal delivered just 3.8% of energy our national need. He continued and explained that the Government has committed to closing the last four coal fired power stations by 2024/5 and the open cast site at Highborn, near Druridge Bay, proposed by the same Applicant, had been called in by the Secretary of State, noting the writing was on the wall.

Mr M Lichfield noted the Applicants made reference to the type of material extracted being appropriate for TATA, however most of TATA's requirement was satisfied by mines closer to their Merthyr Tydfil area. He added that for the much reduced national need Planning was very likely to be granted for the Woodhouse deep mine near Whitehaven in Cumbria, which would provide long term employment for between 200 and 500, totally different to the opportunistic short term open cast proposed by the Applicants at Bradley West.

Mr M Lichfield noted that Durham County Council had for many years been at the forefront of improving environmental standards, historically the County led the way in the removal of Pit Heaps and its own climate change policy was clear with immediate action being critical. He noted the Committee should refuse the application on the grounds of Policy 54 regarding incremental applications, environmental, economic and social impact and crucially that the report and the recommendation of the Officers did not satisfy the requirements of National Planning Policy Framework 211 (b) as the application did not provide 'national, local or community benefits' that 'clearly outweigh' the adverse environmental impacts' on the constituents of County Durham and the Derwent Valley.

He concluded by asking the Derwent Valley should be further damaged by short term commercial opportunism.

The Chair thanked Mr M Lichfield and asked Mr Lewis Stokes from Banks, the Applicant to speak in support of the application. The Chair noted that Mr L Stokes had a number of colleagues that would also provide information as appropriate.

Mr L Stokes thanked the Chair and for the opportunity to speak to the Committee. He explained he was the Community Manager at The Banks Group with responsibility for Bradley West and all their projects across the County. He explained the Banks Group was a family-owned employer established over 43 years ago in County Durham, employing around 350 staff. He noted Banks were experienced in bringing forward property and energy projects which had included 32 surface coal mines owned, operated and fully restored in the County. He continued noting that he supported the Planning Officer's report and robust assessment which confirmed that the Bradley West proposals were environmentally acceptable and recommended the approval of the two planning applications.

Mr L Stokes explained he would address five key points today: planning; the need for coal; economic benefits, social benefits; and environmental benefits.

He explained that Bradley Surface Mine has been operating since 2018 to the highest environmental standards and was visited regularly by Council Officers and there had been no incidents of enforcement action. He added Bradley West was a small extension that had been carefully designed with consideration for the local community and could be worked using existing site infrastructure, with minimal additional effects, and would not extend the overall end date for restoration and landscaping. He noted there were no objections from statutory consultees to the proposals and the Officer's Report confirmed the scheme was environmentally acceptable.

In respect of the need for coal, Mr L Stokes explained the Bradley site had produced exceptional quality coal for use in UK industry and that every tonne of coal recovered from the Bradley West site would also be used to support British industry and British jobs. He noted the UK still needed around five million tonnes of coal every year for essential industries, including raw steel manufacture. He added the country was not producing enough coal here to meet this need and in 2019 the UK imported equivalent to 86 percent of the coal it used. Members were asked to note that TATA Steel had expressed their support for Bradley West because they need that coal, and wished to use well mined, indigenous coal produced in the UK, with Bradley coal not destined for use for electricity generation.

In terms of the economic benefits, Mr L Stokes explained that, to date, Bradley has already delivered over £5.2 million investment in the local economy through contracts to 49 local companies, local salaries and business rates.

He added the Bradley site currently supported around 40 highly skilled and well-paid jobs directly, plus wider head office and operational staff. He stressed these were not temporary jobs and noted that the average length of service at the Banks Group was 10 years, with many people at Banks mining sites having worked for the company for 30 and 40 years. He explained the company had trained six apprentices and 18 staff on the Bradley site and had undertaken NVQ qualifications. He noted Bradley West provided the opportunity to retain staff for longer and to continue to capture these local benefits. He added the site would also produce fireclay for use in local brickmaking, creating further economic investment. He explained that Business Durham, the North East England Chamber of Commerce and Unite, the Union, had all expressed support for the scheme.

Mr L Stokes noted the Bradley Surface Mine Community Fund had already distributed tens of thousands of pounds to groups in and around Leadgate, Dipton and Medomsley and noted that should planning permission for Bradley West be granted, the fund would increase by £48,000 to be spent supporting similar types of projects in the communities living closest to the site.

He explained the company were immensely proud that every site they had worked had been restored to the highest standards, many winning awards including the Oakenshaw wildlife reserve near Willington.

He explained the restoration scheme for Bradley West would create additional woodland planting, footpaths and enhanced habitats, and would gift a further eight hectares of land for conservation in perpetuity, ensuring lasting benefits for wildlife and the community.

Mr L Stokes noted that the company was aware that coal was being phased out for use in electricity generation and supported the transition to a low carbon economy and Mr L Stokes noted he was proud to work on Banks' portfolio of ten operational onshore wind farms. He reiterated there was still a need for high quality coal to support UK industries for the foreseeable future and it was a fundamental part of the chemical process of making steel. He added that, without using the coal here which could be mined to the highest environmental standards, there would be a need to import coal from countries such as Russia, the US and even Australia, and in turn unnecessarily emit additional greenhouse gases through transporting coal over huge distances. He explained that mining coal in the UK, close to where it is used in the UK, was clearly logical and part of the solution of reducing global greenhouse gas emissions. He added that approving Bradley West would reduce the need for imported coal, effectively saving greenhouse gas emissions.

In summary, Mr L Stokes noted that the Bradley West scheme delivered significant social, economic and environmental benefits to the north east economy and the UK as a whole, and residents and businesses surrounding the site. He highlighted that, in contrast to the many objections from outside the region, within one mile of the site 124 residents had expressed support for the extension compared to only 33 objections, demonstrating that the site was operating to high standards and that the company had significant local support. He explained that throughout the current COVID-19 crisis, Banks had been able to continue operating mining sites safely and efficiently, with their new safety protocols having been endorsed by the Health and Safety Executive and were being used as an example for other businesses. He added that at a time of unprecedented economic upheaval, Banks were continuing to provide employment and investment in the County Durham economy, as well as a secure supply of coal to UK industries when trade was more challenging than ever. Mr L Stokes noted he was from County Durham, lived locally and while he knew the area well, he would always speak with local people about what is happening in their area. He explained that, as part of Banks' proactive approach to community engagement, the company had met, spoken to, and listened to the views of a wide range of local people and interest groups in line with the company's development with care approach whilst developing these proposals.

He reiterated that he supported the Planning Officer's report and respectfully requested that Members approve the applications before Committee today, in line with the Officer's recommendation. He added that either he or his colleague Jill Lomax, Senior Development Planner, would be pleased to answer any questions Members may have.

The Chair thanked Mr L Stokes and noted there were some additional speakers representing the Applicant.

Mr G Stott thanked the Chair for the opportunity to speak in support of the application and hoped Members could understand the importance of supporting the scheme for himself and his colleagues. He noted he started work with Banks as a trainee when the Bradley site began operations, along with a number of colleagues, all from the local area. He explained he undertook an apprenticeship and gained a number of NVQs via Banks and was now one of the Training Supervisors as well and the Health and Safety representative at the site. He noted that the Bradley West site would provide an opportunity to further his qualifications and experience, making a positive impact upon his family, and it would be similar for other colleagues. He noted there was the need for UK produced coal to support UK industry, especially in the recovery period following COVID-19. He asked that the Committee support the project.

Mr M Thompson thanked Members and noted he worked for Banks for five years, two years at the Bradley site delivering training. He noted he too lived locally, as did many of the employees, and added that speaking to local residents he felt that there was support for the project, with employees supporting the local shop and with their children attending local schools. Mr M Thompson noted, as a former member of the Armed Forces, he appreciated the opportunity to work locally and the stability of the job had helped with the family environment. He asked for the support of the Committee for the project which would in turn support the men and women working at the site, enabling them in turn to support the local community.

Mr A Mayman thanked the Chair and noted he had worked for the Banks Group for around seven years as a Plant Operator and noted he felt the project would add value to the local economy and could not see any negative impact to the local community, the operations and restoration would be completed by August 2021 and the proposed extension would not require new roads to be constructed. He asked that the Committee support the applications, which in turn would support the economy and jobs, especially in the current uncertain climate.

The Chair thanked the Speakers and noted he had a request for clarification from Councillor F Tinsley then he would ask Officers to make any comments on the issues raised by the Speakers.

Councillor F Tinsley asked as regards jobs, noting the operations and restoration would be completed by August 2021 and it had been stated that the extension would safeguard 36 jobs, however, Objectors suggested that only five jobs. He asked if the application did not go ahead then would 36 jobs be lost, and if the application did go ahead what positives would here be in terms of safeguarded jobs or would there be additional jobs. The Chair asked if Officers could answer, the Principal Planning Officer noted the question was directed at the Applicant. Mr L Stokes noted the 39 FTE highly skilled, well paid jobs at the site would be sustained longer as whilst the August 2021 date referred to the end of operations and restorations, there would be a requirement for more staffing. He added that if Bradley West was not approved a number of those jobs would be lost.

The Chair asked if the Principal Planning Officer and Solicitor – Planning and Development could comment on the issues raised by the Speakers.

The Principal Planning Officer noted that demand for coal was not a planning matter and the key issue was site specific environmental acceptability of the development and noted this was set out within the report.

She added that there was requirement for the use of coal in the steel, and other industries, and neither the NPPF nor Planning Practice Guide (PPG) contained advice that sought to restrict surface mined coal on climate change grounds, noting relevant paragraphs within the report (464-466). In reference to several issues raised by Mr A Holmes, she noted her response in terms of the Richard Buxton Solicitors letter covered many of the issues. In terms of complaints, she noted that the relevant information was set out within the report at paragraph 311 and noted the Council had not considered it necessary to take any enforcement action, with an issue regarding drainage being proactively dealt with by the Applicant once alerted to the issue. She added that there had been eight visits to the site in terms of monitoring, the statutory requirement, and the site would continue to receive visits during operation. She added that additional visits would be undertaken should a specific issue be raised with the Council.

The Principal Planning Officer noted the 500 metre blasting stand-off distance from Douglas Terrace was a design feature of the UK Coal proposal. She added the application considered in 2011 did have the site boundary closer to those properties, however, the operational elements were a little more distant as set out in the table within the report. She noted that the impacts on residential amenity of the scheme had been considered and while there would be disturbance, as set out within the report, it was considered that the proposals were acceptable subject to conditions.

She noted the report set out issues relating to job and the local economy at paragraph 552 and that in terms of any future proposals for extension, each application would be looked at on its own merits, with paragraph 485 noting that approval would not be considered a significant factor favouring any future coal extraction applications in the area.

The Principal Planning Officer noted she was not able to comment on the Pegswood site mentioned by an Objector, however, she noted the restoration plans for Bradley West were considered acceptable and the financial contribution as previously referred to would ensure the restoration would be completed as well as the extended management. She noted that in terms of the point raised as regards the land being sterilised, with no possibility of the land being used for housing or employment land locally in the future, she explained that the rural nature of the site meant it was highly unlikely that permission for such use would be acceptable in that location. In relation to the fireclay, it was noted that the working of two minerals was encouraged and avoid the unnecessary sterilisation and was set out within paragraphs 226-238 of the report. She noted the fireclay underlies the Top Brass Thill and the Bottom Brass Thill coal seams and would be disturbed in order to extract the coal. She added that paragraph 556 of the report acknowledges that the amount of fire clay to be extracted was not a significant amount and only modest weight should be given to that benefit.

The Principal Planning Officer noted that statements had been made to the report lacking reference to the Council declaring a climate change emergency, and only doing so when referencing Objectors' comments. She highlighted that there were in fact several references within the report at paragraph 468, 473 and 584. She noted it was secured via legal agreement that the coal extracted under the proposals could not be used for energy generation and the Applicant had stated the coal would be used by TATA similar to the coal extracted from the existing Bradley site. She explained that in terms of the decision referred to in Wales, she could not comment on the decisions of other Authorities. In terms of the CDP and affording weight, she referred to paragraph 108 of the report and noted the similarities to policies M7 and M8, however, noting that the acceptability of CDP Policy 54 would be down to the Inspector and a decision on that was not known until the final recommendation on the CDP were received.

The Solicitor – Planning and Development noted a minor correction to a paragraph in the report, namely at paragraph 396, the final sentence referred to the completion of a Section 25 Agreement; he explained the Agreement was on its way to the Council in the post and, though it had yet to be received, he expected it would be in place imminently.

The Chair noted that there would be votes on each of the applications separately at the appropriate time.

Councillors I Jewell and A Shield left the meeting at 12.50pm

The Chair asked the Committee for their comments and questions on the applications.

Councillor M Wilkes asked for clarification as regards the Officer noting that the demand for coal was not a planning issue, but Members were being asked if local issues outweighed national issues, including the demand for coal. The Principal Planning Officer noted it was not a planning issue and explained that test at Paragraph 211 of the NPPF asks: firstly, whether the proposals are environmentally acceptable and if they were not; secondly whether other matters outweigh the environmental impact, be that national, local or community benefits. She reiterated that paragraph 545 of the report listed those benefits and the need for indigenous coal was a national benefit carrying modest weight (paragraph 548). She noted that Officers felt that in terms of Paragraph 211(a) and Policy M7(a) the application was environmentally acceptable, however, the report also set out the reasons why she felt the application met the second test, in terms of other elements.

Councillor M Wilkes felt there was some semantics in whether or not Members were meant to take into account national interests in coal as that seems the primary part of one side of the argument. He noted there were two issues, how much the local environment and residents were impacted and then consideration of the benefits of extracting the coal and fireclay and to look at the balance. He noted in reality there were a lot of local impacts and he had listened to the Local Members as regards their comments and the speakers in objection and support of the application. He noted the original application, around 10 years ago, was finally decided by the Inspector and their decision they had noted that there was impact upon the environment and residents and the application could not be made environmentally acceptable and he saw nothing in this application that was more environmentally acceptable. He added in that original case some properties were only 77 metres away from the site and noted that original report stated 95 percent of dust particles emitted from mineral working settle within 100 metres. He noted that in terms of the application being considered, then there was a residential property within 33 metres and a public house within 27 metres. He noted that Councillor A Shield had noted works should not take place within 250 metres and Councillor M Wilkes felt in went against policy and did not think it was defensible and the Inspector had noted in the original case it could not be mitigated. He therefore concluded that it was a fact that the application was environmentally unacceptable. However, he noted the NPPF requires that the national benefit be considered and therefore it was to consider digging 100,000 tonnes of coal and fireclay was in the national interest.

He noted there were objections to the use of coal, however, at the current time coal was used in the production of bricks and steel. He explained he checked as regards new and old techniques and noted there were methods of producing bricks without fireclay and indeed the Officer's report noted there was a good chance the fireclay would not be able to be used in brick production rather as backfill. Accordingly, he could not accept the benefit as set out in terms of fireclay, rather it was an attempt to bolster the case by linking the use to a local firm.

Councillor M Wilkes explained that only left the consideration of the coal and whether it was going to be used to make steel and if that was sufficient an argument to override the local issues. He had researched the production of steel and believed it had originated in 11th Century China, with the process having changed little for centuries as the method was cheap and therefore new technologies were ignored, similar to the case of the battery powered vehicles replaced by the use of oil in the early 20th Century. He added renewal energy could be used to produce hydrogen and then this could be used to heat and produce steel, citing several countries and companies utilising this technology, the by-product of hydrogen being water. He asked whether it could be in the national interest to use polluting coal to produce steel in this manner, or whether it was in the national interest for the country to look to utilise modern technology and to be at the forefront of that field. He added that rather than a benefit, using coal could be starving the UK the opportunity to develop that new technology and processes.

He noted that 10 years ago it had been judged it was in the national interest to dig out the coal at the Bradley site, he suggested that now it was not in the national interest to dig out and use that coal. He added that the Government in August 2019 committed £250 million for "clean steel" and therefore we needed to move on from a 900 year old process. He noted that the Committee needed to protect the local community as well as the nation from unacceptable impacts and recommended refusal of the application on the grounds that: the proposed development would have an unacceptable impact on the environment and amenity of local communities; it was contrary to the policies within the local plan; it was contrary to the policies within the emerging CDP; the community and national benefits, when considered alongside the NPPF and policies from the emerging CDP, do not outweigh the unacceptable impact on the environment and amenity of local communities; the national benefits were not as significant as they were in the past and the impacts of the development would be far greater on the local community.

He concluded by noting that he felt that the decision was not in the balance and was contrary to: Policy M8 in relation to piecemeal working; M7 in the presumption against opencast mining of coal and fireclay; M23 designated landscape; M24 local landscape; M36 protecting local amenity; and M37 stand-off distances; and the relevant policies within the emerging CDP and the paragraphs within the NPPF as detailed by other Councillors.

Councillor A Laing thanked the Officer for her comprehensive report on the applications. She noted that the Committee had heard that it was a complex proposal and required careful consideration. She added she had previously raised concerns in relation to the impact opencast schemes can have on the landscape and communities of parts of the County. She noted that not all schemes that have been allowed have been restored to the standards that we require today and not all sites had passed without causing problems for our residents. However, she noted it was important to consider all applications on their individual merits and explained that was what she had done. Councillor A Laing felt that in this case there were a number of factors associated with the expansion proposed that were, in her experience, unique. She noted the proposed extension was relatively small and could be delivered in a manner that caused no harm to a valued and important landscape. She noted the proposals were for a very short time, worked for a few months and not lead to long term impacts to the area. She explained that the short term nature of the works also helped in her consideration of the impacts upon local residents, with some of the works being with the normal stand-off distances. She added she was comforted by the monitoring taken by Officers in terms of the existing site which seemed to suggest that all operations have been taken in a careful manner and could be controlled through the recommended conditions.

She explained that she had given consideration to the benefits of the application and noted the local employment benefits and the support that had been received from Business Durham and the North East Chamber of Commerce and, whilst short-term, she felt was something that should be given weight to. She felt the assurance that the coal produced would only go into UK industry and not to domestic power production was important. Councillor A Laing noted that at a time where the County and UK economy was fragile and facing an unprecedented challenge the fact that this commitment would be locked into the Section 106 Agreement was a factor, she felt was influential to her overall consideration of the scheme. She concluded by noting she felt the economic benefits of the scheme, both local and national outweighed the limited and short-term harm to landscape and residential amenity and moved the applications be approved.

Councillor J Clare noted he agreed with Councillor A Shield that it was a difficult and finely balanced decision to make. He noted within the comments of the supporters that there were positives to the application and the Committee could not ignore those, including the investment in the local economy, jobs and the fact that Business Durham recommended approval on business grounds. He noted he was disappointed to see many criticisms of Banks and he disassociated himself with those, noting Banks as a major local company that was supportive of the community and was moving to low carbon and this would involve substantial donation to the community fund. He reiterated the point made by Councillor A Laing in terms of the development being relatively small and short-term so it was not the case that it could be suggested that there was nothing to recommend the applications.

Councillor J Clare went on to note that on the other hand what he had heard was significant problems with the application and was disappointed, in a similar manner to Councillor M Wilkes, as regards the much reduced stand-off distances, as also mentioned by Councillor A Shield. He agreed with the comments from Mr M Lichfield in respect of being able to give some weight to the emerging CDP, limited though it maybe, and agreed with Councillor Shield that the application was, by definition, piecemeal development and against Policy 54 of the CDP. He noted agreement with Councillor W Stelling that it was against the AHLV and asked what the point was of designating an area as an AHLV if that was not taken into account when applications looked to develop an area. He noted that the presentation slides noted no adverse impact to the AHLV, he suggested that the AHLV would be obliterated, the surface and all the layers beneath it and he agreed with the comments of Councillor A Shield that restoration was a misnomer, it would not be restored, the land was the result of 12,000 years of contextual development and stood as a result of that and would be replaced with an entirely man-made creation.

In respect of emissions, Councillor J Clare noted that the report stated that the NPPF supported the transition to the low carbon economy, however, he then reads that the NPPF did not seek to restrict opencast on climate change grounds and had no requirement to consider CO₂ emissions. He noted he regarded this as contradictory and one of the most amazing things he had ever read. He added he did not buy into the argument that if the coal was not mined within the UK then the country would need to import coal from Russia or Australia and that would lead to greater CO₂ emissions. He noted that there was an argument in terms of supplying the coal as a benefit and therefore felt that there was a responsibility in terms of the emissions that would come as a result and he noted the report and the NPPF appeared to want to have it both ways: *“it was not for the planning process to consider the consequences of emissions from industrial processes”*. He noted it appeared that it was possible to only mention the benefits, and not mention the negatives.

He noted the fact the coal was not being used for generating electricity, however, the use of coal in production would still produce emissions. He added he could not believe that the NPPF would only allow citing the use of coal as a benefit and not allow it to be cited as a detriment, he felt the two went together. He noted it came down to a balance and reminded the Committee he was the Cabinet Support Member for the Economic Regeneration, so noted the economic benefits and that he was also the Council's Climate Change Champion he had to take into account the carbon cost. He noted from NPPF Paragraph 211 that the benefits must clearly outweigh the impact and he noted that the Inspector in 2015 came to the conclusion that she was not persuaded that was the case. He noted he had not heard anything at the meeting to suggest that was not still the case and therefore wider issues, such as the national economic context and the benefits of coal. He suggested to the Committee that the world we lived in was very different to 2015 and whilst it was then possible to argue the national interest was to produce coal and use it, he felt that now five years later and it was not just Durham County Council that was declaring a climate emergency, Parliament had and in their Climate Change Committee released a report which stated the country was falling short on its targets. Councillor J Clare suggested that if the Committee was going to consider the national economic context of the application, given agreement with the Inspector from 2015 in that it was felt there was residual adverse impact, then the Committee had to also accept that climate emissions, climate change issues and the economic advantage in pursuing newer technology, as stated by Councillor M Wilkes, needed to be taken into account, alongside the fact it was a smaller site and would have a smaller yield of coal. He concluded by noting that overall, on balance, he felt he could clearly say he did not feel the Committee should approve the applications.

Councillor F Tinsley noted the application was contentious and felt there were three main issues: the principle of coal extraction; the impact upon the local environment and residential amenity; and the national and local benefits. He noted he shared the frustrations of Councillor J Clare in respect of Part 14 of the NPPF which made it clear that the Committee could not take into account CO₂ emissions in terms of coal extraction. And noted while Government spoke soothing words and signed international declarations it was not following this up with its planning policies and therefore emissions as a reason could not be used for refusal as it would not stand up at appeal, as it did not at the previous appeal.

In terms of local amenity impacts, he noted the situation in terms of blasting and the close proximity to residential properties, with paragraph 248 of the Officer's report stating, "*Blasting would take place within 500m of a great number of residential properties*". He referred to the table set out at paragraph 244 of the report noted six of the eight nearby locations were within 500 metres of blasting.

He added that the Officer's report noted that the mitigation in place would mean the blasting acceptable and national policy was such that an application should not be refused on stand-off distance alone and there should be some flexibility used. Councillor F Tinsley noted that this concerned him as in 2015 permission was granted by the Inspector, in the context of the PPG in respect of minerals, specifically Section 4, which was adopted in October 2014. He noted that the Inspector in the context of the previous application, in June 2015, saw fit to include a condition in that permission that no blasting should take place within 500 metres of Douglas Terrace or Hedley Terrace. He noted that, as there would be numerous residential properties with a distance less than this in terms of the current applications, he had serious concerns.

In turning to the national and local benefits, Councillor F Tinsley explained that he agreed that, as stated at the previous application approved by the Inspector, the adverse impacts could not be outweighed by mitigating initiatives onsite and therefore one had to look to national and local benefits if one wished to approve the application. He noted the contribution of £48,000 to the community fund, he noted it was a significant sum, however, not a transformative sum in the order of millions of pounds as mentioned by Councillor A Shield. Councillor F Tinsley noted the potential in terms of sustaining jobs on the site, however, he noted operations would be taking place on the Bradley site until August 2021 in any case. He therefore noted there would be jobs, just not sufficient to represent a major national and local benefit associated with the scheme or have a major impact on the local economy. He noted the inclusion of eight hectares for a nature reserve, in the context of 20 hectares for the original application, and this was positive for the community, noting a nature reserve provided in his Electoral Division provided by Banks through a similar mechanism.

However, to provide an eight hectare addition to an existing 20 hectare provision was not that significant of a benefit. He noted that there was the issue of the benefit of the amount of coal to be extracted, regardless of one's view in terms of the principle of burning coal. In respect of the previous application, he noted that 500,000 tonnes of coal were to be extracted and permission was granted on the basis of that amount of coal represented a strategic national asset in terms of the extraction of coal. He noted the current application represented less than a 20 percent increase in the extraction of coal, a relatively small amount. He noted that there was a benefit in that the extraction of a small amount minimised impacts, however, that amount of coal being put into the market was potentially not that significant or strategic to warrant overcoming the local impacts.

Councillor F Tinsley noted he shared the concerns but noted that the application could not be refused on climate change grounds alone as Government had not provided the planning policies to do so.

He noted he felt that the local impacts were significant, and potentially more significant than the benefits, especially in terms of the blasting proximity, given the Inspector inserting that particular condition in relation to the previous permission. He added that in terms of the national, local and community benefits that might result as a consequence of the proposals, he did not feel that they were sufficient to override the local impacts on the site. He noted he would listen to the rest of the debate, however, at this point he was minded to support the refusal of the application.

Councillor S Wilson noted the application represented a paradox in that the extraction of less coal was good from an environmental perspective, however this provided less of a strategic national economic benefit. In terms of blasting distances he noted real concerns as it would impact upon people in the local area and while he understood the concerns of Banks in terms of supporting local employment and supporting national business, and understood the operations would be relatively short-term, he wondered what kind of ecological and health damage would be caused in terms of the particles being put into the air and noted he was still undecided at this time.

Councillor J Shuttleworth reiterated that he felt it was important to listen to the comments of Local Members, they have their ears to the ground and were elected to represent those local people. He added that it had come across to him quite clearly that the people of Leadgate and Medomsley were not in favour of the application.

Councillor J Atkinson noted it had been a long debate and he had been listening very carefully, understood the arguments that were being made, and felt he agreed with the comments of Councillor A Laing.

He noted the 90,000 tonnes of coal was a relatively small amount and as the main site was already up and running, any problems would have already been identified. He noted the short period of operation was also a consideration and as climate change was not an issue that could be considered from a planning perspective, the economic benefit was the issue to consider and therefore he seconded the proposal of Councillor A Laing for approval of the applications.

The Senior Committee Services Officer asked the Chair to note that in order to continue, Members would need to agree to suspension of Council Procedure Rule 4.2 in relation to the duration of meetings. The Chair asked for a proposer and seconder. Councillor A Laing proposed the suspension of Council Procedure Rule 4.2, she was seconded by Councillor F Tinsley. The motion was agreed unanimously and therefore **CARRIED**.

Councillor G Richardson noted he seconded the motion of Councillor M Wilkes to refuse the application.

The Chair asked the Principal Planning Officer to respond to the issues raised by Members of the Committee.

The Principal Planning Officer noted that Councillor M Wilkes had referred to the table at paragraph 214 of the report setting out distances from properties to various site operations. She noted Councillor M Wilkes had referred to particle drop-off of 100 metres and referred to a property at Pont Road being 33 metres away. She clarified that the property was 33 metres from the site boundary, however it was 141 metres away from the operational boundary. She noted that in respect of the 500 metre blasting distance and the condition included by the Planning Inspector relating to the previous application, that this was as that scheme, designed by UK Coal, already had a 500 metre blasting stand-off as part of that design. She added that the Inspector at the time, whilst approving the plans which included the 500 metre distances, took a “belt and braces” approach and included a condition setting it out specifically. She noted that it was already included as part of the design of that particular scheme and explained that the application before Members today was a different scheme that proposed operations closer to residential properties than the previous scheme. She noted Policy M37 did look to preclude development within certain distances, however, unless it is demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of mineral working, mineral development will not be permitted in terms of 250 metres and blasting within 500 metres. The Principal Planning Officer noted her report took the view that it had been demonstrated that the amenity of local communities could be protected, taken on the view that suitable conditions, as detailed in the report to Members, would seek to control the environmental impacts of blasting.

The Chair asked the Solicitor – Planning and Development to speak in relation to the procedure for voting on the two motions put: by Councillor A Laing, seconded by Councillor J Atkinson for approval of the applications; and of Councillor M Wilkes, seconded by Councillor G Richardson for refusal.

The Solicitor – Planning and Development noted effectively it was a binary position in terms of being for or against the proposals within the applications and noted it would therefore be for the Chair to decide in which order to take the motions. He added that if the motion from Councillor M Wilkes would be considered first, he would need to seek clarification from him first in terms of refusal reasons for each of the applications. The Chair noted he would take the motion as put by Councillor A Laing for approval first.

The Solicitor – Planning and Development noted he would carry out a roll call of Members for the votes on the two applications, the first being for approval of the extension to the extraction site - DM/19/03567/MIN, upon a vote being taken, the motion was **LOST**.

The Solicitor – Planning and Development noted the second vote would be for the approval of the Section 73 application relating to variation of conditions - DM/19/03569/VOCMW, upon a vote being taken the motion was **LOST**.

The Chair noted the motions for approval for the two applications had been lost and therefore asked Councillor M Wilkes for his refusal reasons.

Councillor M Wilkes noted he had previously set out his refusal reasons, however, reiterated they were on the grounds that: the proposed development would have an unacceptable impact on the environment and amenity of local communities; it was contrary to the policies within the local plan; it was contrary to the policies within the emerging CDP; the community and national benefits, when considered alongside the NPPF and policies from the emerging CDP, did not outweigh the unacceptable impact on the environment and amenity of local communities; the national benefits were not as significant as they were in the past and the impacts of the development would be far greater on the local community. He added that he felt the application was contrary to: Policy M8 in relation to piecemeal working; M7 in the presumption against opencast mining of coal and fireclay; M23 designated landscape; M24 local landscape; M36 protecting local amenity; and M37 stand-off distances; and the relevant policies within the emerging CDP and the relevant paragraphs within the NPPF.

The Solicitor – Planning and Development asked if the reasons put forward were for refusal of both applications, noting he understood how the reasons put could relate to the extension application, however, he was less clear in how they would be sustainable in connection with the variation, given there was already an existing permission and that application was for variation of conditions only. Councillor M Wilkes noted that the specific policies reasons he put forward did relate specifically to the extension proposals. The Solicitor – Planning and Development asked if he would be correct in saying the reasons referred to related to the extension application only and not the Section 73 variation application. Councillor M Wilkes noted that was correct.

The Solicitor – Planning and Development noted the motion for refusal of the extension had been made and seconded and asked Councillor M Wilkes what he was proposing in relation to the Section 73 variation application. Councillor M Wilkes noted he did not have an answer as regards that, he was specific as regards the extension application. The Solicitor – Planning and Development noted that the vote on refusal of the extension could be put. Councillor M Wilkes asked for clarification in terms of the variation conditions, one referred to the extension of the site, another to the working period, and he stated that the reality was if the extension of the site did not go ahead, some variations becomes irrelevant, some become open to further discussion as regards there value and what they would mean.

The Solicitor – Planning and Development noted that the applications did go together “hand in glove”, however, should the Section 73 Application be approved it may be subject to some slightly different conditions than contained within the report. He added he was seeking clarification on what Members’ wishes were in relation to the variation application.

Councillor J Atkinson asked as regards the proposals from Councillor M Wilkes, as they appeared to be opinions stated as facts. The Solicitor – Planning and Development noted the reasons Councillor M Wilkes put forward would be based upon his judgement and assessment of the application and noted there would be an element of subjectivity and opinion involved in that assessment.

The Solicitor – Planning and Development noted he would carry out a roll call of Members for the vote for refusal of the application for extension to the extraction site - DM/19/03567/MIN, upon a vote being taken, the motion was **CARRIED**.

Councillor J Clare asked for clarity from the Solicitor – Planning and Development, what Members were presented with was variations to the existing application that would allow the full application for the extension to take place, therefore he would agree with Councillor M Wilkes that they become irrelevant and the variation application becomes irrelevant and if that was not the case he would appreciate further explanation.

He added that it would be very difficult to have any decision, for or against, the variations if they took place in a vacuum without any substantive application that they were supporting. He suggested if that was the case then the reasons why the variation would be opposed were exactly the reasons that opposed the substantive application.

Councillor A Bell suggested that the same reasons be used.

Councillor F Tinsley noted for clarification that the Committee had carried a motion for refusal of the extension to the opencast mine and added that the second application was a Section 73 Application that amends the conditions that were attached to the Appeal decision from 2015. He noted the issue he had was, if the Committee refused permission for the Section 73 application, did that have any impact upon, negative or otherwise, upon the continued excavations at the existing site. He added that if it did impact negatively, he felt the Section 73 Application should be approved, as it would be irrelevant in terms of the extension application but may have some relevance in determination of the Appeal decision from 2015, pursuant to which Banks were working on site at the moment. The Principal Planning Officer noted that the Section 73 Application was solely to enable the extension, if permission was granted for that application it could not be implemented as permission for the extension itself would also be required to do so.

In terms of the Appeal decision, that permission would continue without the extension or Section 73 applications. Councillor F Tinsley asked for clarity that if the Section 73 Application was approved, it would not be implementable as the extension application had been refused and asked if therefore refusal reasons were required in terms of the variation application.

Councillor M Wilkes asked if the Committee approved all of the conditions that would have applied to the extension, would that give the Applicant ammunition to go to the Planning Inspectorate and say that the decisions on the two applications had not been made in the correct manner as on the one hand the Committee would be approving all of the variation conditions, but on the other hand not approving the extension, he added he felt both should have been voted on at the same time. The Chair noted they were two applications and the advice had been for separate votes.

The Solicitor – Planning and Development noted two potential ways forward, to put the Section 73 Application to the vote, for refusal as per the reasons put forward by Councillor M Wilkes, or for an alternative motion to be put, this being a decision for Members. He reiterated that there were two separate applications and therefore two separate motions and votes were required to be taken, with reasons potentially not being the same for each. He added that clearly the Applicant would need both permission for the extension and the Section 73 permission in order to carry out the extension scheme. He noted that it was not the case that if the Section 73 Application was approved that the extension could go ahead as that extension application had already been refused by the Committee.

The Chair noted there was a proposal for refusal of the Section 73 Application by Councillor M Wilkes, for the reasons he had stated, seconded by Councillor G Richardson and asked the Committee if there were any other proposals. The Chair noted no further proposals and asked the Solicitor – Planning and Development to put the motion to a vote.

The Solicitor – Planning and Development noted the vote would be for the refusal of the Section 73 application relating to variation of conditions - DM/19/03569/VOCMW, upon a vote being taken the motion was **CARRIED**.

Resolved:

That applications DM/19/03567/MIN and DM/19/03569/VOCMW be **REFUSED** for the for the following reasons:

1. The proposed development would not be environmentally acceptable with respect to landscape and visual impacts and residential amenity impacts, and could not be made so by planning conditions or obligations contrary to saved County Durham Minerals Local Plan Policies M7a, M23, M24, M36 and M37, Paragraph 211a) of the National Planning Policy Framework and Emerging County Durham Plan Policy 54.
2. Contrary to saved County Durham Minerals Local Plan Policy M7b), Paragraph 211b) of the National Planning Policy Framework and Emerging County Durham Plan Policy 54, it is considered that the proposal does not provide national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including residual environmental impacts) to justify the grant of planning permission. Accordingly, the proposed development is also contrary to Paragraph 11d) of the National Planning Policy Framework as the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits specifically in respect of adverse landscape and visual and residential amenity impacts.
3. The proposed development constitutes unacceptable piecemeal development and is contrary to saved County Durham Minerals Local Plan Policy M8 and Emerging County Durham Plan Policy 54.

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/20/00669/FPA
FULL APPLICATION DESCRIPTION:	12 additional dwellings (132 dwellings in total) linked to applications DM/16/00400/OUT & DM/18/03759/RM for the erection of 120 dwellings
NAME OF APPLICANT:	Persimmon Homes Durham
ADDRESS:	Land To The East Of Mill Lane, Sherburn, DH6 1HP
ELECTORAL DIVISION:	Sherburn
CASE OFFICER:	Laura Eden Senior Planning Officer 03000 263980 laura.eden@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises 5.49 ha of roughly triangular shaped agricultural land on the southern edge of Sherburn Village, approximately 3.2 km to the east of the centre of Durham City. The site is bordered to the north by the rear boundaries of village residential properties, including those of Sherburn Farm, Chapel Court and South Street. To the south is further agricultural land, with a former railway line walkway (Sherburn Way) running in a north-west/south-east direction plus a woodland trail, beyond. To the east runs a bridleway in a north-west/south-east direction with agricultural land beyond. To the west of the site is Mill Lane (the C12A) and the rear boundaries of Mill Lane residential properties, with further homes on the western edge of Mill Lane at The Crescent and Sherburn Way beyond. A sewerage treatment works lies approximately 290 m to the south-west of the application site's western boundary. The site's main characteristic was one of gently undulating open arable land with a shallow valley across it, though the site is in the process of transforming into a residential estate. There are hedge lined boundaries along two of its three sides. The southern site boundary is undefined.
2. The C12A joins the east-west running B1283 Durham - Easington road approximately 500 m to the north of the site in the centre of Sherburn at a mini roundabout. It joins the north-west/south-east running A181 Durham - Peterlee road to the south via a roundabout at Byers Garth.
3. No statutory or locally designated landscape or ecological sites are located within or immediately adjacent to the application site. The Sherburn Hill Site of Special Scientific Interest (SSSI) and Sherburn Hill County Wildlife Site lie in excess of 200 m to the east. The Sherburn Conservation Area immediately abuts the application site to the north with approximately 0.09ha of the site in the north eastern corner lying within the

Conservation Area. This contains one listed building, St Marys Church (Grade II), which stands approximately 400 m to the north west.

4. Public Footpath No. 9 (Sherburn Parish) running along the line of a former railway abuts the south west corner of the site, and Public Bridleway No. 10 (Sherburn Parish) abuts the north east corner. The Sherburn Way Woodland Trail runs within woodland immediately to the south west of Footpath No. 9 (Sherburn Parish).

The Proposal and Background

5. The site already benefits from planning permission for 120 dwellings (see planning history section below for further details) and works commenced on site in June 2019. The new highway access onto Mill Lane and show home is complete and at the time of writing this report 2no. dwellings are occupied with approximately 28no. under construction.
6. The S106 legal agreement in association with DM/16/00400/OUT secured the following;
 - 20% affordable housing provision.
 - £157,885 to be used towards the provision and maintenance or improvement of educational facilities at Belmont Community School.
 - £75,000 to be used towards the provision of public art within the vicinity of the site.
 - £38,571 to be used towards the surfacing and lighting of an adjacent Public Right of Way (Public Bridleway No. 10 (Sherburn Parish)) and a pedestrian refuge on Front Street in accordance with details contained on drg. no. A083889-1_SK001.
 - On site public open space provision equating to 10m² of informal play space per dwelling and 20m² of amenity space per dwelling. A contribution in lieu to be paid for any shortfall.
7. The current application seeks full planning permission for 132no. dwellings which is an additional 12no. dwellings on top of the 120no. dwellings already consented through applications DM/16/00400/OUT and DM/18/03759/RM. There is no net increase in developable area therefore in order to achieve the additional units on site, there has been a partial re-plan including remixing of a number of plots to introduce additional semi-detached and smaller units when compared against the reserved matters layout. Large areas of the site remain unaltered and as approved, including the majority of the internal road structure.
8. The proposed housing mix under this application includes 16no. two, 63no. three, 38no. four and 15no. five bedroomed 2/2.5 storey properties, all of which come in a mix of detached, semi-detached and terraced options. One new house type (the 3 bedroomed Barton house type) is being introduced with all others being the same as under the previous reserved matters approval. The materials palette proposed includes two different red multi bricks, a tiled grey roof and artstone heads and cills to some properties as opposed to contrasting brick. Windows and doors are proposed to be white UPVC. All properties feature off-street parking, including a mix of integral and detached garaging, and enclosed rear gardens.
9. Vehicular access would be taken from Mill Lane in accordance with the previously approved details (as part of DM/16/00400/OUT) and these works are now complete. Development would be arranged around a main road passing through the development site. Cul-de-sacs, private shared drives and individual dwellings would be taken off this main road. Areas of public open space are proposed adjacent to the entrance along with SUDS basins, in addition to greenspace alongside the western flank of the main road, along the south eastern and partially the northern boundary.

10. The application is being reported to the County Planning Committee as it constitutes a major residential development proposal on a site greater than 4ha.

PLANNING HISTORY

11. Outline planning permission was granted for the erection of 120no. dwellings and a new access off Mill Lane (all other matters reserved) (DM/16/00400/OUT) in May 2016. The application was the resubmission of an identical application (DM/14/02912/OUT) which had previously been refused by the County Planning Committee in September 2015 against officer recommendation. The reasons for refusal related to concerns surrounding loss of agricultural land, the impact on the countryside and a valued landscape, the impact to the setting and significance of Sherburn Conservation Area and that the cumulative highway impacts of the development would be severe. The applicant was in the process of appealing that decision by way of a public inquiry, however the Council resolved that the appeal was not defended as the refusal reasons could not be supported. The resubmission was therefore brought back before the County Planning Committee in May 2016, who resolved to grant consent subject to a S106 legal agreement.
12. An application for the approval of reserved matters (appearance, landscaping, layout and scale) (DM/18/03759/RM), in addition to discharging a number of conditions associated with the outline approval, was granted approval in May 2019. Several subsequent applications were also approved, discharging the remaining conditions from the outline (DRC/19/00239 and DRC/19/00287) and reserved matters consents (DRC/19/00238).

PLANNING POLICY

NATIONAL POLICY

13. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
14. 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.
15. *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.

16. *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.
17. *NPPF Part 5 - Delivering a Sufficient Supply of Homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
18. *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.
19. *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.
20. *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.
21. *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.
22. *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.
23. *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.
24. *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.

25. *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>

26. 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; historic environment; design process and tools; determining a planning application; flood risk; health and well-being; land stability; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; 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)

27. *Policy E7 – Development Outside Settlement Boundaries*. Seeks to protect the countryside, a finite resource, from inappropriate development and guide new development towards sites within existing settlements in order to meet social and economic needs over the Plan period. Accordingly, development outside settlement boundaries will not normally be allowed.
28. *Policy E10 - Areas of Landscape Value*. Is aimed at protecting the landscape value of the district's designated Areas of Landscape Value as well as landscapes outside of the designation.
29. *Policy E14 - Trees and Hedgerows*. Sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
30. *Policy E15 – Provision of New Trees and Hedgerow*. Encourages tree and hedgerow planting including in urban fringe areas.
31. *Policy E16 – Protection and Promotion of Nature Conservation*. Seeks to protect and promote nature conservation.
32. *Policy E17 - Sites of Special Scientific Interest*. Seeks to protect sites of special scientific interest and national nature reserves.

33. *Policy E18 - Sites of Nature Conservation Importance.* Seeks to safeguard all sites of nature conservation importance.
34. *Policy E19 - Wildlife Corridors.* Seeks to protect landscape features that contribute to wildlife corridors, and create new corridors in new development schemes where opportunities arise.
35. *Policy E20 - Local Nature Reserves.* Seeks to protect sites of nature conservation value.
36. *Policy E21 – Conservation and Enhancement of the Historic Environment.* States that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.
37. *Policy E22 – Conservation Areas.* Seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
38. *Policy E23 – Listed Buildings.* The Council will seek to safeguard listed buildings by not permitting development which detracts from their setting.
39. *Policy E24 – Ancient Monuments and Archaeological Remains.* Seeks to protect such heritage assets by precluding development that would damage them. Pre-application evaluation or an archaeological assessment should be carried out, and where present such assets should be either preserved in situ or investigated and recorded.
40. *Policy H3 - New Housing Development within the Villages.* Permits new housing development within settlement boundaries of villages that include Sherburn.
41. *Policy H5 - New Housing in the Countryside.* Permits new housing development in the countryside only where specific criteria is met and primarily has an agricultural or forestry justification.
42. *Policy H12A – Type and Size of Housing.* States that the type and size of dwellings will be monitored and where appropriate negotiation will take place with developers to provide the right housing types and sizes to ensure balance.
43. *Policy H13 – Residential Areas - Impact upon Character and Amenity.* Protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
44. *Policy T1 – Traffic Generation – General.* States that development proposals which would result in a level of traffic generation detrimental to highway safety should not be granted planning permission.
45. *Policy T5 – Public Transport.* The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
46. *Policy T10 – Parking.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
47. *Policy T21 – Walking.* States that existing footpaths and public rights of way should be protected.

48. *Policy R1 – Provision of Open Space.* Seeks to ensure that the provision of open space for outdoor recreation within the district is evenly distributed and is maintained at a level which meets the needs of its population. A minimum overall standard of 2.4 ha of outdoor sports and play space per 1,000 population will be sought.
49. *Policy R2 – Recreational and Amenity Space in New Developments.* States that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development.
50. *Policy R11 – Public Rights of Way and Other Paths.* Public access to the countryside will be safeguarded by protecting the existing network of PROW's and other paths from the development which would result in their destruction or diversion.
51. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility.* States that the layout and design of all new development should take into account the requirements of all users.
52. *Policy Q4 - Pedestrian Areas.* Requires that pedestrian area should be laid out and designed with good quality materials in a manner which reflect the street scene.
53. *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.
54. *Policy Q6 - Structural Landscaping.* Requires peripheral structural landscaping within sites located on the outer edge of settlement boundaries.
55. *Policy Q8 – Layout and Design Residential Development.* Sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
56. *Policy Q15 – Art in Design.* Encourages the provision of artistic elements within new development.
57. *Policy U5 – Pollution Prevention – General.* States that development that may generate pollution will not be granted if that pollution would have an unacceptable adverse impact upon the quality of the local environment, upon the amenity of neighbouring occupiers or would unnecessarily constrain the development of neighbouring land.
58. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution.* Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
59. *Policy U8A – Disposal of Foul and Surface Water.* Requires all new development to have satisfactory arrangements for foul and surface water disposal.
60. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless; it can be demonstrated that alternative less vulnerable areas are unavailable; that no unacceptable risk would result; that no

unacceptable risk would result elsewhere; or that appropriate mitigation measures can be secured.

61. *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.
62. *Policy U13 - Development on Unstable Land.* This policy states that development will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability or that satisfactory remedial measures can be undertaken.
63. *Policy U14 – Energy Conservation _ Renewable Resources.* The council will encourage the effective use of passive solar energy and the reduction of wind-chill in the layout, design and orientation of buildings, and the use of energy efficient materials and construction techniques.

EMERGING PLAN:

The County Durham Plan

64. The County Durham Plan (CDP) which in time will replace the existing saved Local Plans in County Durham commenced its Examination in Public (EiP) in Winter 2019. The programmed hearing sessions subsequently closed on 6th February 2020, and the Inspector's issued his post hearing advice on 20th February 2020. An amended CDP has been prepared to take account of the specific instructions from the Inspector, and all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. Consultation on the CDP (Main Modifications) commenced on Tuesday 26th May and will last until 21st July 2020 (an eight-week period). All comments that are received during this consultation period will be sent to the Inspector to inform his final report. 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. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process until the Inspector's final report has been received.

Sherburn Village Neighbourhood Plan (SVNP)

65. A Neighbourhood Area was designated in 2016 but there has been no further progress since. The SVNP has not yet reached a stage where weight can be afforded to it.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

66. *Highway Authority* – A transport statement has been produced to support the substitution of plot type and increase in numbers. The traffic impacts are considered acceptable. Access to the site has not been altered and the layout has carried forward the previously approved parking arrangements and standards. Following amendments to layout to address earlier concerns, no objection is raised.

67. *Drainage and Coastal Protection* –As there will be no increase in net developable area as a result of these additional dwellings, no objection is raised.
68. *Coal Authority* – The northern tip of the site abuts the defined high-risk area. However, the main site itself lies outside this and therefore they do not object to this application subject to an informative relating to their standard advice.

INTERNAL CONSULTEE RESPONSES:

69. *Spatial Policy* – This proposal seeks to add a further 12no dwellings to the development through a re-plan/substitution of house types thereby increasing the total number of dwellings to 132. Given that these additional 12 dwellings will be within the confines of the existing development site (original red line boundary) where the principle of housing is already established, the key issue is ensuring that an acceptable layout and design is achieved. The increase in the number of units will trigger additional requirements for both open space and affordable housing contributions.
70. *Archaeology* – No objection.
71. *Compliance and Monitoring* – No objection or concerns with the proposed mitigation measures contained within the Construction Management Plan.
72. *Design and Conservation* – Whilst the applicant has proposed an additional 12 units, this has not significantly changed the previously proposed layout. Due to the increase in dwelling numbers, further parking spaces are required however the dominance of parking in the street has not significantly changed.
73. *Ecology* – The submitted ecological review information is sufficient to inform this application and no additional survey data or mitigation measures beyond that of the previously consented application is required.
74. *Environment, Health and Consumer Protection (Air Quality)* – The information submitted demonstrates that the application complies with the thresholds stated within the TANS and Air Quality Standards and Objectives. This would indicate that the development will not lead to an adverse impact.
75. *Environment, Health and Consumer Protection (Pollution Control)* – The addition of 12 houses and the slight change to layout does not alter the impact in relation to noise or odour impact. As such it is considered that no further conditions are required in addition to any considered necessary on the original application.
76. *Environment, Health and Consumer Protection (Contaminated Land)* – Having reviewed the submitted information they can confirm there is no requirement to impose a condition. An informative should be added in relation to unforeseen contamination.
77. *Housing Delivery - Affordable Housing* provision should reflect the requirements of local residents in respect of property type, size and location. The affordable requirements of the area have not changed and previous recommendations still apply. Housing Delivery are happy to enter into discussions to ensure the affordable housing requirements of the area are met.
78. *Landscape* – The proposed amended layout does not significantly differ from the previously submitted design. Neither would it effect the visual amenity value or townscape and landscape character of the settlement and surrounding countryside.

79. *Landscape (Arboriculture)* – Comments from the original application still stand. Their comments received as part of DM/18/03759/RM advised that tree species proposed are considered to be satisfactory and earlier concerns relating to the longevity of tree cover within the front gardens have been addressed (comments received in relation to the proposed landscaping scheme).
80. *School Places Manager* – It is considered that the development (12 additional dwellings) is likely to produce 4 primary pupils and 2 secondary pupils. Whilst there is sufficient capacity at the local primary schools there is insufficient capacity at the local secondary school (Belmont Community School) to accommodate this need. Consequently, a contribution of £33,108 would be required for the provision of additional teaching accommodation.
81. *Sustainable Travel* – Comments from the original application still stand. Their comments received as part DM/16/00400/OUT recognised that the site is well served by the existing walking and cycling network. The development would increase use of the immediate existing network in which case efforts to improve these routes should be included. It was encouraging to see access included in the plans, with paths linking to the existing network and forming a comprehensive network within the site. A Travel Plan would be required for a residential development of this size and would be assessed in due course when submitted.

EXTERNAL CONSULTEE RESPONSES:

82. *North Durham Clinical Commissioning Group* – Based on only the increase of 12 additional houses, they would not seek any contribution from the development.
83. *Police Architectural Liaison Officer* – No comments received.
84. *Northumbrian Water Limited* – No objections providing a condition is imposed to ensure the development is carried out in accordance with the agreed scheme.

PUBLIC RESPONSES:

85. The application has been advertised by way of a press and site notice and individual notification letters to neighbouring residents. 7no. letters of objection has been received. The main concerns and queries raised by the objectors can be summarised as follows:
 - Consider that there are already enough houses being built on the site without an additional 12. What is the justification behind this? A developer should not be allowed to gain consent and then make post permission changes to the detriment and desirability of the development.
 - The approved junction with Mill Lane is dangerous and additional traffic movements will make it more so. This proposal will increase the already high volumes of traffic that use this road and will put even more pressure on Sherburn Village.
 - Query why the Road Safety Audit was not undertaken until December 2019. A significant number of the queries that have been flagged as a result, supporting the concerns that residents raised at the time of the initial application. They consider the site arrangements are dangerous and question how the development ever received planning consent.
 - Query whether there is sufficient parking and visitor parking for the increased number of units.
 - Object to specific amendments within the site which they consider will result in a much less attractive outlook for them and their neighbours.
 - Consider the additional units will place additional pressure on the local GP surgery.

- That a resident has been unable to sell their home due to the roadworks and query how much longer these will be in place.
- Persimmon have consistently ignored the Government guideline to cease all non-essential work and stay at home thus endangering the public at large by carrying on as usual during this period of national emergency.
- The initial planning application was subject to an in-depth debate. The majority of residents in the village objected to the development, especially those in Mill Lane, but were ignored.
- The development has been very stressful for everyone around it. They find it disappointing to have to object yet again to something which they don't consider is needed and that will likely just gain planning consent regardless.

86. *Cllr Bill Kellett (Sherburn)* strongly objects to the proposal. He is strongly critical of the way that the (road) safety audit has been carried out, only after planning permission has been granted and building work commenced. This raised a raft of unacceptable problems which could give rise to road traffic accidents. The additional traffic generated by this development will likely have adverse impacts for Mill Lane and the local residents in addition to the mini roundabout in the centre of the village. The proposal is likely to impact on the local GP surgery. Concerned that Persimmon will not consider the impacts of local residents or planning conditions.

87. *Cllr David Hall (Sherburn)* – Does not wish this to be a delegated decision because of its importance and potential impact on the village and the need to discuss additional benefits to the village under new policies and any discretionary contributions the developer may see fit to include in their agreement.

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

APPLICANTS STATEMENT:

88. Given the sites planning history, it is considered that the principle of developing the site, based upon the approved 120 units has already been established.
89. This Full application is seeking a remix of housetypes and approval for a 132 unit scheme at the Land to the East of Mill Lane Sherburn. The application is mainly seeking approval for the addition of 12 dwellings, in addition to the 120 units that have been permitted via the Extant Outline Application and Subsequent Reserved Matters Application.
90. These changes have been proposed to increase the marketability of the development and improve market penetration, by ensuring a greater amount of starter homes and smaller family homes are proposed which market feedback to sales has indicated are type of properties sought after and desired by your constituents and interested customers.
91. In order to achieve the additional units on site, Persimmon Homes has remixed a number of the approved plots to introduce additional semi-detached units and additional smaller units when compared against the Reserved Matters Approval.
92. As shown in the proposed 132 Unit Layout when compared against the approved 120 Unit layout the development maintains the development principles set by the Outline and Reserved Matters application. The internal road structure remains unchanged to that already approved. Additionally, the developable area also remains unchanged

ensuring that the approved areas of Public Open Space remain unaffected by the increase in number of units.

93. As a result, the development is based upon the design principles outlined within the NPPF which seek to create a high quality, attractive development which aims to be respectful and complementary of the surrounding area. As such the development will continue to employ the use of traditional building materials to achieve a level of complementary development with the surrounding area.
94. Vehicular access to the site will be from Mill Lane. Vehicular access to the site has previously been approved under the approved OUTLINE Planning Application. This application intends to utilise the design of the already approved site access. A transport statement has been produced and submitted which summarises the approved TA and mitigation proposals for the 120 units and then assesses the effect of the additional 12 units. The transport assessment concluded that the additional 12 units would not result in an impact on the surrounding network and the previous approved site access is remaining suitable for the additional 12 units. A Road Safety Assessment of the site has been completed with Durham County Council to inform and incorporate into the design which has already been developed on site.
95. Persimmon Homes has worked closely with the planners in Durham Council, as well as council and statutory external consultees. Through adaptation of the proposal and submission of additional reports, plans and information, we are confident that we have a proposed development that meets the requirements of all whilst also the following the principles agreed in the previous application to allow for a seamless and continuous development across the entire site.
96. Finally, the impacts of the development can be fully mitigated by the development or via a planning gain package topping up payments to the current s106 items for the additional 12 units has been agreed such that there no adverse impacts which would significantly and demonstrably outweigh the benefits.
97. The application is supported by a full suite of supporting reports, assessment and drawings which have met all the requirements of internal Council and Statutory Consultees including Drainage and Highways such that there are no outstanding objections from any of these bodies.
98. Therefore, in accordance with the National Planning Policy Framework the application should benefit from the presumption in favour of sustainable development and approve development proposals that accord with the development plan without delay.

PLANNING CONSIDERATIONS AND ASSESSMENT

99. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, highway safety and access, landscape impact, layout and design, residential amenity, ecology, flooding and drainage, heritage and archaeology, infrastructure and public open space, affordable and accessible/adapted housing, contamination and land stability, planning obligations and other matters.

The Principle of the Development

100. The principle of developing the site for housing was established under planning permission DM/16/00400/OUT (and reserved matters approval DM/18/03759/RM) for 120 dwellings. Significant progression has been made on site (see para. 5 of this report) therefore the principle of development should not be revisited under this application, the key issue being determining whether or not the additional dwellings have an acceptable impact.
101. Given the age of the CDLP and housing requirement figures that informed it, several environment and housing chapter policies including Policies E7, H3 and H5, do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to these policies reduced as a result. The acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF. Therefore, in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits, or whether the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusal. Clearly, these assessments can only be considered following an examination of all of the issues within the planning balance.

Housing Land Supply

102. As part of the determination of DM/16/00400/OUT, the Council accepted that it was unable to demonstrate a five year housing land supply based on an up-to-date Objectively Assessed Need, it could nonetheless demonstrate a robust and significant supply of housing land equivalent to over 5 years when measured against ONS household projection statistics. Accordingly, it was considered that less weight should be afforded to the benefits of delivering new housing than would otherwise be the case if such a healthy land supply was not demonstrated.
103. The Council's current position is that, in line with Paragraph 60 of NPPF and national planning guidance, the housing need in County Durham and, as set out in the emerging CDP, is 1,308 dpa and a supply of 6.37 years of deliverable housing can be demonstrated. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.

Locational Sustainability of the Site

104. The County Durham Settlement Study 2018 (original scheme assessed against 2012 version) is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. The site lies within Sherburn, one of the larger villages within the County. Is rated as having a settlement score of 37.2 based on the services and facilities within the area and is, therefore, considered capable of accommodating appropriate housing growth. Distances to local services, facilities and amenities including bus stops remain unchanged through this application.
105. The outline consent secured a contribution of £38,571 to be used towards the surfacing and lighting of an adjacent Public Bridleway (No. 10 Sherburn Parish) which lies to the north east and a pedestrian refuge on Front Street in accordance with details contained on drg. no. A083889-1_SK001. This contribution would continue to be secured along with an additional £3,857 (pro rata figure for 12no. additional units) to be used towards

a more flexible remit of improving Public Rights of Way in the vicinity of the development thereby mitigating the impact of the additional development. As such, the proposal would be in accordance with Policies R11 and T21 of the CDLP (consistent with the NPPF) and Paragraph 98 of the NPPF which seek to protect and enhance public rights of way and access including taking opportunities to provide better facilities for users.

106. Overall, it is considered that the site has access to a number of services and facilities, to serve the development proposed and that these are within relatively easy reach of the site. Walking distances and established bus services would give future residents alternative options to the private motor car to access services. No objections were raised to the originally approved development on the grounds of its locational sustainability credentials and the addition of 12 further dwellings to the site as whole results in Officers drawing the same conclusions.
107. The development would promote accessibility by a range of methods in accordance with Policies Q2, R11, T5 and T21 of the CDLP (all considered consistent with the NPPF) and Part 9 of the NPPF Promoting Sustainable Transport.

Highway Safety and Access

108. CDLP Policy T1 precludes development proposals that would result in a level of traffic detrimental to highway safety or which would have a significant effect on the amenity of occupiers of neighbouring property. Policy T1 is considered consistent with the NPPF, which also seeks to ensure that a safe and suitable access can be achieved and, therefore, it can be given full weight in considering the application. The NPPF, at Paragraphs 108 and 109, also sets out that when considering development proposals, it should be ensured any significant impacts from the development on the transport network (in terms of capacity and congestion), can be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
109. Paragraph 111 sets out that all developments that would generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. In this respect, the application is accompanied by a Transport Statement (TS) and a Travel Plan (TP). Collectively the submitted documentation considers the potential impacts of the development and the adequacy of the site for the development with respect to a range of highways and transport related issues.
110. CDLP Policy Q2 outlines that the layout and design of all new development should take account the requirements of all users including ensuring a satisfactory means of access and manoeuvring of vehicles. Policy Q2 is considered consistent with the NPPF and can be afforded weight. Though CDLP Policy T10, advising on parking provision, is a policy relevant to the proposal it is considered inconsistent with the NPPF in-so-far as limiting parking spaces within development and, therefore, attributed very limited weight in the decision-making process. Car parking standards are now outlined in the Council's Residential Car Parking Standards.
111. The development would utilise the approved (as part of DM/16/00400/OUT) and as now constructed access off Mill Lane. The site access and traffic impacts associated with the substitution of plot types and increase in dwellings (12no.) are set out in the TS. The Highway Authority consider that the existing access is designed to acceptable standards using acceptable design parameters and raises no road safety concerns from highways development perspective. The 8no. peak hour trips associated with the 12

additional dwellings would not be material or detectable and would be well within a typical daily variation in traffic flow on that part of the network (Mill Lane Carries 5000 vehicles per day with a typical 550 at peak hour and daily variation of 50 vehicles). Following some amendments, the internal layout has also been agreed and car parking standards are also deemed to be acceptable. As such the Highway Authority raise no objection to this development subject to a condition being imposed to secure improvements to the Mill Lane – B1283 mini-roundabout junction, replicating condition 10 of DM/16/00400/OUT. The agreed works included a realignment, lining and signing scheme to improve safety and capacity prior to the occupation of the 50th dwelling on site.

112. A number of objections received raise specific concerns in relation to the Road Safety Audit (RSA). The road safety audit was undertaken on the detailed design of the junction. However, the detailed design is not undertaken until after planning permission is granted to avoid abortive work and costs should the application be refused. The principle of the access was accepted as part of DM/16/00400/OUT at which time road safety and junction stability were assessed. The RSA followed DfT (Department for Transport) guidelines and all issues raised have been addressed by designers and accepted by the Highway Authority as the Overseeing Organisation for the highway network. There are no outstanding road safety issues and the development access is deemed to be acceptable from a highway safety perspective.
113. The proposal and supporting documents have been considered by the Council's Sustainable Travel Team who advise that their original comments still stand. The Travel Planning Officer has previously advised through DRC/19/00239 that the Travel Plan meets DCC requirements and adherence to this can be secured by condition.
114. Overall, the highways impacts of the proposed development are considered to be acceptable in accordance with CDLP Policies T1 and Q2 as well as Part 9 of the NPPF.

Landscape Impact, Layout and Design

115. CDLP Policy Q8 requires that developments relate well to their built environment surrounds and seek to retain existing landscape features of the area. The Policy also requires adequate provision of open space and the establishment of a clear and defined road hierarchy. CDLP Policy H13 seeks to resist development that would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents. CDLP Policies E14 and E15 seek to safeguard existing trees and hedges and provide new trees and hedgerows as part of new development proposals. CDLP Policies Q5 and Q6 require a high standard of landscaping where a new development proposal would have an impact on the visual amenity of the area, and peripheral structural landscaping where the site lies on the outer edge of a settlement. These policies are considered consistent with Parts 12 and 15 of the NPPF which promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Due to their compliance with the NPPF significant weight can be afforded to CDLP Policies Q5, Q6, Q8, H13, E14 and E15 in this respect.
116. The specific proposals are considered to raise no new implications with regards to landscape impact given the footprint of development remains the same and conditions will be reimposed to secure the peripheral structural landscaping to the southern site boundary, the implementation of the general landscaping scheme and the maintenance

of landscaping thereafter. Overall, it is considered that there would be no significant adverse landscape impacts and the proposals would be compliant with policies Q5, Q8, H13, E14 and E15 of the CDLP and Parts 12 or 15 of the NPPF.

117. The proposed layout is broadly similar to the one which was approved as part of DM/18/03759/RM, the main difference being in the northwest corner of the site. The proposed layout generally creates a back-to-back arrangement with existing dwellings on Mill Lane and utilises perimeter blocks within the site. The scale of the buildings are principally two storey however the Windermere house type would be 2.5 storeys high. Site levels fluctuate throughout the development therefore the properties will have/appear to have varying heights and will be commensurate with the surrounding area. The proposed house types are considered to be acceptable with reference taken from the character and appearance of the Sherburn Conservation Area, combining brickwork alongside artstone heads and cills to provide visual interest and lift the overall quality. There is a range of house types and true corner-turning units are utilised at street junctions providing visual relief within the development. The palette of materials is also considered to be acceptable. The appearance of enclosures, pedestrian and public spaces is considered to be appropriate, reflecting the character of the surrounding area and achieves a co-ordinated approach across the development. Overall it is considered that this design approach would be adequately in keeping with the surrounding area and would preserve the character and appearance of the conservation area. No objection has been raised by colleagues in the Design and Conservation Section.
118. In light of the extant consent and that the amendments proposed are considered relatively minor in the context of the overall scheme, it was not deemed necessary to take the revised scheme through the Council's in-house review process to assess schemes against the Building for Life 12 (BfL 12) Standards. Notwithstanding this, design issues have been fully considered through the application process. Post permission changes to schemes through the submission of revised applications are relatively common. It is not considered that the inclusion of 12no. additional units within the scheme has materially diminished the overall quality of the previously approved scheme.
119. Policy Q15 sets out that the Council will encourage the provision of artistic elements in the design and layout of the development. Although the NPPF is silent on public art, it is supportive of ensuring that development makes places better for people and the policy can be afforded some weight as a result. As part of the outline consent, there was an obligation to provide public art on site or to provide a financial contribution of £75,000 towards the provision of public art within the vicinity of the site. The developer considers that a financial contribution would better serve the needs of the development and the wider community. Persimmon Homes, therefore, now propose a financial contribution of £82,500, increased from £75,000 on a pro rata basis to reflect the additional units proposed, to be used towards public art and environmental/community improvements. Paragraph 92 of the NPPF encourages decisions to enhance the sustainability of communities and residential environments by planning positively to provide the social, recreational and cultural facilities and services that they need. This revised financial contribution would fulfil the wider intentions of Policy Q15 and paragraph 92 of the NPPF as well as facilitating a more flexible approach which can better respond to the local community's aspirations. The contribution can be secured through the S106 legal agreement.
120. With regards to landscape impact, layout and design the development would be compliant with policies Q5, Q6, Q8, H13, E14 and E15 of the CDLP and Parts 12 or 15 of the NPPF.

Residential Amenity

121. CDLP Policy H13 states that planning permission will not be granted for new development that would have a significant adverse effect on the amenities of residents within them. CDLP Policy Q8 seeks to provide adequate amenity and privacy for each dwelling and minimise the impact of the proposal on existing residents. These policies are considered consistent with Parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution. It should also be noted that since the grant of the extant planning permission a Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council.
122. The revised site layout indicates that generally separation distances between dwellings in the development are in excess of 21m between facing principal elevations or 13m between principal and gable elevations as advocated in the Local Plan and SPD. There are a few instances where distances fall slightly short although not to an unacceptable extent. These all relate to relationships between the proposed dwellings. Distance standards with properties external to the development are comfortably achieved. As such it is not considered that any significant issues in terms of overlooking, overshadowing or overbearing impact would arise and as such that there would be no significant adverse residential amenity impacts.
123. Levels fluctuate throughout the site and are therefore a consideration. In support of the application plans showing the proposed site levels and finished floor levels have been submitted which are considered sufficient to demonstrate that suitable arrangements can be achieved.
124. There is the potential for disturbance during the construction period, therefore, a Construction Management Plan (CMP) has been submitted in support of the application. Officers in both Environment, Health and Consumer Protection (Nuisance) and Compliance and Monitoring consider sufficient mitigation would be provided subject to conditions to secure adherence to this and hours of working.
125. Similarly, Environment, Health and Consumer Protection advise that the submitted information demonstrates that the application complies with the thresholds stated within the TANS and Air Quality Standards and Objectives. As such, there would not be an adverse impact on the environment having regard to paragraph 181 of the NPPF.
126. The development would not lead to a significant reduction in residential amenity for existing or future residents, subject to appropriate conditions. Overall, the scheme would comply with CDLP Policies H13, Q1, Q2, Q4 and Q8 and Parts 12 and 15 of the NPPF.

Ecology

127. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. CDLP Policies E16, E17, E18, E19 and E20 protect and promote nature conservation, and in particular relate to Sites of Special Scientific Interest (SSSI), Sites of Nature Conservation Importance, wildlife corridors and Local Nature Reserves. The advice contained within these policies is considered consistent with that within the NPPF and can be afforded weight.
128. A condition was attached to the outline consent to ensure that the development of the site shall take place in full accordance with the ecological recommendations. The RM consent secured a detailed scheme of landscaping including features to enhance biodiversity. In respect of these applications, the Council's Ecologist raised no objection.

129. In support of this revised application an ecological review has been submitted which The Council's Ecologist has confirmed is considered sufficient to inform this application. No additional survey work or mitigation is required over and above that secured as part of the original applications.
130. On the basis conditions are imposed to secure ecological mitigation and the implementation of the approved landscaping scheme the revised proposal would continue to comply with CDLP Policies E16, E17, E18, E19 and E20 and Part 15 of the NPPF in this respect. The Council's Ecologist offers no objection to the scheme on this basis.

Flooding and Drainage

131. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment. CDLP Policy U8A requires satisfactory arrangements to be made for the disposing of foul and surface water discharges. This policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision-making process.
132. The site is located within flood zone 1 and thereby at the least risk of river flooding. A suitable scheme foul and surface water drainage scheme has previously been agreed in conjunction with Drainage and Coastal Protection Officers and NWL. As the additional units would be accommodated within the same development footprint, the scheme would raise no new implications with regards to flood risk and drainage. A conditional approach can be applied to secure the development takes place in accordance with the agreed scheme.
133. On this basis no objections to the development on the grounds of flood risk or drainage are raised having regards to CDLP Policy U8A and Part 14 of the NPPF.

Heritage and Archaeology

134. The site has been subject to previous archaeological assessment (see DM/16/00400/OUT and DRC/19/00239). On this basis the Council's Archaeologist has confirmed that there is no archaeological objection to this scheme. The proposal is therefore considered to comply with CDLP Policies E21 and E24 and Paragraph 128 of the NPPF. These Policies are considered either partially (E24) or fully (E21) consistent with the content of the NPPF and can be attributed weight in the decision making process.
135. The Sherburn Conservation Area immediately abuts the application site to the north with approximately 0.09ha of the site in the north eastern corner lying within the Conservation Area. St Marys Church (Grade II) lies approximately 400 m to the north west of the application site. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have

special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.

136. With regards to the change of use of a small part of the Conservation Area in the north-eastern area of the site, it is considered that the character and appearance of the conservation area would be preserved and enhanced through the landscaping of this area.
137. In terms of the Sherburn Conservation Area, whilst the proposed development would incur some loss of openness immediately adjacent to the conservation area, it is not considered that the site particularly contributes to the significance of the whole of the conservation area or its setting. The overall impact on the character and setting of the conservation area is therefore assessed as being negligible with the potential opportunity through considered design to preserve or enhance the setting at the interface and in the area of the small parcel of land within the conservation area. In assessing the impact of the proposals in the round and, taking into consideration the quality of the conservation area the effects are negligible and should be considered as change rather than as being harmful. As such it is considered that the character and appearance of the conservation area would be preserved.
138. Whilst the St. Mary's Church tower/spire has a strong landmark presence within the village and can be seen in viewpoints from all directions within and outside the village and conservation area, including some locations within the site and its periphery, its role would not be affected by the development of this site. Furthermore, the church is already surrounded by housing development. Views are generally characterised by those over and including the eclectic historic and modern roofscapes or within the context of existing newer development in the foreground. It is considered that the proposed development would not impact on the significance of the listed building through changes to its setting as the church is already surrounded by modern and some historic development. Design and Conservation officers previously raised no objections to the proposal. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case it is considered that there would be no harm to the setting of the listed church.
139. In conclusion the proposals would, therefore, accord with Part 16 of the NPPF and the requirements of CDLP Policies E21, E22 and E23. These policies are considered partially consistent with the content of the NPPF and can be attributed weight in the decision-making process.

Infrastructure and Open Space Provision

140. CDLP Policy R2 seeks to ensure adequate recreational and amenity space in new residential developments. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2018, which is considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF. Therefore, whilst the general thrust of Policy R2 is consistent with the content of the NPPF, the evidence base in respects to open space requirements has changed and, in that sense, the policy is not fully up to date.
141. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for five typologies, either within the site, or through a financial contribution towards offsite provision, in lieu.

142. The original S106 Agreement, in accordance with the requirements of Policy R2, secured on-site provision equating to 10m² of informal play space and 20m² of amenity space per dwelling. The approved reserved matters layout demonstrated that not only will the requisite amount of open space be delivered but in the case of amenity space there would be significant over provision to the benefit of existing and prospective residents. The proposed site layout would still continue to deliver the same levels of open space provision. The additional impact arising from a further 12no. units has been assessed under the current OSNA requirements. The development would generate a required contribution of £35,646, which would be secured through a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). This would satisfy the OSNA requirements and Paragraph 96 of the NPPF with regards to the provision of public open space.
143. Paragraph 94 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. The original S106 Agreement secured £157,885 to be used towards the provision and maintenance or improvement of educational facilities at Belmont Community School. The School Places and Admissions Manager advises that an additional 12 houses could produce an additional 4 primary pupils and 2 additional secondary pupils. Whilst there is sufficient capacity at the local primary schools, there remains insufficient capacity at Belmont Community College. A further contribution of £33,108 (2 x £16,554) to be used towards education provision is therefore required. These contributions would be combined and secured as a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).
144. Paragraph 92 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal.
145. At the time of the original application, it was concluded that the existing medical facilities within the area were capable of accommodating the additional patients from the proposed development and, therefore, no financial contribution was necessary as mitigation. The North Durham Clinical Commissioning Group (ND CCG) have been consulted on the current application and have advised that that a contribution would not be required in this case given the limited increase in dwelling numbers.

Affordable and Accessible/Adapted Housing

146. Paragraph 62 of the NPPF sets out that, where a need has been established, an appropriate level of affordable housing should be provided. CDLP Policy H12 also encourages developers to provide for a fair and reasonable proportion of affordable housing, and for an appropriate variety of house types and sizes. The Council's Strategic Housing Market Assessment (SHMA) (January 2019) is the evidence base used to inform the need for affordable housing.
147. In accordance with the outline planning permission and associated S106 legal agreement, 24no. affordable units, comprising of 17no. affordable rent housing and 7no. affordable home ownership were secured as part of the RM layout. The site falls within the medium viability area meaning 15% of the 12no. additional properties within the scheme would need to be affordable equating to 2no. units. In accordance with paragraph 64 of the NPPF these two units should be delivered as in the form of affordable home ownership. The applicant has indicated that this level of provision

would be delivered to be secured in perpetuity through a planning obligation under S106 of the Town and County Planning Act 1990 (as amended).

148. Paragraphs 59 and 61 of the NPPF are supportive of ensuring that the needs of groups with specific housing requirements are addressed including that of older persons. Policy H12a of the CDLP outlines similar requirements. The SHMA outlines there is a need to provide 10% of the private and intermediate properties for older person including level access bungalows or Building for Life provision. As this was not an obligation of the original consent, this requirement would only extend to 10% of the 12no. additional dwellings therefore 1no. unit. This requirement can be met by a planning obligation secured through S106 of the Town and Country Planning Act 1990.
149. In terms of housing mix, the development would provide a range of 2, 3, 4 and 5 bedroomed properties which would provide a mix of housing in compliance with CDLP Policy H12A and Part 5 of the NPPF.

Contamination and Land Stability

150. Given the sensitive end use of the site, Environment, Health and Consumer Protection Officers have considered a number of reports in relation to land contamination including with regards to land contamination including a Geoenvironmental Appraisal, Ground Gas Assessment and Validation report. They are satisfied with the information provided and confirm there is requirement for a contaminated land condition. They recommend an informative relating to unforeseen contamination is applied. On this basis this would ensure the site and the surrounding area would be safe from contamination risks the proposed development therefore complies with Policy U11 of the CDLP and Paragraph 178 of the NPPF which. This policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision making process.
151. The Coal Authority records indicate that the northern tip of the site abuts the defined high risk area. However, the main site itself lies outside this and therefore they do not object to this application subject to an informative relating their standing advice. The proposal therefore complies with Policy U13 of the CDLP and Part 15 of the NPPF in demonstrating that the site is safe and stable for future development. This Policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision making process.

Planning Obligations

152. The S106 legal agreement in association with DM/16/00400/OUT secured a number of obligations (see paragraph 6 of this report for further details). These obligations are proposed to be revised to take account of the 12no. additional units proposed and to better reflect the requirements of the village. The obligations sought as part of this application are as follows;
- provision of 26no. affordable housing units comprising of 17no. affordable rent housing and 9no. affordable home ownership (an increase of 2no. homes for affordable home ownership from previous);
 - £190,993 towards providing additional secondary teaching accommodation at Belmont Community School (an increase of £33,108 from previous);
 - £35,646 towards improving offsite open space and recreational provision within Sherburn Electoral Division (the site layout demonstrates that the requisite amount of open space will be delivered and in the case of amenity space there would be significant over provision. The contribution now secured is solely to mitigate the impacts of the additional units);

- £82,500 to be used towards public art and environmental/community improvements within the vicinity of the site (an increase of £7,500 and wording amended to allow a more flexible remit to better serve the needs and requirements of the local community);
 - £38,571 to be used towards the surfacing of the public right of way, lighting of the public right of way and a pedestrian refuge on Front Street (B1283) (as per original requirement);
 - £3,857 to be used towards improving Public Rights of Way in the vicinity of the development (additional contribution to mitigate the impacts of the additional units).
 - Provision of 1no. unit to be constructed to Building Regulation M4(2) requirements (accessible and adaptable dwelling) (additional requirement to previous).
153. Paragraph 56 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contributions towards improvements to public rights of ways, off-site open space provision, additional teaching accommodation and public art and environmental/community improvements are considered to be in accordance with these tests, as is the securing of affordable housing.

Other Considerations

154. Part 14 of the NPPF advises that the planning system should support the transition to a low carbon future. CDLP Policy U14 encourages that the design of a building minimises energy consumption and includes energy efficiency measures therefore the policy is considered consistent with the NPPF. The original planning permission was subject to a condition requiring that a carbon emission minimisation scheme be devised. This condition was previously discharged. This scheme has been updated to reflect the additional 12 dwellings proposed.
155. NPPF Paragraph 172 states that LPAs should recognise the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Best and most versatile agricultural land is classified by the NPPF as grades 1, 2 or 3a.
156. Application DM/16/00400/OUT acknowledged that the development would result in the loss of approximately 5.49ha of agricultural land, of which 2.5ha, is 'best and most versatile, however, concluded that this loss was relatively modest and would not amount to a significant adverse impact. The amendments proposed as part of this application raise no new planning considerations in this regard.
157. The proposal has generated some public interest, with seven letters of objection having been received from local residents and additional letters of concern from both local members. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate. The access onto Mill Lane is now complete and the roadworks have been removed. Concerns regarding works continuing on site during the Covid 19 crisis are not planning matters. The objections raised during the previous applications were fully taken into account however ultimately the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions and secure planning obligations under S106 of The Town and Country Planning Act 1990 (as amended). Disruption arising during the construction process is temporary and conditions have been imposed to mitigate any significant adverse impacts.

Planning Balance

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

Benefits

159. The development would assist in maintaining housing land supply including the provision of affordable housing whilst acknowledging that the Council can demonstrate in excess of 6 years housing land supply against an objectively assessed need. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced. This boost to housing supply would also extend to the delivery of affordable homes.

160. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area.

161. The off-site PROW and POS improvements as a result of the contributions secured would not only help mitigate the impacts of the development but would also provide improvements to the surrounding PROW network and area which the public would benefit from as a whole.

Adverse Impacts

162. No adverse impacts of any significance have been identified in relation to 12no. additional units being accommodated within the development site which benefits from extant consent.

CONCLUSION

163. The acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF. Therefore, in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

164. The principle of developing the site for housing was established under planning permission DM/16/00400/OUT with the detail resolved under the reserved matters approval (DM/18/03759/RM). Significant progression has been made on site therefore the principle of development should not be revisited under this application, the key issue being determining whether or not the additional dwellings have an acceptable impact.

165. Overall, the additional 12no. dwellings can be accommodated within the site without materially diminishing the overall quality of the previously approved scheme and impacts arising have been fully mitigated through additional S106 contributions. The scheme is considered acceptable in all other respects.

166. No adverse impacts of any significance have been identified in relation to 12no. additional units being accommodated within the development site which benefits from

extant consent. For the purposes of Paragraph 11d ii, any adverse impacts arising would not significantly and demonstrably outweigh the recognised, social and economic benefits of new housing even when considering the Council's housing land supply position. Therefore, in accordance with Paragraph 11 of the NPPF, the proposed development should be granted planning permission.

167. Paragraph 56 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contributions towards improvements to public rights of ways, off-site open space provision, additional teaching accommodation and public art and environmental/community improvements are considered to be in accordance with these tests, as is the securing of affordable housing and a dwelling to be to be constructed to Building Regulation M4(2) requirements.
168. The proposal has generated some limited public interest. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions and secure planning obligations under S106 of The Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a S106 Legal Agreement to secure the following:

- provision of 26no. affordable housing units comprising of 17no. affordable rent housing and 9no. affordable home ownership;
- £190,993 towards providing additional secondary teaching accommodation at Belmont Community School;
- £35,646 towards improving offsite open space and recreational provision within Sherburn Electoral Division;
- £82,500 to be used towards public art and environmental/community improvements within the vicinity of the site.
- £38,571 to be used towards the surfacing of the public right of way, lighting of the public right of way and a pedestrian refuge on Front Street (B1283).
- £3,857 to be used towards improving Public Rights of Way in the vicinity of the development.
- Provision of 1no. unit to be constructed to Building Regulation M4(2) requirements.

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:

Drg. no. 708. 02B Location Plan received 06/03/2020

Drg. no. MSL-001 Rev. N Proposed Site Layout received 12/05/2020
 Drg. No. MSL-002 Rev. F Materials Layout received 127/05/2020
 Drg. no. A083889_002 Proposed Vehicular Access from Mill Lane received 06/03/2020
 Drg. no. AN-WD06 Rev. M Alnwick Plans and Elevations Village received 06/03/2020
 Drg. no. WS-WD06 Rev. C Belmont Plans and Elevations Village received 06/03/2020
 Drg. no. HT-WD06 Rev. C Derwent Plans and Elevations Village received 06/03/2020
 Drg. no. HTC-WD06 Rev. C Derwent Corner Plans and Elevations Village received 06/03/2020
 Drg. no. CT-WD06 Grasmere Plans and Elevations Village received 06/03/2020
 Drg. no. RS-WD06 Rev. B Hornsea Plans and Elevations Village received 06/03/2020
 Drg. no. SU-WD06 Rev. A Windermere Plans and Elevations Village received 06/03/2020
 Drg. no. SU-WD16 Windermere Plans and Elevations Village received 06/03/2020
 Drg. no. CD-WD06 Rev. C Coniston Plans and Elevations Village received 06/03/2020
 Drg. no. CDC-WD06 Rev. C Coniston Corner Plans and Elevations Village received 06/03/2020
 Drg. no. HB-WD06 Rev C Barton Plans and Elevations Village received 06/03/2020
 Drg. no. SGD-01B Rev. B Plans and Elevations (Single/Double Garages) received 06/03/2020
 Drg. no. SGD-02B Rev. B Plans and Elevations (Triple Garages) received 06/03/2020
 Drg. no. SGD-07B Rev. B Plans and Elevations (Quad Garage) received 06/03/2020
 Sustainability and Fabric Improvement Calculation document received 20/07/2020
 Drg. no. N17254-200 Rev X19 Engineering Layout received 08/06/2020
 Drg no. N17254-240 Rev X10 External Works Sheet 1 received 20/04/2020
 Drg no. N17254-241 Rev X11 External Works Sheet 2 received 08/06/2020
 Drg no. N17254-242 Rev X9 External Works Sheet 3 received 20/04/2020
 Combine Harvester (In) received 06/03/2020
 Combine Harvester (Out) received 06/03/2020

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E7, E10, E14, E15, E16, E17, E18, E19, E20, E21, E22, E23, E24, H12A, H13, T1, Q1, Q2, Q5, Q6 and Q8 of the City of Durham Local Plan and Parts 1, 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. No more than 50 dwellings shall be occupied until the roundabout improvements at the Mill Lane-B1283 junction as shown on WYG Drawing A083889_SK10 REV A, have been fully implemented.

Reason: In the interests of highway safety having regard to the objectives of Policy T1 of the City of Durham Local Plan and Part 9 of the NPPF.

4. The 'general' landscaping scheme as approved by plans ref: c-1622-01 Rev. G, c-1622-02 Rev. F, c-1622-03 Rev. G, c-1622-04 Rev. F, c-1622-05 Rev. F and c-1622-06 Rev. F shall be implemented and completed in accordance with the approved details in the first planning season following the substantial completion of the development.

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

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area having regards to Policies Q8 and Q15 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

5. Areas of 'general' landscaping and public open space within the development hereby approved shall be managed and maintained in perpetuity in full accordance with the Landscape Management and Maintenance Plan for Open Space Areas received 06/03/2020.

Reason: In the interests of appearance of the area in accordance with Policies Q8 and Q15 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

6. Within the first six months from the commencement of the development, the peripheral structural landscaping along the southern site boundary as approved by plans ref: c-1622-01 Rev. G, c-1622-03 Rev. G, c-1622-04 Rev. F, c-1622-05 Rev. F and c-1622-06 Rev. F shall be installed. Thereafter, it shall be managed and maintained in perpetuity in full accordance with the Structural Landscaping Provision and Maintenance Note MLS-SLPM received 06/03/2020.

Reason: In the interests of appearance of the area in accordance with Policies Q5 and Q8 and Q15 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

7. No development shall take place unless in full accordance with the ecological recommendations detailed in Section 5 of the Habitat and Protected Species Risk Assessment by Penn Associates dated February 2016.

Reason: In the interests of preserving protected species and their habitats in accordance with Policies E16, E17, E18, E19 and E20 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

8. The development shall be carried out in line with the drainage scheme detailed in the following documents and plans;

- Flood Risk Assessment report ref. TPIN1047/FRA Rev. E by Curtins dated September 2014
- SuDS Maintenance Plan ref. N17254 Rev. 1 by Patrick Parsons dated April 2019
- Drg. no. N17254-230 Rev X7 Private Drainage Layout Sheet 1
- Drg. no. N17254-231 Rev X9 Private Drainage Layout Sheet 2
- Drg. no. N17254-232 Rev X8 Private Drainage Layout Sheet 3

Reason: In the interest of the adequate disposal of foul and surface water in accordance with Policy U8A of the City of Durham and Part 14 of the NPPF.

9. The Travel Plan as detailed in MTP Ref: 19-130 N Rev. A by Milestone Transport Planning Limited dated 09/07/2019 shall be implemented, monitored and reviewed in accordance with the approved details.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policies Q2, R11, T5 and T11 of the City of Durham Local Plan and Parts 9 and 15 of the National Planning Policy Framework.

10. The Construction Management Plan outlined within the Construction Management Strategy Note MLS-CMS rev B shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policy Q8 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

11. No external construction works, works of demolition, deliveries, external running of plant

and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policy Q8 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

12. Any tree or hedgerow within or on the site boundary must be adequately protected from the construction works in accordance with BS 5837 2012 and no trees or hedgerow within the site or on the site boundary as identified on the 'site location plan Drg. no. 708. 02B' shall be removed unless a scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of both visual amenity and biodiversity having regard to the objectives of Policies E14, E16 and E19, and Part 15 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

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
- County Durham Strategic Housing Land Assessment
- County Durham Strategic Housing Market Assessment
- Statutory, internal and public consultation response



Planning Services

12 additional dwellings (132 dwellings in total) linked to applications DM/16/00400/OUT & DM/18/03759/RM for the erection of 120 dwellings Persimmon Homes Durham Land To The East Of Mill Lane, Sherburn, DH6 1HP Ref: DM/20/00669/FPA

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Comments

Date 28th July 2020

Scale Not to Scale