



Area Planning Committee (North)

Date Tuesday 28 September 2021
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 15 June 2021 (Pages 3 - 20)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/21/02577/FPA - Land Opposite 'The Waggon Inn, West Road, Tantobie, DH9 9SL (Pages 21 - 40)
Construction of 9no. residential dwellings (Use Class C3) with associated access and landscaping works
 - b) DM/21/01036/FPA - Land South of Carlingford Road, Chester-Le-Street (Pages 41 - 54)
20m high telecommunications pole with 6No. TEF Antennas, 3NO. TEF ERS and associated works
 - c) DM/21/02574/RM - Plot 12 The Pastures, Lanchester, Durham, DH7 0BT (Pages 55 - 72)
Application for reserved matters consisting appearance, landscaping, layout and scale from approval
DM/19/00118/VOC

- d) DM/21/02516/RM - 15 The Pastures (Plot 14), Lanchester, Durham, DH7 0BT (Pages 73 - 90)

Approval of reserved matters (appearance, landscaping, layout and scale) relating to planning permission
DM/16/00871/OUT

- e) DM/20/03609/FPA - Field House, West Road, Annfield Plain, Stanley, DH9 7XA (Pages 91 - 102)

Use of interior and exterior curtilage of Greencroft indoor shops for the holding of occasional seasonal events

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

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
20 September 2021

To: **The Members of the Area Planning Committee (North)**

Councillor M McGaun (Chair)
Councillor A Watson (Vice-Chair)

Councillors J Atkinson, B Bainbridge, G Binney, J Blakey,
L Brown, M Currah, K Earley, J Griffiths, D Haney, C Marshall,
E Peeke, J Purvis, J Quinn and S Wilson

Contact: Lucy Gladders

Tel: 03000 269 712

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the **Council Chamber, County Hall, Durham** on **Tuesday 15 June 2021** at **9.30 am**

Present:

Councillor M McGaun (Chair)

Members of the Committee:

Councillors B Bainbridge, G Binney, J Blakey, D Freeman, J Griffiths, D Haney, C Marshall, E Peeke, J Purvis, J Quinn, A Watson (Vice-Chair) and S Wilson

Also Present:

Councillor D Wood

1 Apologies for Absence

Apologies for absence were received from Councillors L Brown, M Currah and K Earley.

2 Substitute Members

Councillor D Freeman substituted for Councillor L Brown.

3 Minutes

The minutes of the meeting held on 25 November 2020 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor C Marshall noted in respect of Item 5a, DM/21/00952/FPA - Land South West of 2 Humber Hill, Stanley he was a Local Member and had called-in the application to Committee, however, he had not yet formed a judgement as regards the application.

Councillor S Wilson noted in respect of Item 5b, DM/21/01263/FPA - 3 Eureka Terrace, Tanhills, Nettlesworth he was a Local Member and had called-in the application to Committee, however, he had not yet formed a view as regards the application.

Members noted items from the agenda would be considered in the order 5a, 5c, 5d and 5b.

5 Applications to be determined by the Area Planning Committee (North Durham)

a DM/21/00952/FPA - Land South West of 2 Humber Hill, Stanley

The Senior Planning Officer, Louisa Ollivere, 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 proposed upgrade to the existing base station telecommunications apparatus, replacement 20m streetpole and associated ancillary works and was recommended for approval, subject to conditions.

The Chair thanked the Officer and asked the Mr Alan Robson, local resident speaking in objection to the application to address the Committee.

Mr A Robson noted he was a member of the Stanley Residents Against 5G group and explained they noted no benefit in having 5G in the area. He noted the application stated the mast would only cover a 250 metre radius, approximately 100 properties in the area, a lot of which were occupied by older persons and therefore the application would not benefit the wider area. He added that the applicant had stated the mast covered a 0.15 mile radius and noted that there were seven properties within the dangerous exclusion zone. He noted that the mast was proposed as an upgrade, not as a new installation, which he felt was incorrect as the new mast was three metres from the original and the original would be taken down. Mr A Robson stated that 180 scientists had signed a moratorium on 5G based upon its health impacts. He added the application stated that it would benefit education and health, however, there was no indication that there were issues in terms of connectivity in those sectors. He explained he felt 5G would not make an impact as, by its design, one would need to be quite close to a 5G mast to benefit from it, and therefore the Stanley Residents Against 5G saw no benefits to 5G whatsoever.

Mr A Robson noted the existing 4G coverage at Humber Hill and stated that there was a huge cancer cluster in the Humber Hill / Wear Road area, and he understood, upon speaking to households in that area they all had issues in relation to cancer, including younger people. He reiterated there were no education or health benefits for the area and that 180 scientists had signed a moratorium relating to 5G due to its health impacts on humans. He concluded by noting Stanley Residents Against 5G believed that the negatives of the application outweighed the benefits.

The Chair thanked Mr A Robson and asked Mr Mark Steel, local resident speaking in objection to the application to address the Committee.

Mr M Steel stated that 5G was not 4G, adding it was not an upgrade to 4G, it was the antenna design. He noted he was a weapons systems expert and added that people had not been told that the technologies involved had been developed to attack enemies on the battlefield and were not a telecommunications upgrade. He noted that the antenna design could be up to 100,000 times powerful than a 4G antenna and that while 4G radiated following an inverse square law, 5G focussed the radiation. Mr M Steel noted that the International Commission on Non-Ionising Radiation Protection (ICNIRP) would state that there were no damaging effects from non-ionising radiation, Mr M Steel stated that was false. He noted that non-ionising radiation was used in lasers to cut steel and added that anyone that thought non-ionising radiation that was focused in a beam was safe was not correct. He noted that Public Health England (PHE) did not expect to see any further increase in radiation from the deployment of 400,000 5G masts across the country, Mr M Steel stated that was also false. He added that people were being misled by public authorities and it was very concerning. Mr M Steel noted that the fact that Government had stated the health effects could not be taken into consideration in planning applications was extremely worrisome. He reiterated that the technology was derived from battlefield technology, noting he had seen images of those that had been attacked by such technology, and noted they were not very pleasant. Mr M Steel stated that the technology was radar that could focus onto a target and he had documentation as regards the technology. Mr M Steel noted the Council had a duty of care, with primary legislation to do no harm and asked how the Council could allow an act of Parliament to not take into consideration the serious detrimental health effects. He stated that the Social Care Act 2012 noted that the Secretary of State had a duty to protect the population from non-ionising and ionising radiation and concluded by stating that was not the case with 5G.

The Chair thanked Mr M Steel and asked the Senior Planning Officer to respond to the comments from the speakers.

The Senior Planning Officer noted that in relation to the issue of whether the mast was new or an upgrade, the application represented a new mast, and while described as an upgrade to equipment it had been assessed as a new mast. In respect of the benefits of 5G to the area, she noted that the speed of 5G would be 100 times as fast as the current 4G, noting the example of being able to download a three hour film within a couple of minutes rather than the long time it took currently and added that it would be better for online streaming. She noted that in respect of health issues she appreciated the significant concerns raised, however, PHE, the World Health Organisation (WHO) and the UK Government had looked at all the information that was available from experts and they had come to the conclusion that adverse health effects were unlikely.

The Chair thanked the Senior Planning Officer and asked Members of the Committee for their comments and questions.

Councillor C Marshall noted the role of access to IT and broadband in terms of the economy and, having held the Cabinet role for Economic Regeneration, he understood the positive impact improved connectivity had on communities across the county. He asked as regards the dangerous exclusion zone and whether there was evidence that the cancer rates were higher in the area described when compared to the rest of the county. The Senior Planning Officer noted that as regards the exclusion zone, Planning Departments were not required to know the detail, however, there were guidelines as regards the exclusion zones and they were set by ICNIRP. She added that mast operators were only required to self-certify when making their planning application. She added that there may be properties within an exclusion zone, however, as long as the levels were within the guidelines then it was deemed acceptable and was not an issue considered by Planners. The Senior Planning Officer noted Planners did not have the information in terms of numbers of cancer cases, adding that Planning was not required to consult with Public Health on such types of application, with submission of the self-certification in respect of compliance with levels meant that it would be acceptable in terms of planning.

Councillor S Wilson noted the challenge to the information from the WHO, PHE by the speakers and asked the Solicitor – Planning and Development, Clare Cuskin as regards the strength of any decision against the proposals would have, noting he felt it would be difficult to go against the information from Government and a supernational organisation in terms of refusing an application. The Solicitor – Planning and Development noted that she agreed and stated paragraph 118 of the National Planning Policy Framework (NPPF) was clear that Local Planning Authorities should not seek to impose health safeguards different to what was set out within international commission guidelines.

She added that Officers were satisfied that the proposed development would meet those guidelines and therefore if the Authority were to refuse the application solely on health grounds then that would be very difficult to sustain at appeal, with potential cost consequences as a result.

Councillor B Bainbridge asked as regards the size of the mast relative to other street furniture, its impact in terms of visibility to the junction nearby, and why the location chosen was not Hilltop, being the highest point in the area. The Senior Planning Officer explained that the mast would be significantly higher than the street furniture that surrounded it, however, it was conditioned to be coloured green to match existing street poles in the area. She added that in respect of the junction the boxes would be set back from the junction and no issues had been raised by Highways. It was added the site was chosen as it was an existing site, and rather than looking for an alternative site it had determined by the applicant as being the most suitable site.

Councillor D Freeman noted the concerns of residents, however, he felt there were no planning grounds to do anything other than approve the application.

Councillor S Wilson moved the Officer recommendation for approval, he was seconded by Councillor D Freeman.

Upon a vote being taken it was:

RESOLVED

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

c DM/20/03802/FPA - Land to South West of Osborne Court, Newfield

The Senior Planning Officer, Louisa Ollivere, 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 a 4 Bedroom brick built house with associated amenities and was recommended for approval, subject to conditions.

The Chair thanked the Officer and asked Parish Councillor Stephen Hann, representing Pelton Parish Council, speaking in objection to the application to address the Committee.

Parish Councillor S Hann noted he had been resident in Newfield since 1981 and therefore had 40 years of experience of the rainfall and flooding issues in the area. He noted the flood risk at the application site was very high and was an issue raised repeatedly by local residents and allotment holders who had objected to the proposals. He noted the Clerk to the Parish Council had submitted an eight point letter to the Senior Planning Officer and he would briefly mention the points raised. He noted that in reference to the NPPF and flood-risk, mitigation, and food production, he would suggest that there was an obvious impact and therefore it was the extent to which the impact was deemed acceptable. He added that the field in question had always been outside of the boundary of village expansion, serving as an example of retaining open spaces for rainfall absorption.

Parish Councillor S Hann noted Newfield had seen loss of open space land with developments of over 280 houses by Persimmon Homes with a Miller Homes development of 200 houses at Pelton. He noted that ultimately all of the water shed would run downhill towards Chester-le-Street, and he noted the impact that had been felt over the last 5-10 years. He noted Northumbrian Water had increased the capacity of drains at Chester-le-Street. He added that the further loss of rainfall absorption could further impact. Parish Councillor S Hann noted the proposals did not amount to a small build and was close to adjacent properties and impact upon their 'right to light'.

Parish Councillor S Hann noted that, due to the unique characteristics of the site, Northumbrian Water attended the site to vacuum pump the sewage outlets monthly, and perhaps more frequently. He added the plot land level fell away from the west before climbing slightly to the east and noted there had been instances in the past where the sewage outlet had been unable to cope, citing examples when a former public house at the top of the bank had been in use.

Parish Councillor S Hann noted issues relating to access and proximity to an existing allotment fence, with allotment land managed by the Parish Council, owned by the County Council. He noted the need to maintain access for maintenance, with some doubt from current plans as to whether there was sufficient space to do so. He noted previous applications for development of the site over 15-20 years ago had been rejected for various reasons.

Parish Councillor S Hann noted there had been assurances that there would be no loss of trees on the site, however, some trees had already been cut down. He added that the loss of a sycamore tree to gains access would also be significant. He noted that referred back to the NPPF and wildlife, with tree protection being part of the NPPF.

Parish Councillor S Hann noted his understanding of the County Durham Plan (CDP) was it included the establishment of housing provision for the next six years or more and added, as he had previously referenced, the area had seen a significant number of new build properties. He concluded by noting a county with an industrial past, such as Durham, needed to retain its green spaces and look to recover brownfield sites, and that the proposals were an unnecessary build in an inappropriate for all the reasons stated.

The Chair thanked Parish Councillor Stephen Hann, and asked County Councillor D Wood, Local Member, to address the Committee.

Councillor D Wood noted he was one of the County Councillors for Pelton and also Chair of Pelton Parish Council. He added the application had been called-in to Committee by the Parish Council and he noted he would not go over all the points made by Parish Councillor S Hann. Councillor D Wood noted he would refer to matters that, to his understanding of the NPPF and CDP, would carry significant weight. He noted the Officer's report and Parish Councillor S Hann both mentioned a previous application for stables at the site which had been refused. He explained that the reasons and details were not on the planning portal, so it was clearly some time ago, however the Authority at the time had decided that development was not suitable, and he asked, in the context of the CDP, what had changed since that time. Councillor D Wood noted, when looking at housing supply, NPPF Part 5 required the sufficient delivery of new homes, with the CDP establishing a six years' supply across the county. He referred to the significant housing developments in the area, including at Roseberry Park with hundreds of houses and ongoing development at Pelton Lane Ends, with over 190 additional properties. He added that when considering further planning approvals where one might need consider whether the name 'Newfield' was appropriate.

Councillor D Wood noted that in terms of Part 15 of the NPPF, as referenced at paragraph 18 of the Officer's report, outlined the need to conserve and enhance the natural environment, adding that at least two trees had already been removed from the site. He noted Members were being recommended to approve with Condition 4 noting that no trees would be felled until a detailed landscaping scheme had been submitted and approved.

Councillor D Wood noted CDP Policy 6, the development of unallocated land, was referred to twice within the Committee report, once on page 38 and again on page 44. He noted there was significant difference between the two references to Policy 6, with the reference on page 44 being vague as regards requirements, stating development within the countryside will be permitted subject to certain criteria being met, as also referred to within the Officer's presentation.

Councillor D Wood referred Members to the more detailed list of criteria as set at paragraph 24 on page 38 of the report, with the last two being 'development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: ...makes use of previously developed land and reflects priorities for urban regeneration'. He noted that while the conclusion of the Officer's report notes the CDP provided a greater degree of flexibility, in his mind the early section of the report, at page 38, was quite clear in use of the word 'and' throughout the list, showing all items on the list must apply for development to be permitted. Councillor D Wood noted that the site had not been previously developed, with there only being record of one previously refused planning application. In light of that, Councillor D Wood asked that Members consider very carefully the wording of paragraph 24 which he believed deserved significant weight in the decision making for the application.

The Chair thanked Councillor D Wood and asked Mr Michael Brown, Secretary representing the Newfield/South View Allotments Association, speaking in objection to the application, to address the Committee.

Mr M Brown thanked the Chair and noted that the Allotment Association had submitted their views to the Planning Department, however they did not appear to have formed part of the Officer's presentation. He noted he would cover four main areas: drainage; water supply; security and fence maintenance. He explained the allotments comprised of 32 plots, with six adjacent the application site. In terms of drainage, Mr M Brown noted there had been previous flooding on the allotment site, causing problems and destruction of crops. He added that there had been surface water flooding as well as from a manhole cover within Plot 2 and noted regular attendance by a flushing wagon on the outskirts of the allotments flushing out the drains on the main road. He noted the allotment holders had cooperated with the proposed developer's contractors who needed access to the manhole cover, and they had noted from a camera inserted into the drain that there were some kinks within the drain that may have been causing the blockages and therefore was an issue that needed to be looked into further.

Mr M Brown noted that the water supply for the allotments cut across the proposed development site and there was great concern that should the water supply be cut during development and asked what guarantees there were in terms of reinstating the supply, perhaps with a condition to state supply would be reinstated within 24 hours as there was livestock on site and crops, and while allotment holders collected rainwater it would not be enough in dry spells.

He added that in reference to security there was a fencing corridor adjacent to six of the allotments and concerns had been raised as regards people gaining access to allotments from that corridor, with break-ins having occurred. He concluded by noting that the fence referred to by Parish Councillor S Hann was maintained by the Parish Council and access would be required to carry out maintenance and ensure security.

The Chair thanked Mr M Brown and asked Mr Steven Clements, agent for the applicant speaking in support of the application, to address the Committee.

Mr S Clements thanked the Chair and noted that he represented The Green Architect who were working on behalf of their clients to design their 'forever home', in which to raise their family in their hometown, in a dwelling suited to their needs. He explained that the proposed dwelling was a reasonably sized brick-built house with four bedrooms and living spaces tailored to the family's needs. He added that when assessed in the context of the site as a whole, the dwelling sat comfortably within the large plot. He noted the site left in others owners' hands could see multiple homes designed upon it. Mr S Clements noted the design process entailed three key principles: design, with the client having a specific footprint in mind; easement on the drainage that runs across the rear yard, with the design such to not infringe upon this, the nearest point being 300mm; and the impact of the development on neighbours. In reference to the last point, Mr S Clements explained that the initial design had the dwelling roadside of the plot, adjacent to the new development on William Street, however, separation distances could not be met, and the 45 degree light splay was encroached. He added that the current design was fine-tuned to meet each of those criteria.

In reference to drainage, Mr S Clements noted the design was such to compliment the topography of the land with the building being sunken into the plot, and with access to the roadside at a similar gradient to the existing bank, avoiding run off to neighbouring plots. He added that a CCTV survey of the sewer line suggested that all connections to the plot were functioning correctly and there were no private connections that added additional load to the network. He noted any minor issues could be addressed within the detailed design and construction. Mr S Clements noted he had witnessed torrential rain at the site first-hand, and did not note ponding of water, water dispersing over a two to three hour period.

In respect of ownership and ecology, Mr S Clements explained that the site was owned by his client and no third party had any right to access the site in any manner. He added that may have been overlooked over time, due to the nature of how the site had sat, however, that should not deem it accessible by anyone other than his client.

He noted that the site was underdeveloped in terms of biodiversity and hedgerows and planting would help to enhance the environment in comparison to what current existed, as well as the replacement of tree that had been lost through development. He added that the design had been in consultation with the Planning Officer to bring the scheme in line with Council expectations and changes had been made in respect of fenestration and a reduction in the garage size to ensure subservience to the main dwelling. He reiterated that the client had carefully designed the dwelling to be their 'forever home' and had the same outlook and would have the same objections neighbours would have in relation to any future development. Mr S Clements noted the side passage was to allow access and maintenance to the central paddock, as per an existing agreement with a resident, meaning that access was essential. He added that the passage also allowed for the maintenance of the allotment fencing. He noted the scheme would look to utilise as many sustainable building methods as feasibly possible, including solar panels and water harvesting in order to be self-sustained. Mr S Clements concluded by noting that he hoped the planning process so far had shown a desire to work with the Council to deliver a scheme that met the clients' needs as well as those of the Council.

The Chair thanked Mr Steven Clements and asked the Senior Planning Officer to respond to the points raised by the speakers.

The Senior Planning Officer noted that in respect of points raised by Councillor D Wood in terms of CDP Policy 6, there were ten criteria to ideally comply with, however, they would not be set out in great detail within a report if not relevant to a scheme, for example "...where possible a previously developed brownfield land site..." as the site was greenfield, however that did not mean the site was not suitable for development. She added that the more critical issue was whether it was a sustainable location and noted that in terms of "...where appropriate reflects priorities for urban regeneration..." as the site was a village location it was not felt that was relevant in relation to the proposed development. She explained that the Authority was aware of the removal of a tree a few months ago and members from the Enforcement Team had attended the site. The Senior Planning Officer noted it had only been brought to her attention today that the sycamore tree had been removed. She noted that the Council's Tree Officer had assessed the trees on site, and that particular one had not warranted a Tree Preservation Order and the conditions attached were that the tree would be suitably replaced. In respect of other issues that were raised, the Senior Planning Officer noted that in terms of the sewer blockage issues that was an issue for Northumbrian Water and they had not raised any concerns when consulted upon the application.

Councillor D Wood asked if Officers could reflect upon the wording used within the sections of the report he had referred to as the initial wording within the report had not made it clear why those two criteria were not referenced later in the report. He added he felt it would be useful for future applications that, where criteria were discounted, that they were flagged within the report itself. The Principal Planning Officer, Graham Blakey explained that the report contained a summary of CDP policies, which were set out in great detail within the CDP itself. He noted Members may wish to note words such as "...where relevant...", however, he explained he took on board the comments as regards those criteria that were being discounted for future reference.

The Senior Planning Officer noted that in terms of flooding it was a complex issue due to the unusual nature of the site and that there were overland flow routes at the rear of the site that could not be impeded. She added that those had been designed to be within the garden and noted there would be no land level changes or building in that area. She noted the current land flowed down towards the allotments and Officers would not wish to see that increased. She added that applicant had submitted details of land level changes, which were not significant, and there was a suitable SuDS measure incorporated into the development and flood mitigation measures could also be conditioned in relation to the building itself.

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

Councillor A Watson asked as regards the water supply issue raised and asked the applicant's agent if there was any issue in terms of adding a condition to repair any loss of water supply within 24 hours. He noted that if that could be incorporated, as the proposals were in accord with the CDP, he would move that the application be approved.

Councillor C Marshall noted issues that had been raised included that the site was a greenfield site with a positive impact on the local area in terms of the environment and biodiversity. He noted the points raised by Parish Councillor S Hann and Local Member, Councillor D Wood in terms of the amount of development in their area. He added he was not yet fully convinced the economic benefits of the development outweighed the harm to the environment in the local area.

The Solicitor – Planning and Development noted, in reference to the suggestion by Councillor A Watson, that she was concerned as regards the proposed condition.

She noted, as Members would be aware, it was only possible to condition in certain circumstances, one of which was that a condition could only be imposed if it was felt necessary to make the development acceptable and that the application would be refused unless that condition was imposed. She noted that while it was possible to ask the applicant as regards the issue, she advised it she would not be comfortable in advising Members that as being appropriate.

Councillor S Wilson asked as why the greenfield element of Policy 6 was not deemed relevant without a robust reason, with concern that the CDP was being circumvented. The Principal Planning Officer noted the point relating to Policy 6 and development outside the area of allocation, Policy 6 being in place to 'mop up' those application made outside of allocations. He noted that it needed to balance the impacts within each location and ultimately there would be sites that were not brownfield and that was the purpose of those caveats within the Policy, i.e., 'where relevant' and 'where appropriate'. He added that many of the sites could be sustainably located and close to services, with the NPPF giving the direction that sites which may be greenfield, but were sustainably located, should be sequential preferable to brownfield sites that were further away from settlements and in the open countryside. The Principal Planning Officer explained that in this instance Planners felt that the benefits of the scheme outweighed the loss of the green space. He noted building into the green space brought a transformative impact, however, that would be mitigated by the design and landscaping that had been achieved.

Councillor A Watson asked why a condition could not be included as regards the water supply if the applicant was acceptable. The Solicitor – Planning and Development noted that the courts had made it very clear that conditions must meet certain tests and it was not relevant if the applicant agreed, if the condition was unlawful in that it did not meet those tests then it was not something that should be imposed. She reiterated that was her advice, however, Members were within their right to impose conditions as they saw fit.

Councillor J Blakey asked what guarantees there were in terms of Northumbrian Water looking to solve any flooding issues. The Senior Planning Officer noted that Northumbrian Water had raised no concerns as regards flooding and reiterated a SuDS would be incorporated into the site to ensure run off to the allotment site was not significantly different to the current situation. She added that the overland flow route to the rear of the site would not be impeded and noted that any issues in terms of sewer flooding was for Northumbrian Water to rectify. In terms of the water supply issue, the applicant had undertaken a drainage survey and were aware of all the drains and connections on the site.

The Principal Planning Officer noted the statutory requirements on Northumbrian Water and added they had been given the opportunity to comment on possible solutions when responding to consultation on the application. He added that they offered no objections to the application, noting they may have proposals in place or the ability to control issue separately. In respect of a condition relating to water supply, he noted there were six tests a condition must pass, one of which was enforceability. The Principal Planning Officer highlighted that should a condition state a water supply must be reinstated within 24 hours, he would ask Members to consider what ability the Planning Department would have in being able to enforce that condition adding that, should the condition be deemed fallible, the condition could be challenged. He noted the advice that Members had been given in terms of the tests for conditions.

Councillor C Marshall noted that whatever people's view were in terms of the flood risk, the removal of plants and wildlife would only exacerbate the issue and, given the climate emergency, the Committee needed to be careful to make sure any development was sympathetic to the environmental concerns and while the design of the property was sympathetic to the environment it was in, the impacts on the local environment, biodiversity and the potential to exacerbate problems for allotment holders outweighed the potential benefits.

Councillor C Marshall moved that the application be refused, he was seconded by Councillor S Wilson.

Upon a vote being taken the motion was LOST.

Councillor A Watson reiterated he proposed approval of the application, though he would not look for a condition in relation to the water supply, however, he would wish for it to be noted that the applicant had been willing to repair any loss of connection. The Principal Planning Officer noted that an informative could be included that, while not legally binding, referred to maintaining the water supply. He added another issue that had come to light was that Conditions 8 and 9, relating to contaminated land, were no longer required and therefore if Members were minded to approve the application they would be deleted. Councillor A Watson noted he was happy to amend his motion on the basis outlined by the Principal Planning Officer.

Councillor D Freeman noted he would second the motion for approval, adding it was a finely balanced application, it was a greenfield site, however it was a single property and was sustainable application. He noted that landscaping could improve as a result of the application, although the removal of the trees prior to permission was not a good start and he hoped the applicant would ensure the site was in a better condition environmentally after development was completed.

Councillor A Watson moved the Officer recommendation for approval, he was seconded by Councillor D Freeman.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report, with the removal of conditions 8 and 9, and the addition of an informative relating to the water supply.

d DM/21/00690/FPA - 55 Lintzford Road, Hamsterley Mill

The Principal Planning Officer, Graham Blakey, 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 raising of roof height and installation of dormer windows to create a two-storey dormer bungalow and garage, two storey extension to front and single storey orangery extension to rear and was recommended for approval, subject to conditions.

The Chair thanked the Officer and asked Dr Anton Lang representing Mr and Mrs Glass, neighbours to the property, to address the Committee in objection to the application.

Dr A Lang thanked the Chair and Committee and noted that it was professional opinion that application represented an overdevelopment of the plot and the scale of the extension, as illustrated by the elevations shown, did not suit the house, plot, or locality. He added that Members would have noted from the Case Officer's report that there were seven objecting neighbours and that represent seven households, with only nine letters in consultation having been sent out. He noted seven objections from such an estate represented a lot of objection to the proposed development.

Dr A Lang explained that it was considered that the scheme was concerned with increasing the value of the property, rather than out of any particular or demonstrated need, else the applicant would have purchased a larger house. He noted that at paragraph 26 of the report, even the Case Officer appeared to be a little confused as it is stated that the development would not be a two storey property, however at paragraph 29 the resultant scheme would create a two storey property. Dr A Lang noted there had been amendments to the scheme, however, it was not felt that they had been enough for this property in this location. He added that the resultant property would look different from its neighbours and therefore impact upon the character of the locality.

He noted that the report did note that some privacy minimums were met, however, those minimums did not reflect the character or grain of the locality as evident from the site location plan highlighting a more spacious feel. Dr A Lang noted windows proposed for the upper floors and therefore there would be impact in terms of neighbours looking across from the side where there was already built development.

Dr A Lang explained that it was not that there was no scope for extension to the property for enlargement, rather the scheme proposed was too much. He added it was not the end, the application could be refused, and the architect and applicant could come back with something smaller and more appropriate for the plot and house. He noted that, at page 5, bullet point 3 of the Case Officer's report (page 61 of the agenda pack) he had drafted a refusal reason that would be defensible and reasonable. Dr A Lang concluded by noting he and his clients would ask that the Committee refuse the large scheme so that a more considered and reasonable one could be submitted later for planning consent.

The Chair thanked Dr A Lang representing and asked Mr A Jones, Applicant, to address the Committee in support of his application.

Mr A Jones thanked the Chair and Committee and noted that the property was an old property on a third of an acre plot, in need of updating to current standards. He added that there was only one bathroom at the property and he noted there was a need for a second bathroom due to medical requirements. He explained that there was no scope to add one to the property in its current form and he had no desire to move away from the property, having lived there a good while. He noted the property was smaller than other properties in the area and would remain smaller than those properties even after the proposed works. Mr A Jones noted the property would be lower in height than surrounding properties and added that a property under construction a few properties down from his, similar in that it was a bungalow with dormers, would be a full 65 cm higher than his property should the proposals be approved. Mr A Jones concluded by noting he would be happy to answer any questions Members may have.

The Chair thanked Mr A Jones and asked the Principal Planning Officer if he could respond to the issues raised by the speakers.

The Principal Planning Officer noted that it was unfortunate that Members were not able to have a site visit to fully understand the estate at Hamsterley Mill, with a large number of properties on the estate having applications for, or ongoing, renovation works. He added that there was a pattern emerging of older properties that required renovation, being beyond the lifespan in terms of materials, or with new owners wishing to establish their own design for their property.

He noted that the applicant had stated, one property had been approved for demolition and rebuild, and with a number of other works within the estate. The Principal Planning Officer noted that the Authority had been successful in defending against new additional properties within back gardens, so that the character of the development would be maintained. He added that in reference to amenity impacts, they had been assessed within the Officer's report and while minimums, they did fall within the criteria set out in the Supplementary Planning Document and led to the conclusions as set out within the report.

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

Councillor S Wilson noted that he fully understood the concerns raised, however, the application met the requirements of the NPPF. He noted that it was a judgement call in terms of what Members may not have had the chance to see, in terms of character. He noted he would listen to other Members' comments, however, noted some weight should be given to the fact Councillor W Stelling had called-in the item, with his depth of knowledge about his local area.

Councillor J Blakey asked as regards the difference in height from existing compared to the proposals. The Principal Planning Officer referred Members to the elevations on the projection screen. He noted that the proposed ridgeline was a lot higher in order to achieve the internal headroom, the ridge being approximately an additional three metres in height. He noted the projection and bedroom window, and referred Members to the site location plan to show the relationship of the proposed property to the neighbouring property to the east. He added that Officers were of the opinion that the proposed ridge height increase could be accommodated and not have an adverse impact upon neighbouring properties.

Councillor J Blakey moved the Officer recommendation for approval, she was seconded by Councillor S Wilson.

Upon a vote being taken it was:

RESOLVED

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

b DM/21/01263/FPA - 3 Eureka Terrace, Tanhills, Nettlesworth

The Senior Planning Officer, Steve France, 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 conversion of existing unoccupied 12no bedroom hostel into 5no self-contained supported living units (class C3.b) with staff and communal areas and was recommended for approval, subject to conditions.

The Senior Planning Officer noted that the applicant was in attendance to answer any questions Members may have.

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

Councillor S Wilson noted the concerns he had initially when calling the application to Committee related to highways and he wished to thank the applicant who had attended a meeting of the Parish Council and worked with the community in a very positive manner. He added the condition within the recommendation as referred to by the Police helped give good control and confidence as regards the concerns raised by the community. He noted that he had experience in working in a safeguarding profession and the work that was going into the property to give the space that was needed and to be able to provide bespoke specialist care was a boon for the county as well as his local Ward and therefore he was very happy to go with the Officer's recommendation and moved that the application be approved.

Councillor C Marshall acknowledged the huge steps taken by the applicant to engage with the local community and thanked all involved, including the Senior Planning Officer, in being able to have an application that was sympathetic to the environment that it was in and added that it was an example of good planning. He added the positive partnership working between the applicant and the community would put the development in good stead and noted he was happy to second the proposal for approval.

Councillor S Wilson moved the Officer recommendation for approval, he was seconded by Councillor C Marshall.

Upon a vote being taken it was:

RESOLVED

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

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/02577/FPA
FULL APPLICATION DESCRIPTION:	Construction of 9no. residential dwellings (Use Class C3) with associated access and landscaping works
NAME OF APPLICANT:	Mr Thomas Forster, Forric Developments Ltd Land Opposite 'The Waggon Inn'
ADDRESS:	West Road Tantobie DH9 9SL
ELECTORAL DIVISION:	Tanfield Steve France
CASE OFFICER:	Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a fenced paddock, sited at the western end of White-le-Head, Tantobie, adjacent the B6311. White-le-Head sits 1.6 miles north-west of Stanley and 4.5 miles north-east of Consett. The site is 0.4 miles from the A692 that connects Consett to Gateshead.
2. The village is a small settlement with a basic range of services and facilities proportionate to its size, including a convenience store, take away, pub, Community Centre and playing fields, allotment gardens and a commercial depot. As such it relies on a hierarchy of surrounding settlements for schools and employment.
3. There is a range of housing in the area, including traditional terracing, local authority-built houses and individual dwellings. The form of the settlement is heavily influenced by the industrial past of the area.
4. The site slopes down from the B6311 towards the south, with a loose-knit group of buildings extending south-west from the village, accessed by an unadopted access road wrapping around the bottom of the paddock area. There is a bus stop and post box adjacent the pavement on the eastern end of the site frontage.
5. At the time of the Officer's site visit the site boundaries were defined by post and wire fencing and access via a wooden field gate on the south boundary. Sporadic bushes were restricted to the site boundaries with the main area of the site

occupied by unimproved grassland suitable for grazing. A belt of trees along the west boundary has recently been removed.

6. The site is 0.29ha. in area.

The Proposal

7. The planning application seeks approval for the construction of 9no. residential dwellings (Use Class C3). Seven of the dwellings are detached. There is one pair of semi-detached units. All dwellings are 2 storey and have off-road parking to County Highways standards. Four dwellings at the east end of the site, including the semis, front the main road. The remaining units are served by a private drive arrangement that accessed the main road opposite the access point to two public footpaths, to the west of the dwelling converted from the former Waggon Inn Public House. The site access is within the 30mph speed limit zone.
8. The proposals do not directly affect the bridleway that runs along the boundary on the west of the site, nor the metalled private access drive that wraps around its southern boundary.
9. As a development of less than 10 residential units the proposal constitutes 'minor' development, which would usually be determined under delegated powers. This application is reported to Committee upon the request of Councillor Gordon Binney and the MP, Kevan Jones to consider the principle of development in this location and concerns at the implications of the scheme as set out by the objectors, in a public forum.

PLANNING HISTORY

10. 1/2006/0132 - Erection of 3 dwellings (outline): Refused: Appeal Dismissed. The policies in the Derwentside District Local Plan, 1997, sought to restrict development outside built-up areas if it resulted in encroachment into the surrounding countryside, and further ensure that new housing development did not extend beyond the built-up area of the settlement. The applicants argued the site was centrally located in White-le-Head and the development was an infill.
11. The Inspector concluded the land had a stronger relationship with the countryside notwithstanding the presence of the access drive around it and that the development did not 'round off' White-le-Head and was harmful to its setting. The presence of sporadic development nearby did not alter his finding.
12. The nature of the topography of the village in accessing services and shops was considered, 'not conducive to walking'.

PLANNING POLICY

NATIONAL POLICY

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in

achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

14. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
15. The following elements of the NPPF are considered relevant to this proposal;
16. *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.
17. *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.
18. *NPPF 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.
19. *NPPF Part 8 - Promoting healthy and safe communities.* Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.
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 15 - Conserving and enhancing the natural environment.* Recognises the wider benefits from natural capital and ecosystem services – including the economic and other benefits of trees and woodland.

NATIONAL PLANNING PRACTICE GUIDANCE:

22. National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a

number of topic headings and is subject to change to reflect the up-to-date advice of Ministers and Government.

LOCAL PLAN POLICY:

23. The following policies in the Durham County Plan (adopted October 2020) are relevant to the consideration of this application:
24. *Policy 6 (Development on Unallocated Sites)* supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
25. *Policy 15 (Addressing Housing Need)* establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
26. *Policy 19 (Type and Mix of Housing)* advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
27. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
28. *Policy 25 (Developer Contributions)* advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
29. *Policy 26 (Green Infrastructure)* states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

30. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
31. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
32. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
33. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
34. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
35. *Policy 39 (Landscape)* states, 'Proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects'.
36. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.

37. *Policy 41 (Biodiversity and Geodiversity)* restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

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

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=63742496933140000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. Highways – The detail of the submitted highways layout has been redesigned during the course of the planning application and is capable of approval subject to confirmation of the details. Subject to these details of layout and to ensure sight-lines the proposals are considered acceptable.
39. The site is not affected by The Coalfield Development High Risk Area, and the Coal Authority do not require consultation on this basis.
40. Northumbrian Water have been consulted on this proposal and have not replied at the time this report was written. Any response received before the Committee Meeting will be relayed verbally at the Meeting.

EXTERNAL RESPONSES:

41. Following a complaint regarding the felling of trees, the Forestry Commission Woodland Officer investigated the works as potentially an 'Illegal Fell'. They subsequently confirmed that the investigation has closed for this case and that no further action will be taken.

INTERNAL CONSULTEE RESPONSES:

42. *Spatial Policy Officers* advise 'the site is currently utilised as a paddock, however its historic use was for mining associated with Tanfield Moor Colliery. The landscape continues to bear witness to this industrial legacy; pockets of development from this period remain to the south of the site, in a scattered array which may be conceived as forming an outer 'edge' to White-le-Head settlement'.
43. 'The site is not covered by any specific planning designations, and I am of the view that it would be considered against the requirements of Policy 6 of the CDP. This policy applies to the development of unallocated sites which are within, or well-related to, the built-up area. Proposals should satisfy criteria 'a' to 'j', as appropriate. It would appear that criteria 'a', 'c', 'd', 'e', 'f', 'h' and 'i' would form the basis for determining the suitability of this site in principle'.
44. 'It is likely that the scheme would have impacts in relation to the character, form and setting of the settlement in accordance with the directions of criteria 'c' and 'd'

are flagged owing to the location of the site on the settlement and its potential impact on the setting and character of the settlement’.

45. It is noted that the site was part of a much larger site that was subject to the Strategic Housing Land Availability Assessment (SHLAA) that informed housing allocations in the County Plan with concerns in relation to it being poorly related to the existing settlement and in landscape terms. Landscape noted that impacts were likely to be less problematic if a smaller site were considered.
46. The Spatial Policy response sets out the required policy framework and notes contributions would be required towards open space and green infrastructure off site - this would equate to £1739 per dwelling (£15,651) and that sustainability requirements must be met.
47. *Public Rights of Way* Officers note a 32m length of public bridleway no. 103 Stanley abuts the west site boundary. The application documentation suggests that the bridleway will be unaffected by the proposed residential development.
48. The County *Ecologist* notes that the Preliminary Ecology Assessment states that medium distinctiveness habitats are on site and in good condition; as a result, the LPA will be using the information provided by the DEFRA metric to determine net gains. Given that this is a minor application the LPA is willing to accept a financial contribution. The current rate is £3.7K per biodiversity unit therefore a contribution of £13,727 (based on 3.71 biodiversity units being lost to development). The contribution should be paid to the LPA prior to commencement and shall be used for the delivery of biodiversity enhancements within County Durham.
49. The County *Tree* Officer writes, ‘since the application has been submitted felling of mature trees have taken place, this opens the site from all viewpoints. To ensure replanting takes place the landscape plan shows hedge planting around the site which include specimen trees; proposed tree and hedge species are acceptable’.
50. The County *Landscape* Officer considers that ‘the proposals would cause harm to the local landscape and it is unlikely that this could be reduced other than through substantial design changes or additional mitigation. If these issues are not resolved prior to determination the proposals would conflict with Policy 39 and with the requirements of policies 6, 10, 29 and 40 where relevant unless the benefits of development clearly outweigh the harm’. The site is described as forming ‘a green gap on the edge of the settlement’.
51. *Environmental Health (Contamination)* Officers have reviewed the submitted reports and conclude that due to the fact that this development constitutes a change of use to a more sensitive receptor, standard contaminated land conditions should apply to require detailed investigation, mitigation where required and validation of works before occupation. Informatives are suggested for unexpected contamination.

PUBLIC RESPONSES:

52. 28 letters of consultation were sent out including an extended exercise beyond those directly affected, at the request of residents. This has resulted in receipt of 13 objections, including one from the Residents of White-le-Head Residents Association with a petition of 58 names from 39 addresses, and from White-le-Head, Tantobie, Stanley, Consett and Darlington, and from County Durham Green Party. There are two letters in support. Site notices were not posted, with the application not classified as a ‘major’ proposal.

53. The Objectors challenge assessment of the site against policy 6 of the Plan, describing the site as 'stand alone and quite unspoilt'....'countryside', concerned that 'there appears to be an assumption in this application that White Le Head is a continuation of the village of Tantobie. This is not the case. It is completely different in nature e.g., density of houses, lack of village facilities etc but is merely a cluster of random, extremely well-spaced individual dwellings. No linear frontage exists '. They remind that in the application refused and upheld at appeal in 2006 the site was accepted as countryside. The development will result in the conjoining of White-le-Head and the unnamed settlement.
54. The houses will be too big and expensive for local people – therefore there are no local benefits. The creation of large 3 or 4-bedroom houses does little to contribute to sustainable housing goals, as these houses will be under occupied (the average household in the UK is 2.4 people according to ONS) and additional wasted energy and associated carbon emissions will be generated in their construction, maintenance and under occupation. The site is described as of 'disproportionate density'. The lack of affordable housing is noted, and those provided do not meet the needs of the old or disabled.
55. The site offers an open aspect for views for users of public footpaths in the area. The horses that have grazed on the site give pleasure to adults and children and are an attraction.
56. The proposed parking arrangement will result in 'gross congestion', Pavement parking is already evident in the area. The complex arrangement of existing accesses will be further complicated by the proposal to the detriment of highway safety. Access from the south of the site rather than from the main road is suggested by one correspondent, although residents who 'reside down the unadopted road, in the unnamed settlement' who also run holiday and horse related businesses express concerns for highway safety. Proposed drives existing onto the main road will restrict opportunities for on-street parking and commercial vehicles servicing existing businesses may prevent access to the bus stops outside the site. The development may compromise this tourism activity and farm access.
57. The approach to proposed materials is contended vague.
58. Effects on Wildlife are considered unacceptable. The development will destroy the 'aural amenity' of the area by replacing the sounds of nature with residential activity.
59. The exact extent of the site is questioned in relation to the existing fence on site.
60. Distress at advance tree works on the site adjacent the Public Bridleway last winter (March) is expressed. Particular exception is taken to the wording of the submitted tree reports. Concern is expressed for the future safety of off-site trees when the site is serviced. The removal of the trees may cause flooding problems.
61. Education provision for residents' children needs consideration.
62. The relationship between the windows proposed to directly face the former Waggon Inn is substandard and unacceptable. Likewise, the effect on the residential amenity for the four properties to the south is a concern, considered a 'breach of the Human Rights Act, article 8, respect for private and family life, home

and correspondence, as being overlooked by 4 properties to this extent infringes this right’.

63. Potential land contamination issues relating to the historic presence of the colliery are raised.
64. The developer is quoted as having a lack of regard for existing residents in previous developments.
65. The nature and extent of the Planning Application Consultation exercise is criticised.
66. Of the supporters, one correspondent writes to raise concern at an apparent lack of objectivity in objectors discussion.
67. The site is contended to have a limited biodiversity value.
68. The personal circumstances of the applicant and the finances of the developer are not material; however, support is offered to local developers, supporting local trades for small scale projects.
69. Some elements of housing are in short supply and there is a need to increase good quality housing stock – with the proposals a useful contribution to local housing need.
70. The proposed 9 houses do not have a significant impact on the character of the village but could improve it and bring more trade for local shops and amenities. Not affecting the existing unadopted road, the development should not impact on existing residents and the local farmer, nor local rights of way.

APPLICANT’S STATEMENT

71. *‘The application site is located at the western end of White-le-Head and is not allocated for any land use purpose. Officers confirmed at the pre-application stage that the site is well related to the existing settlement and is therefore appropriate for consideration under Policy 6 of the recently adopted County Durham Plan which is the basis on which the application has been brought forward’.*
72. *‘The proposals have been developed with careful consideration being given to ensuring a high-quality design approach that respects local character and the urban edge setting of the site. Concerns raised by Officers at the pre-application stage have been positively addressed and the proposal would assimilate successfully with existing development whilst also significantly enhancing the settlement edge at the western end of the village. The proposals have been amended during the course of the application process to ensure that any potential issues of overlooking to adjacent residential properties, particularly the former Waggon Inn opposite the site, have been addressed and this has been achieved through an innovative design solution that ensures a strong frontage to the main road that reflects the village character can be retained’.*
73. *‘A range of technical reports have been submitted with the application to demonstrate that sustainable development in environmental terms would be achieved. Subject to conditions securing the recommended mitigation measures, the proposal is acceptable in terms of its potential environmental impacts and it is therefore fully compliant with the NPPF and relevant policies of the County Durham Plan, including Policy 6, in this respect’.*

74. *‘Overall therefore, it is the case that an entirely national and local planning policy compliant scheme would be delivered. In accordance with paragraph 11 of the NPPF, the application should be approved without delay and planning permission granted for a small but important residential development that would deliver the type of high-quality new homes that would complement the socio-economic profile of the area and help to meet the specific housing needs of the local population. Members are therefore respectfully requested to approve the application’.*

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:
<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QWCDOFGDH9U00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

75. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that whilst there are a number of detailed topics for assessment the key to determination is the principle of whether the development site is countryside or urban fringe.
76. As objectors note an application refused in 2006 with the site concluded by both the Planning Officer and the Planning Inspector not a logical extension of the village when assessed against the then relevant policy framework of the Derwentside District Local Plan 1997. That decision also pre-dates the National Planning Policy Framework, first introduced in 2012 which consolidated over two dozen previously issued documents called Planning Policy Statements (PPS) and Planning Policy Guidance Notes (PPG).
77. Policy 6 of the County Plan relates to the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and a list of set criteria.
78. Policy 10 of the Plan relates to development in the countryside, which will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of a series of exceptions directed to agricultural and infrastructure activities.
79. Particularly in light of the previous planning decision, Officers acknowledge that there is a judgement to be made on this issue. The site is an attractive open paddock, with built development last apparent on it on the 1951-1959 OS Map, before which houses and wagonways are apparent back to the 1860 Map, the land within the settlement then part of ‘Whitely Head’, near ‘Tantoby’. This clear separation in time allows the site to be considered as ‘greenfield’ rather than ‘brownfield’, or previously developed land.

80. The objectors consider Bolams Buildings – the loose group of buildings that extend south-west below the site - to be separate from White-le-Head and an ‘unnamed settlement’. It is clear however that the settlement has contracted, and the remaining dwellings were historically part of the village, physically and functionally. Whilst the dwellings in Bolams Buildings turn away from the site or present their gable ends to it, with residential curtilage included in the assessment of the extent of the built environment, the proposed development site is surrounded by built development on three sides. This is less apparent on site with mature hedging surrounding 54 Bolams Buildings giving a visual separation. The site is concluded more ‘urban fringe’ than ‘open countryside’, with assessment most appropriate against policy 6 rather than Policy 10. The proposal must then be assessed against the detailed requirements of Policy 6, as below.
81. That this is a different conclusion as that reached in 2006 reflects the specific wording of the current policies and their context in light of government advice.

The Development Plan

82. The County Plan 2020 is up to date in terms of the required consistency with the NPPF. The NPPF and NPPG guidance is a material consideration in its own right. These set out Government advice for the assessment of planning applications against the backdrop of the national imperative for new housebuilding.

The Detailed Issues

83. Having determined that policy 6 is appropriate for the nature of the site on the edge of the settlement, detailed assessment is required against it’s criteria. Spatial Policy advise that criteria ‘a’, ‘c’, ‘d’, ‘e’, ‘f’, ‘h’ and ‘i’ would form the basis for determining the suitability of this site in principle. For each the relevant criteria (in italics) Officers consider:
- *a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land; The site is edge of settlement surrounded in the first instance by existing residential, and other edge of settlement open land.* The relationship to surrounding residential use is discussed in detail below, likewise the relationship to the footpath. Claimed conflicts with the operation of holiday accommodation and agricultural operations do not appear sustainable arguments.
 - *b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development.* The extended settlement of Bolams Buildings was historically part of White-le-Head and still sits on maps as an extension of the village. Objector’s contention that these buildings sit somehow separate, as an ‘unnamed settlement’ is questionable, especially with the implications of land on the urban fringe when considered against current planning policies.
 - *c. does not result in the loss of open land that has recreational, ecological or heritage value’ or contributes to the character of the locality which cannot be adequately mitigated or compensated for.* The ecological value in the land can be compensated for. The land has no recreational or heritage value.
 - *d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement.* The scheme is argued compliant with this criteria in the assessment of policy 29, below.

- *e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.* The scheme is argued compliant with this criteria in the assessment of policy 21, below.
- *f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement.* The site fronts bus stops on both sides of the road, is a walk of around 400m from the services offered by the village, and is adjacent footpaths used as a popular cycle-route.
- *h. minimises vulnerability and provides resilience to impacts arising from climate change including but not limited to, flooding.* The approach to drainage on the site is commensurate with its status as a 'minor' application.
- *i. where relevant, makes as much use as possible of previously developed (brownfield) land.* Sufficient time has passed for the site to be considered 'greenfield' in nature. In both national and local planning policies, the use of brownfield land is a material preference rather than a stipulation.

Highway Safety

84. Highways Officers have looked at the proposals in terms of the safety of existing and new residents, to make sure the scheme meets parking and safety standards. A scheme providing detail amendments submitted in process provides for a turning head to required standards and provision of a bin-store area to assist collection.
85. The development is within the 30mph zone, with existing private drives and accesses in the immediate area accessing directly onto the B6311. That the presence of private drives will restrict opportunities for on-street parking, whilst offered as an objection to the scheme is not seen as a negative by Officers. No highways safety objections have been identified by County Highways. The private access road that incorporates the bridleway will be physically unaffected by the development has required visibility at it's junction with the main road.
86. The existing bus stop is unaffected by the proposals. As a result, the proposed development is considered to not harm highway safety, offering sufficient car parking spaces off street, in accordance with the requirements of Policies 21 of the Durham County Plan and Part 9 of the Framework.

Residential Amenity

87. There are two specific residential amenity concerns that have been identified during the application process.
88. As submitted plot 5 included a bay window on its gable side elevation at ground floor level and two-bedroom windows on the first floor. These both provided light to the rooms they served and offered visual interest to the street frontage of the development. The facing side elevation of the converted former Waggon Inn is set at a slight angle to the roadside. The ground floor includes three windows – two clear-glazed – including one made from a former doorway, and one with opaque glazing on the nearest corner of the building – with a corresponding opaque window on the front elevation apparently serving the same room. There is a single

first floor window in the west end of the elevation. Objectors identified the 21m separation requirement for facing living room windows as not compliant with the Residential Amenity Standards SPD. The applicant has revised the proposals to provide 'false' windows to the front face of the bay to ensure the facing property's privacy (noted as retained in perpetuity) whilst retaining the side windows for light. First floor windows have been replaced with recessed panels to retain visual interest on the street frontage whilst removing potential overlooking. The resultant relationship with the former Waggon Inn, at 13m separation, is now SPD compliant.

89. Within the scheme, whilst the required 9m garden length is apparent the relationship between plots 6 and 9 allows only 9m between the rear elevation and a single garage. Whilst not ideal, the relationship will be apparent to buyers of the houses and is not such that in it's own right warrants a refusal.
90. The second residential amenity relationship raised as of concern is to the gable windows of 59 Bolams buildings, to the south of the site, which has three windows on the ground floor including one in the single storey rear off-shot, and a single upstairs window. The dwelling is also used as a home office. The closest proposed dwelling, plot 4 is 31m distant at an angle of 45 degrees. Proposed plots 6 to 9 have a more direct relationship but exhibit separation distances of 35m to 45m, more than compensating for the differences in levels. In terms of both the requirements of the Residential Amenity Standards SPD and claimed conflicts with Article 8 of the Human Rights Act, in 'respect for private and family life, home and correspondence' the development is considered acceptable.
91. There are no 'rights' to views onto or across the site.

Sustainable Design

92. Policy 29 of the Plan includes requirements for new development to 'contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities' and meet increasing stringent sustainability standards.
93. As noted in the submission, the application is an evolution of a scheme submitted pre-submission where Officers suggested that a potentially acceptable form of development would have to have a clear and direct relationship to the main road, rather than be set back. The submitted scheme gives a clear street frontage – including amendments to plot 5 mentioned. The proposed units are modern dwellings with a strong, simple vernacular appearance albeit with some compromises to modern living, i.e. garage doors and patio windows. There are a range of style as and scales of development in this part of the village, and the indicative materials palette suggested gives Officers enough comfort that an appropriate detailed scheme of materials can be achieved by condition, with likewise for details of boundary markers to be provided in addition to the proposed site boundary native hedge mix detailed on the submitted landscaping plan.
94. For the latter requirement, whilst the Policy directs the latter on 'major' schemes, this application is accompanied by a Sustainability Statement. This sets out a 'fabric first' approach to demonstrating efficiency standards and lowering carbon emissions. The report sets out that the site can achieve at least a 10% reduction in carbon emissions through the application of FEE measures across the development, relying on a specification in it's appendix. There are elements of the appendix that are still to be confirmed, but sufficient provided to indicate the

scheme can meet the policy requirement. Subject to formal confirmation this additional detail – the scheme looks to meet sustainability requirements – a condition is proposed to ensure this is supplied and meets the required standards.

Other Issues

95. The removal of a belt of trees earlier in the year on the boundary with the bridleway has caused upset among neighbouring residents. The trees were not subject to a Tree Preservation Order and therefore not subject to control or protection by the Council. Correspondence with the Forestry Commission has confirmed that they have investigated a compliant and are taking no action. The removal of the trees is not a material consideration in the assessment of this application.
96. Policy 41, Biodiversity and Geodiversity, has a range of requirements, including for new development to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks. The County Ecologist notes that the required gains cannot be wholly achieved on-site, acknowledging the proposals in the submitted landscaping plan and have asked for a financial contribution of £13,727 worked out by a standardised formula, to provide the required mitigation. This is considered to therefore meet the requirements of Policy 41 in mitigating for the ecological impacts from the development.
97. The County Tree Officer is satisfied with the submitted landscaping scheme, the detail of which will be conditioned.
98. The comments of the Landscape Officer require examination. The site is proposed to be changed from open paddock to built residential development. This causes 'harm' to the open green aspect of the site as a matter of principle. The detailed comments acknowledge that any visual harm would be in the immediate vicinity of the site as, *'visual effects on receptors located further out in the landscape would be limited due to changes in topography and screening by buildings and vegetation'*. Policies 6 and 10 (Development in the Countryside) are considered mutually exclusive and the site is being assessed as urban fringe, well related to an existing settlement rather than as open countryside – the comments describe the site as a 'green gap at the edge of the settlement', with the need for a *'robust settlement boundary'*.
99. As described above – the site is effectively surrounded on three sides by existing dwellings and their gardens, the remaining boundary being formed by the bridleway to the west beyond which there is a 25m wide belt of trees that screens the site from the approach from Flint Hill. The required detailed assessment against Policy 6 is set out above. Ecology and Tree Officers raise no objection to the proposals. The resultant impact upon the surrounding landscape is subsequently reduced to the predominate, immediate views of the site from the adjacent highway as above and as a consequence bring compliance with Policies 6 and 39 of the CDP in this regard by not causing unacceptable harm.
100. For Drainage, the scheme is below the threshold where Council Drainage Officers for Surface water Drainage and Northumbrian Water for foul drainage would currently comment. The site is not within Environment Agency Flood Risk Zones 2 or 3, nor is it affected by records of surface water overland flood routes. The road fronting the site has a section classified as at Low Risk from surface water flooding, but this does not appear to directly affect the site. That the drainage from

the development will be built to appropriate standards will be regulated by the Building Control process.

101. Spatial Policy Officer have identified a need for £15,651 as mitigation for the open space needs the development of family housing will generate. The joined settlements of White-le-Head and Tantobie have a community centre and sports fields and access to an extensive network of footpaths and bridleways, that will help meet the leisure needs of the development. That the bridleway that runs alongside the site will be unaffected by the development has been confirmed by the Rights of Way Officer.
102. As a 'minor' scheme the development is below the threshold where contributions to education provision would be sought.
103. Policy 15 of the plan requires that for schemes of 5 or more dwellings, to meet the needs of older people and people with disabilities, 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard. A condition is proposed to secure this requirement.
104. With the site previously occupied by both dwellings and the colliery wagonway there will be contamination to be removed for the site to allow for the 'more sensitive receptor' – i.e. the residential use proposed. Having assessed the submitted documentation, Environmental Health Officers advise imposition of standard conditions and informatives to ensure the implications of this are fully investigated, mitigated and validated. This ensures compliance with the relevant elements of Policy 32 of the Durham County Plan and part 15 of the Framework.
105. The site is not in the Coalfield High Risk Area, so no condition is required in this respect. Spatial Policy Officers have advised against the requirements of Policy 56 – for Minerals Safeguarding, that the, 'site is within a mineral safeguarding area (coal resource). Ordinarily a Minerals Assessment would be required however it appears the site has already been mined and it would be likely to be considered exempt given its location (loosely within the built-up area) in accordance with App C'.

CONCLUSION

106. Officers are of the opinion that the proposal should be assessed against the requirements of Policy 6 of the Durham County Plan. The site is urban fringe, and the extended built area formed of Bolams Buildings is considered a historic extension of the settlement rather than a separate nameless entity as suggested by objectors.
107. The scheme has been assessed and found to be sustainable and policy compliant. That it will add to the County's housing supply and variety is of positive material weight.
108. No objections have been identified that outweigh the apparent merits of the scheme.

RECOMMENDATION

109. That the application be **APPROVED** subject to the applicant securing a legal agreement for mitigation payments of £15,651 for open space and £13,727 for ecology, 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 approved plans listed in Part 3 - Approved Plans.
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 5, 15, 19, 21, 25, 26, 29, 31, 32, 35, 36, 40 and 41 of the Durham County Plan, 2020 and parts 2, 4, 5, 8, 9 and 15 of the National Planning Policy Framework.
 3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. The condition is required pre-commencement to ensure that the visual impacts from the development are controlled from the outset, maintaining the character of the area.
 4. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.
Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.
 5. The detailed planting scheme shown on plan reference N1095-ONE-ZZ-DR-L-0201 must be completed in full. The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works. The scheme must be implemented before the end of the first available planting season following the commencement of material building works and completed in accordance with the timetable agreed. Trees, hedges and shrubs shall not be removed without agreement within five years. Any specimens that fail must be replanted to the original specification within the same time period.
Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
 6. Before any development above damp proof course levels takes place, an updated Sustainability Statement, with all values included in the Appendix to demonstrate compliance with the detailed requirements of policy 29 of the

Durham County Plan 2020 must be submitted to, and approved in writing by, the Local Planning Authority. Once agreed, the development shall be carried out in accordance with the agreed details.

Reason: In the interest of sustainability and to reduce carbon emissions as required by Policy 29 of the Durham County Plan 2020.

7. 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard. A written scheme to show compliance with this requirement must be submitted to and approved in writing by the Local Planning Authority before any part of the development hereby approved is occupied.

Reason: To meet the needs of older people and people with disabilities, as required by Policy 15 of the Durham County Plan 2020.

8. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed, and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Policy 32 of the Durham County Plan 2020 and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

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

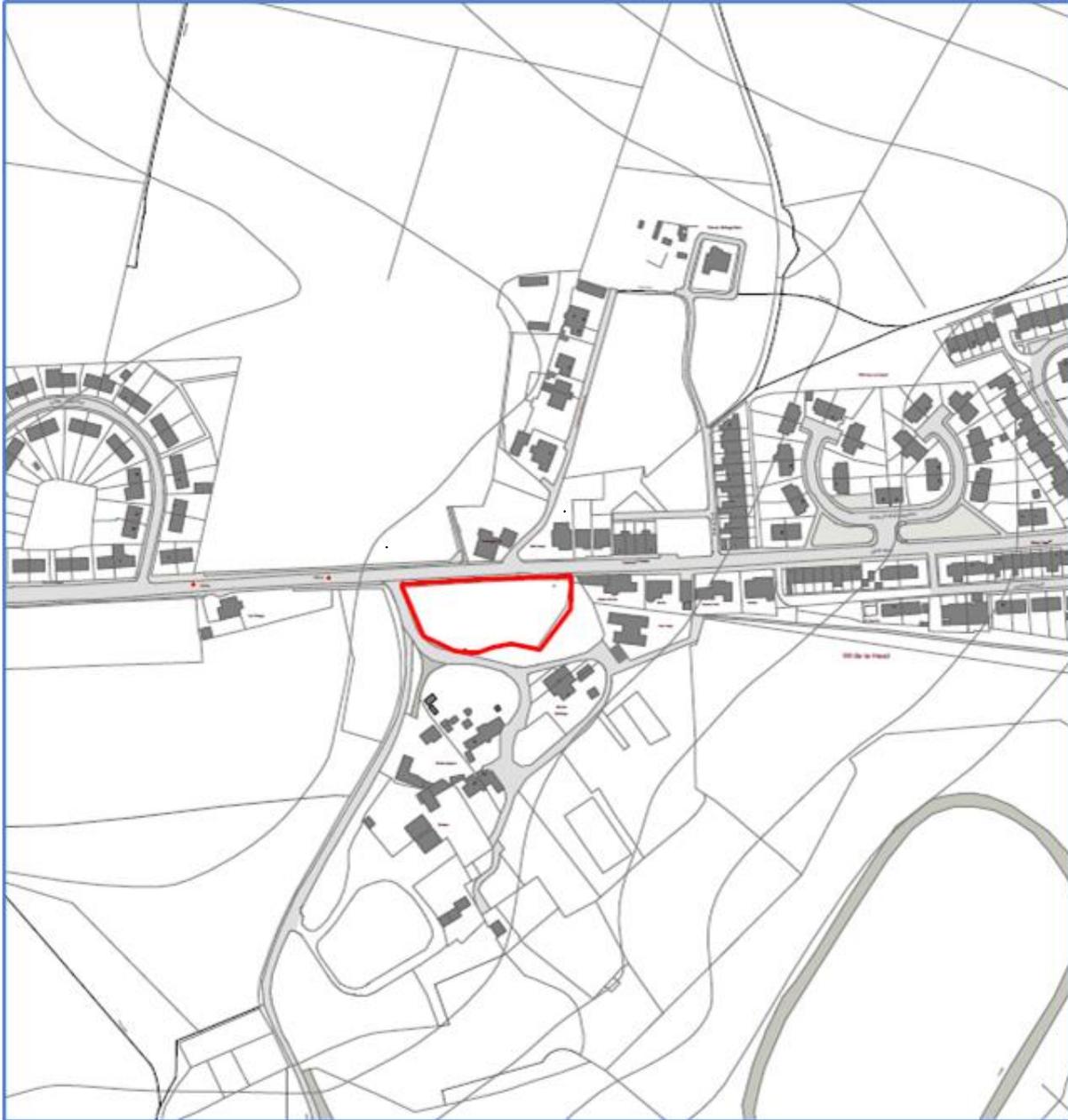
Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the Durham County Plan 2020 and Part 15 of the National Planning Policy Framework.

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

The National Planning Policy Framework (2021)
National Planning Practice Guidance Notes
Durham County Plan 2020
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

DM/21/02577/FPA

Construction of 9no. residential dwellings (Use Class C3) with associated access and landscaping works

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Comments

Date 28 September 2021

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/01036/FPA
FULL APPLICATION DESCRIPTION:	20m high telecommunications pole with 6No. TEF Antennas, 3NO. TEF ERS and associated works.
NAME OF APPLICANT:	Cornerstone
ADDRESS:	Land South of Carlingford Road, Chester-le-Street.
ELECTORAL DIVISION:	Chester-le-Street South
CASE OFFICER:	Louisa Ollivere Senior Planning Officer Telephone: 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The site is an existing telecommunications mast site located at the south of Carlingford Road and east of the Carlingford Road/Grasmere Road junction. The site is also south of the Garden Farm shopping parade. The immediate area is therefore of commercial and residential character. The site involves an area of tarmac east of the current 12.5m mast and cabinet location and adjacent to a grassed strip containing a tree. There are four existing equipment cabinets on the site either side of the current pole, two of which will be removed and replaced. There are residential properties 20m to the east, 24m to the south and 29m to the west although none directly face the current or proposed pole site.

The Proposal

2. Permission is sought for upgrading works which involve the removal of the existing 12.5m streetpole and 2 cabinets and replacing this equipment with a 20m high black streetpole in a position 3.5m east of the current pole. The pole would accommodate 6 antennas in an upper and lower stack. Ancillary works include 3 new equipment cabinets also in black. The new equipment would provide enhanced 5G coverage and capacity for O2 in this postcode area of County Durham.
3. This application is reported to Committee upon the request of Councillor Paul Sexton given the location in proximity to residential areas, height and concerns raised by local residents.

PLANNING HISTORY

4. 2/2005/00245 Erection of 12m high telecommunication pole (Imitation telegraph pole), including 3 antenna and associated equipment cabinets and ancillary development. (Refused but allowed on appeal)
5. 2/10/00241/TEL Replacement of existing 12m monopole telecommunication mast and erection of 12.5m mast to allow mast share. Erection of 1 no additional equipment cabinet. (withdrawn).
6. 2/20/00298/TEL Replacement of existing 12m high monopole telecommunications mast and erection of new 12.5m mast to allow mast share and erection of 1no. additional equipment cabinet (prior notification). (Approved).
7. 2/13/00076/TEL Prior approval for replacement 12.5m street works mast, additional equipment cabinets, electricity pillar and ancillary development. (Approved).

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
10. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *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.

13. *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.
14. *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 10 - Supporting high quality communications.* The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services. Local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband.
17. *NPPF Part 12 - Achieving well-designed places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate. Amongst other aims decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site to impacts that could arise from the development. Noise should be mitigated and reduced to a minimum potential adverse impact to avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development the applicant should be required to provide suitable mitigation.

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed

advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.

20. *Design: process and tools* – sets out guidance for well-designed places, advises how to make decisions about design, details tools for assessing and improving design quality and promotes effective community engagement on design.

LOCAL PLAN POLICY:

21. The following policies in the County Durham Plan 2020 are relevant to the consideration of this application.
22. *Policy 21 – Delivering Sustainable Transport* - requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
23. *Policy 27 – Utilities, Telecommunications and Other Broadcast Infrastructure* - supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
24. *Policy 29 – Sustainable Design* - requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users. Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

25. *Policy 31 - Amenity and Pollution* - sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
26. *Policy 39 -Landscape* - requires that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

27. *Highways Authority* – Has no objections to these proposals.
28. *High Moorsely Meteorological Office* – No objections.

INTERNAL CONSULTEE RESPONSES:

28. Trees Officer - Notes that a trial hole shows that no tree roots from DCC HW open space tree are within the proposed area. Providing that excavations do not extend further into the trees RPA the Officer would have no objection. The Officer advises that the storing of material on site should not be staked against the tree or within the trees RPA.
29. Landscape Officer - Notes that the proposal would be in a similar location to the existing apparatus, which is an accepted part of the street scene. It is advised that the relatively sleek design of the existing mast is broadly comparable to the height of the street lighting columns. Even so, the Officer notes that site is still located in a prominent position. The Officer considers the proposed new mast would rise above built form in the locality. The Officer advises that the width of the proposed monopole would not be a significant visual change, especially as the mast would be viewed in the context of nearby trees, street furniture and buildings. It is considered that the trees within the vicinity would, to an extent, soften or lessen the effect of the proposal especially when approached from the west along Grasmere Road where trees will form the backdrop of the proposal. However, the Officer advises that the height of the mast would, at 20 metres, be considerably higher than the existing mast and be of a scale that, together with the exposed mounted equipment would increase the visually prominence of the proposal. The Officer concludes that these effects would however be fairly localised due to surrounding topography and built form. The Officer

advises that whether that harm would be unacceptable would depend on the balance of considerations.

30. It is advised that the visual impact of the ground equipment would be tempered by the choice of finishing colour of the roadside cabinets which would be a dark visually recessive colour and all matching. In respect of the position of the equipment and impacts to tree the Officer defers to the Tree Officer.
31. Environmental Health (Nuisance) - Advises that the information submitted demonstrates that the application complies with the thresholds stated within the TANS and that this would indicate that the development will not lead to an adverse impact. As the applicant has provided a certificate of conformity with ICNIRP Public Exposure Guidelines the Officer does not raise concerns in relation to the development. The Officer is satisfied that the development is unlikely to cause a statutory nuisance. The Officer is not aware of any complaints having been made regarding noise issues associated with the existing antennae system; the Officer also advises that the department is unaware of any noise complaints associated within any such systems within the County.

PUBLIC RESPONSES:

32. A total of 37 letters of consultation were sent out to surrounding residents and a site notice posted. This has resulted in 3 letters of objection from local residents.
33. The concerns of local residents are summarised as follows:
- Noise and Disturbance resulting from use. There is already noise experienced from the ancillary equipment, noise levels from the new installation should be at least no worse than the present.
 - Impact to tree.
 - Excessive height of the mast in comparison to current mast.
 - The mast is out of character in this low rise residential area where there is nothing of a similar height.
 - The antennas would be better enclosed in a shroud.
 - The more cluttered installations are more appropriate for industrial estates perhaps or similar areas.
 - The ancillary equipment is unsightly.
 - It is adjacent to seating area and will impact on its enjoyment.
 - Traffic may collide with the mast.
 - Health and safety concerns over radiation.
 - Proximity to residential properties.
 - Devaluation of properties in the area.
 - Current guidance is to locate masts 500m from residential areas.

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

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QQGQ6FGDMOP00>

APPLICANTS STATEMENT

34. We consider the development complies with both central government and local planning policy guidance where the underlying aim is to provide an efficient and

competitive telecommunication system for the benefit of the community while minimising visual impact.

35. Taking into account the factors of technical constraints, available sites and planning constraints we consider that this site and design clearly represents the optimum environmental solution.
36. On the basis of a recognised need to expand and promote telecommunications networks across the region, it is considered that the proposal fully accords with the requirements of the National Planning Policy Framework and the Council's Local Plan Policies.
37. This monopole will facilitate 5G which the current equipment does not and cannot.

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

38. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development in this location and the visual impact upon the surrounding area.

The Principle Issues

39. Policy 27 of the CPD supports telecommunications proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects. For masts at an existing site the policy advises that masts should be located where they are technically and operationally feasible and do not result in visual clutter. For new sites it must be demonstrated that existing sites have been explored and are not feasible. In all cases the policy requires the equipment to be sympathetically designed and camouflaged and to not result in visual clutter; and where applicable the proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
40. Part 10 of the NPPF supports high quality communications. Paragraph 114 advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and that the expansion of next generation mobile technology (such as 5G) should be supported. Paragraph 115 advises that use of existing masts should be encouraged and states that where new sites are required such as for new 5G networks, equipment should be sympathetically designed and camouflaged where appropriate.
41. Para 116 of the NPPF advises that Local Planning Authorities should not impose a ban on new electronic communications development in certain areas or insist on minimum distances between new electronic communications development and existing development. Paragraph 117 advises that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. This should include:

- a. the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area;
 - b. for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
 - c. for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.
42. Para 118 of the NPPF goes on to advise that Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.
43. Policy objectives within the NPPF are clear that sites for mast installation should be kept to a minimum consistent with efficient operation of the network and applications should be determined on planning grounds. On this basis, Policy 29 of the CDP is also applicable which requires proposals to achieve well designed places and Part 12 of the NPPF whereby planning decisions should address the integration of new development into the natural and built environment. Paragraph 134 states that permission should be refused for development that is not well designed, especially where it fails to reflect local design policies and government guidance on design. Paragraph 132 further states that applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community.

Site suitability versus other sites

44. The site is approximately 3.5m from the existing monopole which is to be removed from the site and which is within the control of the operator and will be defunct once the new pole is installed. Removal of the existing monopole will be ensured by way of condition. Given the above it is not necessary to assess alternative sites in line with Paragraph 117 of the NPPF and Policy 27 of the CDP, nonetheless it has been identified that given the height that is required for 5G site sharing that there is a lack of available rooftops to accommodate alternative equipment. Furthermore, given the constrained 250m cell radius area that is required for the proposal other sites would involve using amenity space in areas with a higher concentration or residential properties in close proximity than this current site. There is therefore no conflict with both national and local plan policy in this respect.

Design and visual impact considerations

45. Policy 27 of the CDP requires telecommunications equipment to be sympathetically designed and camouflaged and to not result in visual clutter. In respect of design Policy 29 of the CDP requires all proposals to achieve well designed places. Policy 39 of the CDP requires there to be no unacceptable harm to landscapes and that proposals mitigate any adverse visual effects.
46. Residents consider that the taller and wider replacement mast would appear visually intrusive in relation to the character and appearance of the area. It is accepted that the structure would be seen, however as it is in a similar prominent location to the

current mast, now an accepted part of the streetscene the impacts are less than if it were a new site. Nonetheless the proposed new mast would rise above the built form in the locality. The width of the proposed monopole would not be a significant visual change especially in the context of the surrounding trees, street furniture and buildings. It is considered that trees within the vicinity would, to an extent, soften or lessen the effect of the proposal especially when approached from the west along Grasmere Road where trees will form the backdrop of the proposal. However, the height of the mast would, at 20 metres, be considerably higher than the existing mast and be of a scale that, together with the exposed mounted equipment would increase the visual prominence of the proposal. These effects would however be fairly localised due to surrounding topography and built form. Furthermore, the mast has been carefully positioned to face a blank gable end of the nearest dwelling and to present only an oblique view from any of the surrounding dwellings that have views to it.

47. The equipment cabinets are modest structures, similar in appearance to control boxes often seen in roadside locations, the visual impact of the ground equipment however would be reduced by the choice of finishing colour of the roadside cabinets which would be a dark visually recessive colour and all matching.
48. Whilst it is a prominent location, and there would be some localised harm to the streetscape, the current mast that is being replaced is now commonly accepted as a normal item of street furniture along this streetscape. Therefore, siting a new mast albeit higher and wider in a slightly different position would not appear as out of place or significantly detract from the character of the local area in accordance with Policy 27 of the CDP.

Consultation and Interference

49. The proposal is not in a safeguarding zone in relation to air traffic services or other instrumentation in the national interest. Nor is it considered in a site likely to cause electrical interference. The applicants have submitted a statement that self-certifies that, when operational, International Commission guidelines will be met, in accordance with the requirements of Paragraph 117 of the NPPF.
50. The nearest schools are some distance away and in consideration of the 'Code of Best Practice on Mobile Network Development in England' (published 24 November 2016) (CBP) it is accepted that consultation with school(s) is not required.

Building a strong, competitive economy

51. Part 6 of the NPPF advises that significant weight should be placed on the need to support economic productivity. Paragraph 114 of the NPPF recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth. It advises that decisions should support the expansion of electronic communications networks, including next generation technology such as 5G. The proposal gains positive weight in this respect.

Amenity Considerations

52. Policy 29 of the CDP requires proposals to provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 of the CDP requires development to have no unacceptable impact on living conditions and to ensure that future occupiers of proposed developments have acceptable living conditions. It advises that proposals which will have an unacceptable impact such as through noise will not be permitted

unless satisfactory mitigation measures can be demonstrated. Paragraph 130 (f) of the NPPF requires developments to have a high standard of amenity. Paragraph 185 of the NPPF requires new development to be appropriate to its location taking into account the likely effect of pollution on health, living conditions and the sensitivity of the area. The framework requires development to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and quality of life.

53. The site is close to residential properties and concerns have been raised by local residents in relation to noise sometimes experienced from the current equipment on site.
54. The Council's Environmental Health Officer raises no concerns about noise from the current equipment and this type of equipment in general in relation to amenity.
55. It has therefore considered that that the development would not have an unacceptable impact on living conditions. On this basis it is considered that the proposed development is in accordance with Policy 31 of the County Durham Plan and Paragraph 130 of the NPPF in that respect.

Impacts to trees

56. Policy 40 of the CDP requires the protection of trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. The position of the mast will be closer to a tree that forms part of the streetscene than the current mast. The developer has undertaken investigations which demonstrate that there would be no tree roots within the development area. The Council's Tree Officer is satisfied with the findings subject to conditions to restrict excavations into root protection areas and storage of materials near the tree or its root protection area. With such conditions the tree would be suitably protected.

Highways Considerations

57. Policy 21 of the CDP requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development must also have regard to Parking and Accessibility Supplementary Planning Document.
58. Local residents have concerns over vehicles colliding with the pole however the Highways Officer has no concerns over highway safety in respect of the proposal therefore the proposal accords with the above policy

Other Issues

59. Some residents have concerns over possible negative health impacts from the proposed mast. Paragraph 180 of the NPPF advises that decisions should ensure that new development is appropriate for its location considering the likely effects of pollution on health, living conditions and that natural environment. Health considerations and public concern can, in principle, be material considerations in determining applications for planning permission. It is for the decision-maker to determine what weight to attach to such considerations in any particular case. The

LPA have seen no substantiated evidence in relation to negative health impacts therefore they carry little weight.

60. It is the Government's firm view that the planning system is not the place for determining health safeguards. It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure it should not be necessary for a LPA, in processing an application for planning permission, to consider further the health aspects and concerns about them as stated in Paragraph 118 of the NPPF. All new and replacement mobile phone base stations are expected to meet the ICNIRP guidelines. However, all applicants should include with their applications, a statement that self-certifies to the effect that the mobile phone base station, when operational, will meet the guidelines. A ICNIRP Certificate has been supplied as part of supporting information. The likely effects of non-ionizing radiation on health and living conditions are therefore not significant.
61. It is noted that residents are concerned that the mast is too close to residential properties. However, the NPPF advises that Local Planning Authorities should not insist on minimum distances between new electronic communications development and existing development.
62. There are concerns over impacts to property value however this is not a material planning consideration.

CONCLUSION

63. The siting of a replacement telecommunications streetpole is considered justified in this location. There will be no significant adverse impacts to health or to the visual amenity of the area. The proposal offers benefits in terms of providing advanced, high quality and reliable communications infrastructure which is essential for economic growth and social well-being. The proposal is therefore considered to accord with CDP Policy 27 and Parts 10 and 15 of the NPPF. Paragraph 11 of the NPPF advises that development proposals that accord with an up-to-date development plan should be approved without delay therefore approval is recommended. There are no material considerations in this particular case that indicate that the plan should not be followed.

RECOMMENDATION

That the application be **APPROVED** 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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 27 of the County Durham Plan and Part 10 of the NPPF.

3. Within 6 months of the erection of the new monopole hereby approved, the existing monopole shall be removed from site.

Reason: To ensure that the visual appearance of the area is not overly cluttered in accordance with Policy 39 of the County Durham Plan and Part 15 of the NPPF.

4. No excavations in connection with the development shall take place within the Root Protection Area of the adjacent tree and there shall be no storage of materials within the root protection area of the tree.

Reason: To protect the tree in accordance with Policy 40 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

County Durham Plan 2020
The National Planning Policy Framework (2021)
Internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

DM/21/01036/FPA

20m high telecommunications pole with 6No. TEF Antennas, 3No. Proposed 3No. TEF ERS and associated ancillary works.

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Comments

Date 28.09.2021

Scale NTS

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/02574/RM
FULL APPLICATION DESCRIPTION:	Application for reserved matters consisting appearance, landscaping, layout and scale from approval DM/19/00118/VOC
NAME OF APPLICANT:	Dr. Amy Izycky Plot 12 The Pastures
ADDRESS:	Lanchester Durham DH7 0BT
ELECTORAL DIVISION:	Lanchester Steve France
CASE OFFICER:	Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This is an application for 'Reserved Matters', these being details of Appearance, Landscaping and Layout, on an individual plot following the grant of 'Outline' permission for a development of up to 14 dwellings on land to the south of The Paddock in June 2017.
2. The development site within which this plot sits was granted Outline consent on appeal in 2017 for up to 14 dwellings with all matters reserved except access which was agreed at that time. Subsequent reserved matters and s.73 applications agreed the subdivision of the site and the extent of the individual plots and their levels, along with details of common elements of the scheme, including drainage, highways and landscaping, setting up the development to be built as plot-build self-build on serviced plots through the submission of applications on individual plots.
3. Parts of built development required to service the plots was undertaken before application for and development of the individual plots commenced. This included the road layout, levelling of individual plots and parts of the required drainage system. The root protection zone of the trees adjacent The Paddock was fenced to the relevant British Standard. The access road and pavement from The Paddock has therefore been built up to all but its final surface. Two extensions of this highway approved as shared private driveway serving dwellings at the top and the bottom of the site are at present part finished in base layer aggregate, during the development process. Large drainage attenuation tanks have been installed at the

lower part of the site to the rear of existing dwellings in Ford Road to control surface water drainage. These will be complimented by additional tanks on each plot.

4. Five of the plots have been approved to date and are in various states of development, with two essentially complete and occupied. These are all sited on the south boundary of the site on the village edge facing agricultural land (one overlapping the rear garden of a dwelling to the south-east). All these dwellings have grey roofs, but otherwise display a range of styles and scale, from a bungalow, to larger two-storey houses and dwellings that present a two-storey appearance into The Pastures but use roof accommodation to have three storeys of windows on the rear.
5. The individual plot subject to this application, no.12, sits at the north west of the site, in between plot 11 which is nearing completion and 8 The Paddock, an extended bungalow in a low-density single storey older development to the north, set within a Tree Preservation Order. 7 The Paddock was demolished to provide access to the site granted consent by the Planning Inspector. The application site borders countryside to the west, facing towards the Roman fort on the hill. Plot 12 is 694sqm in area

The Proposal

6. The planning application seeks approval for a single detached dwelling. Formed of two parallel blocks with simple apex roofs and plain gables joined by a flat-roofed central component with lantern rooflights, the dwelling has a single storey extension to it's rear.
7. The larger of the two blocks on the higher part of the site includes in-roof accommodation and provides three floors internally, the ground floor is cut into the slope. Windows in this block are arranged to overlook the farmland to the west, including a cut-out balcony in the roof slope. The plot's private garden to the rear is 10.7m in length. The upper, second floor window in the roof gable has been amended in process to present obscure glazing on the rear elevation.
8. The smaller block is sited and scaled so that the dwelling 'falls' visually with the slope of the site. The height to this ridge is 7.6m, and to the eaves 5.4m. The footprint is set 2.7m from the boundary with the adjacent, lower building plot. This two-storey block is again set 10.7m from the rear boundary, shared with 8 The Paddock. A flat roofed rear extension with lantern rooflight projects 5.4m into the rear garden
9. The front of the dwelling includes a permeable parking area under which the required sustainable drainage storage system will be sited. There is an integral double garage. The building presents a blank gable with a separation distance of 14m to the facing development at plot 11, with car port associated with the neighbouring development in between.
10. This application is reported to Committee upon the request of Councillor Douglas Oliver to consider the impact of this development in terms of: overlooking; loss of light; visual amenity; landscaping and impact on trees in a public forum.

PLANNING HISTORY

11. DM/16/00871/OUT - Outline planning permission for residential development (C3) of up to 14 dwellings with all matters reserved except access, including demolition of no. 7 The Paddock. Application Refused, Appeal Allowed.
12. DM/18/03847/RM - Reserved matters for outline planning permission DM/16/00871/OUT. Approved.
13. DM/19/00118/VOC - Variation of condition 1 pursuant to DM/16/00871/OUT and propose an additional condition. Approved
14. DM/19/00779/AD - Erection of free standing, single sided temporary non-illuminated sign (1525mm x 1220mm x 4mm) on wooden frame. Approved.
15. DM/19/01005/RM – Plot 10, 3 Bedroom detached bungalow with integrated garage and off-street parking. Approved.
16. DM/20/00044/RM – Plot 9, Reserved matters of appearance, landscaping, layout and scale for erection of single residential dwelling. Approved.
17. DM/20/00110/RM – Plot 11, Reserved Matters consisting Appearance, Scale, Landscaping and Layout for one two storey detached dwelling. Approved.
18. DM/20/01106/RM – Plot 8, Reserved matters application pursuant to DM/16/00871/OUT for erection of one detached dwelling. Approved.
19. DM/20/01973/RM – Plot 7, Application for Reserved Matters consisting: appearance, landscaping, layout and scale. Approved.
20. DM/21/00251/RM – Plot 1, Approval of access, appearance, layout and scale for proposed new dwelling and landscaping. Withdrawn under threat of refusal.

PLANNING POLICY

NATIONAL POLICY

21. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
22. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
23. The following elements of the NPPF are considered relevant to this proposal;
24. *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.

25. *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.
26. *NPPF 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.
27. *NPPF Part 8 - Promoting healthy and safe communities.* Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.
28. *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.
29. *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.
30. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* advises, 'New development should be planned for in ways that: avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures...'
31. *NPPF Part 15 - Conserving and enhancing the natural environment.* Recognises the wider benefits from natural capital and ecosystem services – including the economic and other benefits of trees and woodland.

NATIONAL PLANNING PRACTICE GUIDANCE:

32. National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up-to-date advice of Ministers and Government.

33. Of particular relevance to the consideration of this application is guidance for ‘Self-build and custom housebuilding’, last updated in February 2021. It advises: ‘self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home, and can be innovative in both its design and construction’.

LOCAL PLAN POLICY:

34. The following policies in the Durham County Plan (adopted October 2020) are relevant to the consideration of this application:
35. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
36. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
37. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. Relevant to policies 29 and 31 is the adopted *Residential Amenity Standards 2020*, which sets out requirements to ensure amenity and privacy through the use of separation distances and garden lengths amongst other tools.
39. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
40. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New

sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

41. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.

LANCHESTER NEIGHBOURHOOD PLAN:

42. There has been a change in National Planning legislation which now states that local people may wish to influence development in their area through the preparation of a Neighbourhood Plan (Localism Act 2012). The Lanchester Neighbourhood Plan provides the local community with a powerful tool to guide the long-term future of Lanchester Parish for the period 2019 to 2034. The Plan contains a vision for the future and sets out clear planning policies to realise this vision. The Vision and Objectives for the Lanchester Neighbourhood Plan were developed following community consultation in 2015 and subsequently endorsed in a second Parish wide consultation in 2016.
43. The Neighbourhood Plan sets out a Vision and Objectives, with topics including Design of New Development, Historic Environment and Green Space and the Rural Environment.
44. *Policy LNP2 - Design of New Development* requires that proposals for built development should demonstrate that the following criteria have been taken into account: that Design, Layout and Appearance. Positively responds to the local vernacular, materials and landscape features including green spaces and trees; It is of a scale and density that reflect the rural character and setting of the development; it integrates into the Built Setting, delivering accessible and well-connected environments that meet the needs of users; it provides a mix of housing types to provide flexibility for diverse family structures and styles of living and an ageing population, in accordance with the policies in the County Durham Plan; and demonstrates how they have had regard to a specified list of local design guidance, including the 'Guide to Significant Aspects of Local Character' within the Plan document.

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

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

45. Highways have raised no objection to the proposals but require submission of a plan showing the two required parking spaces can be achieved on-site.

INTERNAL CONSULTEE RESPONSES:

46. The County Tree Officer writes, Providing the recommendations of the submitted Tree report are adhered to regarding tree and root protection, trees protected by a tree preservation order within neighbouring property should be adequately protected as per BS 5837 2012.

PUBLIC RESPONSES:

47. Consultation letters were sent to the two immediate neighbours. Thirteen objections have been received to the application, from 7 neighbouring addresses plus Cllr. Douglas Oliver local Ward Member, Lanchester Parish Council, and Campaign for Rural Lanchester.
48. The Objections relate to the scale and impact of the proposal on residents of The Paddock, specifically the impact of this development in terms of: overlooking; loss of light; visual amenity; landscaping and impact on trees. Each of these is contended a material planning of sufficient impact as to require the application to be rejected.
49. The proposed building is of a differing style to the existing bungalows and are to be far larger in size leading to an unnecessary dominance and affecting the visual amenity of the site. The proposals are considered oversized and 'out of sympathy with the location, which is formed of bungalows and small houses. The proposal is extremely large, both in relation to the plot and the general area. Proposed ridge lines are excessive. Development in the form of new bungalows is suggested. Objectors contend the generous layout of the bungalows in The Paddock that have a good house to garden ratio set the semi-rural character of the area, with the proposal 'of excessive house footprint'. Objectors claim that 'one of the original conditions imposed when The Pastures was approved was that the footprint of each house (which includes associated garages and conservatories etc) must not exceed 25% of the plot size upon which the buildings sit'. The proposal is contended to fill 36% of the site.
50. It is contended that 'If this massive house is allowed in such close proximity to the smaller bungalows in The Paddock, it is likely that Article 8 (of the Human Rights Act 1988 and the European Convention on Human Rights) will be breached. Failure to impose suitable conditions may also be evidence of a breach of the Act. It is important the Committee consider the possible consequence of any such breach of the Act and Convention by Durham County Council'.
51. The proposal will affect privacy and allow overlooking into existing bungalows living rooms, as a 'wholly inappropriate and massive intrusion into the privacy at 8 The Paddock', with the upper floors and attic room identified in particular. 'Another aspect of there being so much glass in the north elevation of No.12 is the potential for light pollution'.
52. Neighbours refer to restrictions on the enlargement of their own homes.
53. The proposal will detract from the visible amenity value of the existing protected tree canopy which can be seen from 'many different directions' and will damage the protected pine trees.
54. There is a 'request for Mandatory Condition concerning flooding and a need for attenuation tanks and drainage for each individual property in The Pastures.

55. Concerns are also raised regarding about traffic generation on this narrow piece of road, designed and occupied as a cul-de-sac, for the period of the property's development, as residents have complained of noise pollution and dust from the contractors involved on existing developments. There are concerns raised for the management of conditions relating to working hours and road cleaning and likewise landscaping – it requested that all landscaping works at the estate entrance be completed before works on plot 12 commence.
56. The Parish Council reflect Residents' concerns, considering the proposals contrary to the requirements of the Residential Amenity SPD and policy LNP1 of the neighbourhood Plan, asking for a Committee Site Visit to better appreciate the issues involved. Again, the Parish Council and Campaign for Rural Lanchester ask that the dwellings on plots 12,14,15,1,2,3 and 4 are single storey in height. The Parish Council is concerned that the current application will set a precedent for the other plots on the inner edge of The Pastures.

APPLICANT'S STATEMENT

57. The proposed site is Plot 12 of The Pastures development in Lanchester. The Plot is located at the top of the development overlooking the fields to the West, opposite Plot 11 which is now built. The Plot is 720sq.m in size, however when taking into consideration the tree protection area to the Northern boundary and the turning head that encroaches the site, leaves 550sq.m to build a property within. The site borders the side garden of No 8 The Paddocks, with a section of TPO trees between both properties. The applicants have worked collaboratively with the planning department through the pre application advice service and since for over a year to ensure a design is appropriate to the development and can be supported.
58. The design has been carefully considered in terms of its massing and scale, to respect the fall across the site and each plot, so that the overall development respects the graduation of the levels across the whole site development to where it meets Ford Road on its eastern boundary. Plots 11 and 12 are the two upper most sites that overlook the western boundary of the development and the agricultural land beyond. The existing TPO trees that stand between No 8 The Paddocks and Plot 12, by virtue of their location and height provide privacy and reduce light. This property does not impact of the light levels of No 8 as the property is angled away from Plot 12 and faces Plot 14 & 15 of the development.
59. The topography of Plot 12 has a difference of approximately 2m from the western boundary to the eastern boundary where it adjoins Plot 14, so the property has been designed to reflect the site and the stepping down of each plot down the hill through the various plots. The 2.5 storey element is on the Western Boundary and furthest away from The Paddocks development helping create the uppermost viewpoint on entering The Pastures and creating a stop end to the development. The massing and design have changed considerable during the development stages, taking onboard the advice and removing the central roof to replace with a lightweight 2 storey atrium with roof light to link the 2 storey smaller element to the Eastern boundary with adjoins Plot 14, stepping down the levels of the site through a play of roof lines. Whilst this was not necessary as all SPD terms were met or exceeded. The applicants wanted to offer additional consideration to No 8 The Paddocks in terms of light, height and mass. The massing of each block was deliberately designed to create two smaller gable elements facing The Paddocks to help minimise scale and mass when viewed from The Paddocks though the trees rather than having a larger bulk form.

60. All windows have been placed to ensure privacy is respected, with the majority of windows being placed to enjoy the western aspect across the fields or to respect design distances whilst capturing the sun path to encourage as much natural daylight as possible. The vertical glazing elements to the rear are set 11m back from the northern boundary line and the fact no windows from No 8 directly face Plot 12, the concern of overlooking the living space is not relevant to this property and light pollution will be minimal.
61. The proposed dwelling is to be a family home for the applicants, one of which is from Durham and works in Durham and wishes to return and become part of the vibrant community that Lanchester is known for. The other is a clinical psychologist with a well-established practice that she would like to relocate to the local area providing support to the residents of Lanchester and beyond.

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

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QWC2JRGDH9P00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

62. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is noted the principle of development has been accepted by the Outline consent.
63. It is considered that the main planning issues in this instance relate to the detailed implications of the proposals in terms of scale, character, appearance and effects on privacy and amenity.

The Development Plan

64. The County Durham Plan 2020 was adopted in October that year, with the policies therein fully up to date in terms of the required consistency with the NPPF. The NPPF and NPPG guidance is a material consideration in its own right. The Lanchester Neighbourhood Plan 2019 – 2034, was 'made' (adopted) in June 2021 and now has material weight in the decision-making process.
65. It is noted that the policy context against which the original application and subsequent agreement of site details and individual plots has changed since the original consent in 2017. That approval was assessed against the requirements of the Derwentside District Local Plan 1997, with subsequent applications assessed against emerging weight being given to the County Durham Plan. The Neighbourhood Plan is also now relevant.

Scale, Character and Appearance

66. In allowing the appeal for the overall development the Planning Inspector imposed conditions and restrictions on the extent of the approval granted. If strict design codes or restrictions in scale were considered required, these could have been imposed at that time. Instead, the Inspector noted, 'these would all be appropriately addressed as part of any future reserved matters application rather than at this stage'.
67. The application proposes a modern architect designed dwelling that has been subject to some pre-submission discussion. The elevations have a contemporary modern character, with fenestration directed to the west elevations to take advantage of the uninterrupted views over countryside and towards the Roman Fort, and to the north to overlook the private garden and the boundary with 8 The Paddock.
68. The two main massing elements of the design reflect the fall of the slope. Cut into the slope at its higher part, the dwelling presents a two-storey scale to the farmland beyond (albeit there are no public viewpoints from outside the village) in line with the requirements of policy LNP2 and the Neighbourhood Plan Local Character Guide in terms of its height and scale.
69. The dwelling has a clear separation buffer to plot 13 to allow the dwelling to sit clearly detached from any structure on that plot, and to ensure that a solid 'wall' of development is not presented to the existing bungalow in The Paddock. The separation also mitigates potential overshadowing of plot 13.
70. In its own right the proposal is considered an innovative reflection of the site constraints that follows both Part 12 of the NPPF and PPG where they encourage innovative design and allows for a suitable degree of variety and flexibility in not stifling design choices.
71. The application site is within a plot-build development where self-builders would expect and be expected to express individual design choices, particularly in the absence of a design code. Officers have been of the opinion that as the overall development will be seen in the public domain in longer views, it is the materials palette, and the roofs in particular, that will help visually bring the overall development of the different plots together. To this end a range of elevational treatments, scales and massing is, within reason considered acceptable. The predominant materials in this part of the existing settlement are buff bricks, brown concrete roof tiles, and render and plain hung tile panels. The few vernacular buildings are stone with slate roofs. The proposal is considered to present a contemporary take on elements of the wider surrounding materials palette. Strict adherence to the now somewhat dated and restricted range of materials exhibited by adjacent development is considered contrary to Part 12 of the Framework's and policy 29's intent to raise design standards. The elevational and materials approach is therefore concluded acceptable, subject to confirmation in detail via imposition of an appropriate condition ensuring detailed compliance with the requirements of policies 29 and LNP2.
72. Objectors opine that the development should follow the scale of dwellings in The Paddock, an opinion previously offered in objection to those plots already approved. In terms of the existing development setting the scale of the new, it is relevant that of the 23 dwellings on the settlement boundary between Cadger Bank and Ford road before this site was approved in outline, only the 4 in The Paddock are single storey, and those were heavily screened. The dwellings in The Paddock no longer form the settlement boundary. The Paddock also shares a boundary with the existing large, detached dwellings in Ford Road, to the east.

Officers are of the opinion that a hierarchy of development is appropriate across the site, with single storey appropriate if desired – as approved at plot 10 – but in general approach, an overall two storey character is appropriate.

73. Further, whilst the dwellings in The Paddock were designed and approved as single storey and are apparently still restricted to such by a covenant, it is relevant that: any covenant is a legal restriction and not a planning restriction, and; current permitted development rights would allow any of the existing bungalows to add an additional storey without the need for planning permission.
74. Where sites present an elevation to boundaries with no neighbours if a design can accommodate an additional internal in roof floor without compromise to the two-storey appearance of the development overall this has been accommodated in deference to the flexibility suggested by the NPPG to allow, 'Self-build and custom housebuilders choose the design and layout of their home'. Out of the public domain, in pre-application discussions proposals for three storey dwellings and other high structures have been resisted.
75. Whilst what represents an acceptable scale of development is a matter of judgement, this judgement led in the first instance by the separation standards set out in the Residential Amenity SPD. The relationship to both 8 The Paddock and plot 13 is critical. Privacy relationships will be considered below. They do also inform the implications for the effect of massing on overshadowing potential.
76. The Design SPD sets out requirements for direct facing distances informing both massing and privacy relationships – of 21m between directly facing habitable windows and 13m between windows facing blank gables. The finished floor level of the proposed dwelling sits 1.9m higher than that of 8 The Paddock, but the existing bungalow faces away from the proposal at an oblique angle, with the separation between the lower end gable of the proposed and the windows of the existing a distance of 21m at an angle of over 45 degrees, the relationship further interrupted by the existing protected tree canopy.
77. Rights to light refer to expectations of such within dwellings through windows. With the distance between the existing and proposed dwellings, the angled separation between them, and with the main private garden where maximum outdoor amenity could reasonably be expected to the south-east of the bungalow and the existing tree cover, the potential for the massing of the proposal to unreasonably affect the residential amenity of the bungalow and their right to light has been considered in the design, with the effect concluded compliant with the requirements of policy 31 of the County Plan.
78. The nature of the site is such that almost every plot has different implications for scale and adjacent relationships. It is considered there is no basis to enforce a moratorium in principle on two storey development adjacent the existing bungalows where policy compliant separation distances can be achieved. Where this plot presents a second floor of roof accommodation to the boundary and land beyond, it is in the context of being cut into the slope, reducing the apparent massing implications when viewed from off-site. Policy LNP2 requires regard be had to the 'Village Character Assessment' and which specified 'modest' development of up to two storeys as appropriate at the village boundary. The proposal must also be viewed in the context of those dwellings already built and under construction on the site that have been found acceptable in the planning process (albeit these predate adoption of the Neighbourhood Plan). Whilst not 'modest' – an unusual term in assessing development – the dwelling is in scale with others on the site, and in presenting a largely two-storey form when viewed

from outside the site boundary, it is considered due regard had been given to the newly adopted policy balanced against the need for consistency in decision making.

Residential Privacy

79. The aforementioned Residential Amenity Guide SPD is also the appropriate tool for assessing Residential Privacy issues. The required separation distances are set out above, but whilst a tolerance is given for differences in levels, there is no advice for angled relationships. Reasonable separations are also set by the requirement for a 9m garden length.
80. The proposed dwelling has a garden of over 10m in length. It faces an upper garden area belonging to the bungalow, used in addition to the main garden area immediately to the rear of that dwelling. The higher of the two built elements in the proposal that includes in in-roof accommodation was submitted with a second-floor window looking towards this upper garden area. This has been amended during the course of the application in deference to the use of the upper garden area and the privacy of the neighbour.
81. Overlooking secondary garden areas over a standard-length garden, the impacts on the privacy of the existing neighbour are concluded acceptable and policy compliant.

Highway Safety

82. Highway safety issues have largely been dealt with through the Outline consent and subsequent Variation of Condition and Discharge of Condition applications. The development provides sufficient space to meet County Highways Standard off-street parking to meet County Highways Standards, with Highways Officers asking for submission of a plan to show this. The required plan has been requested and can be conditioned. On this basis the proposals are considered compliant with the requirements of part 9 of the Framework and policy 21 of the County Plan.
83. Where there have been shortcomings with ensuring compliance with the road-cleaning conditions imposed on the main consent, the issue lies with monitoring end enforcement, and should not count against new developers. A mechanism to cope with the sporadic need to meet this requirement is being discussed with the main developer.

Other Issues

84. Complaints regarding landscaping appear to relate to the overall site. The upper site boundary is part of the area under review for an amended landscaping scheme that has been discussed over a period of months that should be submitted as this application is determined. The scheme will cover amended proposals for the site entrance and site boundaries. It has been discussed between the applicant's landscape advisors and County Landscape Officers and has been amended to meet the requirements of the latter.
85. The required separation from the trees in The Paddock was set by the Outline consent, reflected on the site by the Heras fencing. Changes to site levels to form

the individual plots has likewise already been set. With the development outside the root protection zone and using the agreed levels, the required assessment of the relationship to trees arrives at residential amenity. The trees are to the north of the new dwelling, ensuring light is not an issue. There will be maintenance implications to their presence, but that dwellings can coexist with the trees is indicated by the homes in The Paddock.

86. A number of objectors claim the original consent granted by the Planning Inspector includes a restriction of 25% of the plot for built development – with a detailed analysis of all plots approved to date, and the current application site set out. Appeal Decision APP/X1355/W/16/3160472 sets out 14 conditions but does not impose such a restriction.
87. Breaches of the Human Rights Act 1988 and the European Convention on Human Rights are claimed for the proposed relationship between existing and the proposed dwelling. This was an aspect of the Outline consent considered by the Inspector, who found that there was no issue in principle with the grant of outline consent, as achievement of an acceptable relationship was achievable. The above planning assessment concludes that it is Officer's judgement that the proposed relationship is acceptable in terms of the requirements of national and local planning policy, and this could reasonably lead to a similar conclusion in terms of assessment of impingement to the right to a private family life under Article 8.
88. A change in the context within which the trees within the Tree Preservation Order would be viewed from within and outside the village was implicit within the grant of outline consent – the trees no longer forming the boundary of the built development of the village. This objection to the application is considered untenable.
89. The relationship to the protected trees in The Paddock has already been set by the approved root protection zone as erected on site. The submitted tree report details extra site-specific protection measures that will protect during construction. These can be conditioned.
90. Conditions applied to the Outline consent apply to each of the individual plots. Therefore, the requested drainage condition is already in place led by conditions 5 and 6 of approval DM/16/00871/OUT. Each developer must carry out their part of the agreed scheme. Requirements of the existing Sustainability Condition require additional attention by the applicants. 'Informatives' attached to an approval can be applied to remind the individual developers of their responsibilities to the remaining and overarching conditions applied to previous consents that they are bound by.
91. Consistent with the approval of other plots, it is considered appropriate to remove residential permitted development rights to give the Council as Local Planning Authority control over any future extensions and alterations that may be imposed. The new dwelling would not benefit from permitted development rights allowing additional storeys.

CONCLUSION

92. With Outline consent in place, the detailed assessments required by the Development Plan Framework: i.e. The County Durham Plan and the Lanchester

Village Neighbourhood Plan of matters of scale, character, appearance and effects on residential amenity and privacy, informed by the National Planning Policy Framework and Planning Policy Guidance are set out above.

93. The policy Framework has evolved significantly from the granting of Outline consent, and Officers have sought to give this appropriate regard in terms of consistency whilst meeting legal requirements. The opinions expressed against the proposal have been considered and given due regard, but ultimately, in effectively trying to impose additional restrictions on development not intended by the Planning Inspector, are not considered sustainable for the suggested refusal.
94. The proposal has been assessed in detail and is considered an innovative response to the constraints of the site, and acceptable in relationship to existing dwellings on and adjacent the site. It is recommended approved subject to appropriate conditions.

RECOMMENDATION

95. That the application be **APPROVED** subject to the following conditions:
1. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.
Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
 2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 21, 29, 31, 35, 36, and 40 of the Durham County Plan, 2020, Policy LNP2 of the Lanchester Neighbourhood Plan 2021 and parts 2, 4, 5, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.
 3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. The condition is required pre-commencement to ensure that the visual impacts from the development are controlled from the outset, maintaining the character of the area.
 4. Prior to the first occupation the development hereby approved, details of all means of enclosure and retaining structures of the site shall be submitted to and approved in writing by the Local Planning Authority. These shall be constructed in accordance with the approved details thereafter.
Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
 5. Before first occupation of the development hereby approved a plan showing a standard double width driveway 5.5m long x 4.7m wide must be submitted to the

Local Planning Authority for approval in writing. Access to the drive must not be obscure by gates or boundary markers.

Reason: In the interest of Highway safety in accordance with Policy 21 of the Durham County Plan 2020 and part 9 of the National Planning Policy Framework.

6. The vehicular hard-surfacing areas hereby approved must be built of a permeable construction.

Reason: To assist in the Sustainable Drainage of the site, as required by part 14 of the NPPF.

7. Before the development hereby approved is commenced protective barriers as described in section 5.1 of the submitted tree report to a standard required by BS 5837 2012 must be erected. To avoid compaction damage to the underlying roots during construction ground protection measures as per section 5.2 of this report are required in the areas shown as hatched orange on the Tree Protection Plan (TPP) to provide both a working area and space for scaffolding and allow access around the building. This methodology should be implemented at the time of barrier erection, remain in situ throughout the build and only removed when all construction activity has finished.

Reason: To ensure protection and longevity trees adjacent the site protected by Preservation Order, as required by Policy 40 of the Durham County Plan and part 15 of the Framework and is therefore required pre-commencement.

8. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, E, F, Part 2, and Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwelling hereby approved and any buildings, and boundary markers within and around the curtilage of the dwelling house(s) shall be submitted to and approved by the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise further control in this locality in the interests of the visual amenity of the area and to comply with Policy 31 of the County Durham Plan.

9. The in-gable window on the north-west corner of the development must be implement and retained in perpetuity as obscured glazing to a minimum of level 3 on the Pilkington Obsuration scale.

Reason: In the interests of the residential amenity of 8 The Paddock in accordance with Policy 31 of the County Durham Plan.

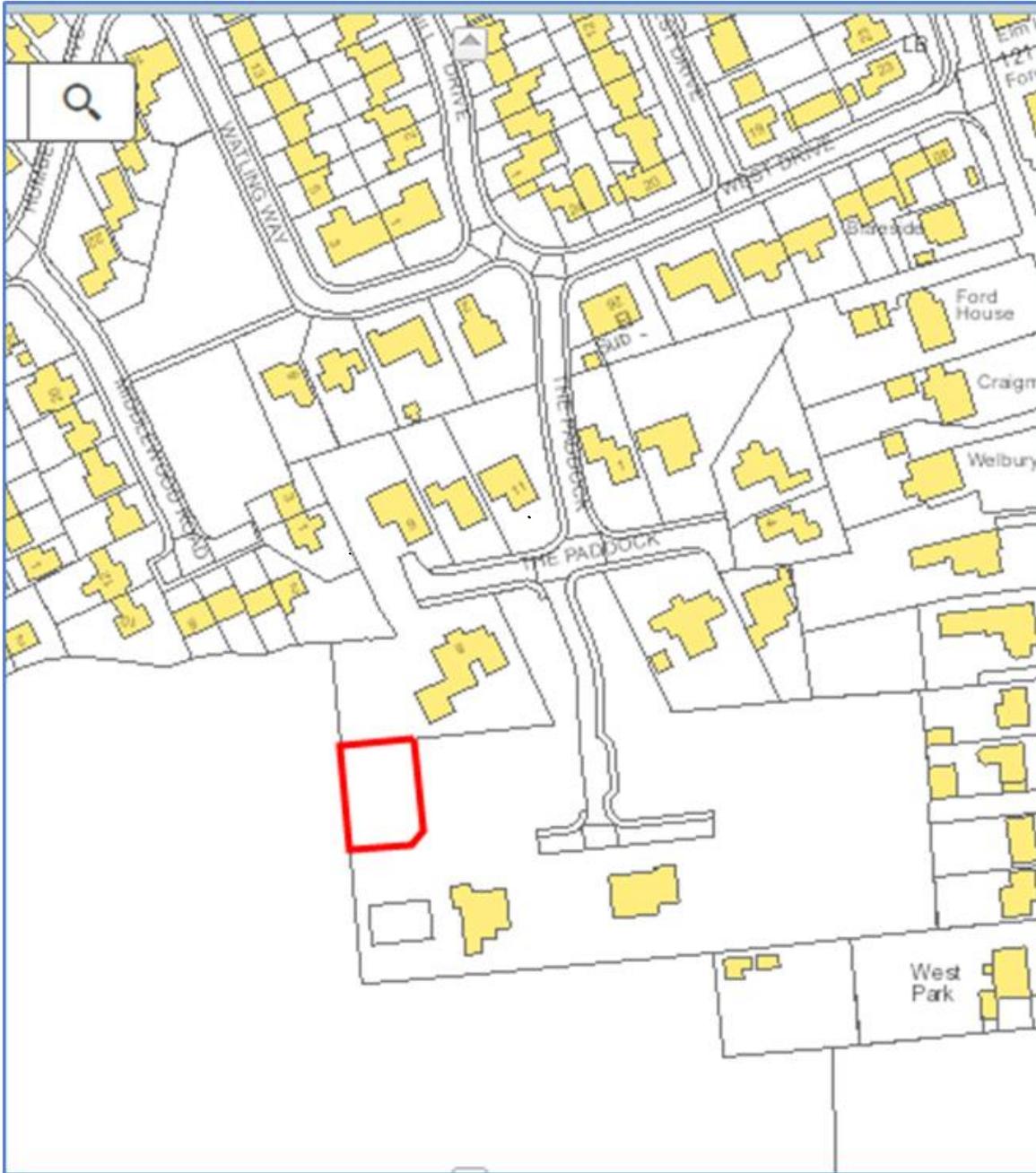
STATEMENT OF PROACTIVE ENGAGEMENT

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

The National Planning Policy Framework (2021)
National Planning Practice Guidance Notes

Durham County Plan 2020
Lanchester Village Neighbourhood Plan June 2021
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

DM/21/02574/RM

Application for reserved matters consisting of appearance, landscaping, layout and scale from approval DM/19/00118/VOC

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Comments

Date 28 September 2021

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/02516/RM
FULL APPLICATION DESCRIPTION:	Approval of reserved matters (appearance, landscaping, layout and scale) relating to planning permission DM/16/00871/OUT
NAME OF APPLICANT:	Mr David Hall 15 The Pastures (Plot 14)
ADDRESS:	Lanchester Durham DH7 0BT
ELECTORAL DIVISION:	Lanchester Steve France
CASE OFFICER:	Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This is an application for 'Reserved Matters', these being details of Appearance, Landscaping and Layout, on an individual plot following the grant of 'Outline' permission for a development of up to 14 dwellings on land to the south of The Paddock in June 2017.
2. The development site within which this plot sits was granted Outline consent on appeal in 2017 for up to 14 dwellings with all matters reserved except access which was agreed at that time. Subsequent reserved matters and s.73 applications agreed the subdivision of the site and the extent of the individual plots and their levels, along with details of common elements of the scheme, including drainage, highways and landscaping, setting up the development to be built as plot-build self-build on serviced plots through the submission of applications on individual plots.
3. Parts of built development required to service the plots was undertaken before application for, and development of, the individual plots commenced. This included the road layout, levelling of individual plots and parts of the required drainage system. The root protection zone of the trees adjacent The Paddock was protective fenced to the relevant British Standard. The access road and pavement from The Paddock has therefore been built up to all but its final surface. Two extensions of this highway approved as shared private driveway serving dwellings at the top and the bottom of the site are at present part finished in base layer aggregate, during the development process. Large drainage attenuation tanks

have been installed at the lower part of the site to the rear of existing dwellings in Ford Road to control surface water drainage. These will be complimented by additional tanks on each plot.

4. Five of the plots have been approved to date and are in various states of development, with two essentially complete and occupied. These are all sited on the south boundary of the site on the village edge facing agricultural land (one overlapping the rear garden of a dwelling to the south-east). All these dwellings have grey roofs, but otherwise display a range of styles and scale, from a bungalow, to larger two-storey houses and dwellings that present a two-storey appearance into The Pastures but use roof accommodation to have three storeys of windows on the rear.
5. The individual plot subject to this application, no.14, albeit given the address 15, the Pastures in deference to sale people's reluctance to use the number 13, sits to the right of the main access road into the development on the north side of the site. The plot sits adjacent plot 13, subject to a current application, but not one so advanced as to appear on this agenda, and 8 The Paddock, an extended bungalow in a low-density single storey older development, set within a Tree Preservation Order, to the north. 7 The Paddock was demolished to provide access to the site granted consent by the Planning Inspector. The application plot is surrounded by development and does not form part of the settlement boundary.

The Proposal

6. The planning application seeks approval for a single detached dwelling. Formed of a single main two-story block with two feature gables on the front, south facing elevation, a subservient wing on the side provides a double garage with a full storey of accommodation above. A single storey extension to the rear extends the full width of the main block, two thirds of this in the form of an open canopy, with a garden room extension in the remainder.
7. The single storey garden room is the closest element of the proposal to the existing bungalow at 8 The Paddock, with this relationship, at an angle of 20 degrees, shown as 27.7m on the submitted plans. The ground floor of the proposal is 2m below that of the bungalow. The facing windows on the closest element of the first floor of the proposals, the bedroom in the side off-shot is 30.5m from the bungalow. The distance between the closest first floor bedroom window and the nearest part of the existing bungalow at 6 The Paddock is 47.9m at an angle of 50 degrees.
8. The footprint of the proposed dwelling has been set 2.45m away from the boundary with plot 13 to the west, to give a clear visual separation to eventual development on that site, which sits 2.25m higher.
9. Plot 14 is unusual in shape, extending part way alongside the site access road, but leaving a clear length of over 15m at the estate entrance for the communal landscaping scheme beyond the garden. The proposed rear garden fence alongside the estate entrance – there is no footway on this side of the road – is to be inset by 1m to allow for planting adjacent the public highway. Two off-street parking spaces are shown accessing the overlap between the adoptable highway and the private drive element of the approved estate roads.
10. This application is reported to Committee upon the request of Councillor Douglas Oliver to consider the impact of this development in terms of: overlooking; loss of light; visual amenity; landscaping and impact on trees in a public forum.

PLANNING HISTORY

11. DM/16/00871/OUT - Outline planning permission for residential development (C3) of up to 14 dwellings with all matters reserved except access, including demolition of no. 7 The Paddock. Application Refused, Appeal Allowed.
12. DM/18/03847/RM - Reserved matters for outline planning permission DM/16/00871/OUT. Approved.
13. DM/19/00118/VOC - Variation of condition 1 pursuant to DM/16/00871/OUT and propose an additional condition. Approved
14. DM/19/00779/AD - Erection of free standing, single sided temporary non-illuminated sign (1525mm x 1220mm x 4mm) on wooden frame. Approved.
15. DM/19/01005/RM – Plot 10, 3 Bedroom detached bungalow with integrated garage and off-street parking. Approved.
16. DM/20/00044/RM – Plot 9, Reserved matters of appearance, landscaping, layout and scale for erection of single residential dwelling. Approved.
17. DM/20/00110/RM – Plot 11, Reserved Matters consisting Appearance, Scale, Landscaping and Layout for one two storey detached dwelling. Approved.
18. DM/20/01106/RM – Plot 8, Reserved matters application pursuant to DM/16/00871/OUT for erection of one detached dwelling. Approved.
19. DM/20/01973/RM – Plot 7, Application for Reserved Matters consisting: appearance, landscaping, layout and scale. Approved.
20. DM/21/00251/RM – Plot 1, Approval of access, appearance, layout and scale for proposed new dwelling and landscaping. Withdrawn under threat of refusal.

PLANNING POLICY

NATIONAL POLICY

21. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
22. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
23. The following elements of the NPPF are considered relevant to this proposal;

24. *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.
25. *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.
26. *NPPF 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.
27. *NPPF Part 8 – Promoting healthy and safe communities.* Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.
28. *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.
29. *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.
30. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* advises, 'New development should be planned for in ways that: avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures...'
31. *NPPF Part 15 - Conserving and enhancing the natural environment.* Recognises the wider benefits from natural capital and ecosystem services – including the economic and other benefits of trees and woodland.

NATIONAL PLANNING PRACTICE GUIDANCE:

32. National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and

procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up-to-date advice of Ministers and Government.

33. Of particular relevance to the consideration of this application is guidance for 'Self-build and custom housebuilding', last updated in February 2021. It advises: 'self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction'.

LOCAL PLAN POLICY:

34. The following policies in the Durham County Plan (adopted October 2020) are relevant to the consideration of this application:
35. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
36. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
37. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. Relevant to policies 29 and 31 is the adopted *Residential Amenity Standards 2020*, which sets out requirements to ensure amenity and privacy through the use of separation distances and garden lengths amongst other tools.
39. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.

40. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
41. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.

LANCHESTER NEIGHBOURHOOD PLAN:

42. There has been a change in National Planning legislation which now states that local people may wish to influence development in their area through the preparation of a Neighbourhood Plan (Localism Act 2012). The Lanchester Neighbourhood Plan provides the local community with a powerful tool to guide the long-term future of Lanchester Parish for the period 2019 to 2034. The Plan contains a vision for the future and sets out clear planning policies to realise this vision. The Vision and Objectives for the Lanchester Neighbourhood Plan were developed following community consultation in 2015 and subsequently endorsed in a second Parish wide consultation in 2016.
43. The Neighbourhood Plan sets out a Vision and Objectives, with topics including Design of New Development, Historic Environment and Green Space and the Rural Environment.
44. *Policy LNP2 - Design of New Development* requires that proposals for built development should demonstrate that the following criteria have been taken into account: that Design, Layout and Appearance. Positively responds to the local vernacular, materials and landscape features including green spaces and trees; It is of a scale and density that reflect the rural character and setting of the development; it integrates into the Built Setting, delivering accessible and well-connected environments that meet the needs of users; it provides a mix of housing types to provide flexibility for diverse family structures and styles of living and an ageing population, in accordance with the policies in the County Durham Plan; and demonstrates how they have had regard to a specified list of local design guidance, including the 'Guide to Significant Aspects of Local Character' within the Plan document.

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

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

45. Highways note that the proposed driveway as shown on the submitted plans does not provide the required length for the required three car parking spaces.

INTERNAL CONSULTEE RESPONSES:

46. The County Tree Officer writes, trees to the rear of No 8 The Paddock are protected by the tree preservation order which covers all pine trees within The Paddock. The proposed plans has not shown these trees on plans and light / shade general tree debris may be problematic for the proposed development as it is shown to be reasonably close and possibly within the root protection areas of said trees.

PUBLIC RESPONSES:

47. Consultation letters were sent to the two immediate neighbours. Twelve objections have been received to the application, from 7 neighbouring addresses plus Cllr. Douglas Oliver local Ward Member, Lanchester Parish Council, and Campaign for Rural Lanchester.
48. The Objections relate to the scale and impact of the proposal on residents of The Paddock, specifically the impact of this development in terms of: overlooking; loss of light; visual amenity; landscaping and impact on trees. Each of these is contended a material planning of sufficient impact as to require the application to be rejected.
49. Objectors state the proposed dwelling is oversized in filling the plot, and with the inclusion of rooflights is a 3-storey dwelling.
50. Concerned at loss of privacy, they write, the height of the proposed properties and the design will mean the residents will overlook and look down into all the rooms at the rear of the bungalow at No 8 and No 6 The Paddock, causing a loss of privacy as well as a loss of light. There is a request for all upper floor windows on the rear elevation to be subject to a condition requiring frosted glass in perpetuity. If approved, the development will set a precedent for the rest of the plots that back onto bungalows at The Paddock which will all be dominated, with a loss of privacy those residents who would be looking out onto brick walls. It is contended all buildings on the north side of the pastures should be bungalows to avoid these issues. It is stated there is a condition on the Outline consent restricting each new dwelling to a 25% footprint on the plot. It is requested this be reimposed.
51. The near proximity of a huge house would very significantly impinge on the rights of the residents at 8, The Paddock to receive natural light, massively shading their property.
52. Neighbours refer to restrictions on the enlargement of their own homes and that the trees at The Paddock are an amenity for the village of Lanchester, hence the difficulty in obtaining permission at times regarding their maintenance. The amenity value of these trees will be greatly diminished if houses of 2 storey or more are allowed to be built on the plots at that side of the development, including plot 15 (sic). Trees have been lost when No 7 The Paddock was used as the access to The Pastures, including a mature Oak tree which has already increased exposure and storm damage threat to No 6 The Paddock, the ground surrounding the trees will inevitably be weakened with a development being allowed so close,

that will cause potential future damage that could cause damage to properties on The Paddock.

53. For flood risk, the development looks to have block paving that along with the proposed building will increase the serious flood risk for the area, this land has many natural springs within its boundaries, attenuation tanks and grassed areas should be insisted on. There is a request for a mandatory drainage condition for the implementation of attenuation tanks for each new property. There is a request for Mandatory Condition concerning flooding and a need for attenuation tanks and drainage for each individual property in The Pastures.
54. Concerns are also raised regarding about traffic generation on this narrow piece of road, designed and occupied as a cul-de-sac, for the period of the property's development, as residents have complained of noise pollution and dust from the contractors involved on existing developments. There are concerns raised for the management of conditions relating to working hours and road cleaning and likewise landscaping – it requested that all landscaping works at the estate entrance be completed before works on plot 12 commence, and that new conditions for landscaping, road cleaning and working hours be applied.
55. The Parish Council reflect Residents' concerns, adding an addition at the effect on the amenity of plot 14, considering the proposals contrary to the requirements of the County Council's Residential Amenity SPD and Policy LNP1 of the Neighbourhood Plan. They ask for a Committee Site Visit to better appreciate the issues involved. Again, the Parish Council and Campaign for Rural Lanchester ask that the dwellings on plots 12,14,15,1,2,3 and 4 are single storey in height. The Parish Council is concerned that the current application will set a precedent for the other plots on the inner edge of The Pastures.
56. Residents claim that 'If this massive house is allowed in such close proximity to the smaller bungalows in The Paddock, it is likely that Article 8 will be breached. Failure to impose suitable conditions may also be evidence of a breach of the Act', referring to The Human Rights Act 1988 and the European Convention on Human Rights (ECHR), including Article 8.

APPLICANT'S STATEMENT

57. *When setting out to design our house (No 15 'The Pastures' (Plot 14) we considered the following aspects of the build.*
 - *The neighbours*
 - *The location of the house (rural village location).*
 - *The proportions and distance from the neighbours and roads etc*
 - *The plot size**We were supported by our planner (Paul Armin) who was very knowledgeable and helpful in ensuring that our proposed build meets the requirements of local planning and the highways department whilst also considering the neighbours (in particular the residents of 'The Paddock').*
58. *Our initial intention was to build a house that had the following features:*
 - *3 stories high for extra bedrooms with rear facing Velux windows.*
 - *A rear balcony (facing the Paddock)*
 - *A rear Juliet balcony from the bedroom.*
 - *Large expanses of glass through the middle of the design to give views from both front and back aspect of the house.*

- Flat driveway
- Increased ceiling heights on both the ground and 1st floors

However, after many consultations with our planner we realised that the proposed plan would reduce the privacy of the neighbouring houses and not be in character with the location. As a result, we have redesigned the house so it:

- Met / exceeded the requirements of spacing between the boundaries of all neighbouring properties
- Representative of a traditional build style in keeping with the location.
- Removed the balconies at the rear
- Removed the expanses of glass so giving up the views
- Reduced the ceiling heights to a standard height to ensure the house was a standard roof height
- Lowered the house into the ground to again reduce the overall height in relation to other houses
- Accepted a sloping drive (down towards the house).
- Of the 5 windows to the first-floor rear elevation:
 - 2 are frosted windows for bathrooms
 - 1 is a walk-in wardrobe
 - 1 is a spare bedroom (rarely used)
 - 1 will be used as a bedroom
 -

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

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QW67FLGDH6M00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

59. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is noted the principle of development has been accepted by the Outline consent.
60. It is considered that the main planning issues in this instance relate to the detailed implications of the proposals in terms of scale, character, appearance and effects on privacy and amenity.

The Development Plan

61. The County Durham Plan 2020 was adopted in October that year, with the policies therein fully up to date in terms of the required consistency with the NPPF. The NPPF and NPPG guidance is a material consideration in its own right. The Lanchester Neighbourhood Plan 2019 – 2034, was 'made' (adopted) in June 2021 and now has material weight in the decision-making process.
62. It is noted that the policy context against which the original application and subsequent agreement of site details and individual plots has changed since the original consent in 2017. That approval was assessed against the requirements of

the Derwentside District Local Plan 1997, with subsequent applications assessed against emerging weight being given to the County Plan. The Neighbourhood Plan is also now relevant.

Scale, Character and Appearance

63. In allowing the appeal for the overall development the Planning Inspector imposed conditions and restrictions on the extent of the approval granted. If strict design codes or restrictions in scale were considered required, these could have been imposed at that time. Instead, the Inspector noted, 'these would all be appropriately addressed as part of any future reserved matters application rather than at this stage'.
64. The application proposes a modern dwelling that has been subject to some pre-submission discussion and revision. The elevations have a traditionally referenced modern character, with a brick finish proposed. The scale of the building has been reduced with a lowered side extension and the single storey rear extension and canopy roof
65. The dwelling has a clear separation buffer to the adjacent plot to allow it to sit clearly detached from any structure on that plot, and to ensure that a solid 'wall' of development is not presented to the existing bungalow in The Paddock.
66. The scale of the building can be judged both in terms of existing approved development on the site, and in relation to dwellings in The Paddock. In terms of the development site, proposals for the immediately adjacent plot 13 are being revised. Elsewhere on the development there is a single bungalow and a range of large two storey dwellings each reflecting the design choices of the individual developer, but each clearly separate from its neighbour. Where these dwellings shared a boundary with the countryside, and are only visible in long views, an additional storey of in-roof accommodation has been allowed – conditional on the front elevation where visible from within the settlement being of 2 storey appearance. The proposal is two storey – rooflights lighting a landing on the front elevation roof slope do not constitute a third storey as claimed by one objector.
67. The development in The Paddock is of a particularly low density – even compared to contemporary development in the immediate area - and would be unlikely to be acceptable against modern planning policies – unless required to respect existing features, such as trees – this may have also been a historic design driver.
68. Objectors opine that the development should follow the scale of dwellings in The Paddock, an opinion previously offered in objection to those plots already approved. In terms of the existing development setting the scale of the new, it is relevant that of the 23 dwellings on the settlement boundary between Cadger Bank and Ford road before this site was approved in outline, only the 4 in The Paddock are single storey, and those were heavily screened. The dwellings in The Paddock no longer form the settlement boundary. Officers are of the opinion that a hierarchy of development is appropriate across the site, with single storey appropriate if desired – as approved at plot 10 – but in a general approach, an overall two storey character is appropriate.
69. Further, whilst the dwellings in The Paddock were designed and approved as single storey and are apparently still restricted to such by a covenant, it is relevant that any covenant is a legal restriction and not a planning restriction, and current

permitted development rights would allow any of the existing bungalows to add an additional storey without the need for planning permission.

70. The scale of the dwellings proposed will have potential implications for overshadowing of neighbouring plots. It is noted above the proposal has a separation of almost 2.5m from the adjacent plot so as not to present a 'wall' of development to the bungalow to the north.
71. For the specific relationship with 8 The Paddock, the proposed dwelling has been set back from the shared site boundary in avoiding the root protection zone of the protected pine trees. The single storey element of the proposed unit sits 6.75m from the site boundary – the main two storey element 9.5m. The ground floor of the proposal sits 2m below that of the bungalow. Sited south-east of the bungalow with a slightly indirect relationship (20 degrees) between the face of elevations there is no potential for overshadowing of existing windows, even before the presence of the tree belt is taken into account.
72. In terms of scale, the nature of the site is such that almost every plot has different implications for adjacent relationships. It is considered there is no basis to enforce a moratorium in principle on two storey development adjacent the existing bungalows where policy compliant separation distances can be achieved.
73. Whilst what represents an acceptable scale of development is a matter of judgement, this is a judgement led in the first instance by the separation standards set out in the Residential Amenity SPD. The relationship to both 8 The Paddock and plot 13 is critical. Privacy relationships will be considered below. The standards do also however inform the implications for the effect of massing on overshadowing potential. With an angled relationship of 30.5m where 21m is required between the bungalow and the facing first floor of the proposals, the relationship between the buildings is considered acceptable.
74. The proposals have the potential by degree to overshadow the southern garden area of the bungalow. This garden is already set below a tree belt, and it is considered relevant that the two-storey element of the proposal sits over 9m from the shared boundary – the currently required length of a garden on any new development. The relationship is considered acceptable.
75. Rights to light refer to expectations of such within dwellings through windows. With the distance between the existing and proposed dwellings, the angled separation between them, the potential for the massing of the proposal to unreasonably affect the residential amenity of the bungalow and their right to light has been considered in the design, with the effect concluded compliant with the requirements of Policy 31 of the County Durham Plan.
76. The application site is within a plot-build development where self-builders would expect and be expected to express individual design choices, particularly in the absence of a design code. Officers have been of the opinion that as the overall development will be seen in the public domain in longer views, it is the materials palette, and the roofs in particular, that will help visually bring the overall development of the different plots together. To this end a range of elevational treatments, scales and massing is, within reason considered acceptable, led by the Government advice on self-build and custom building. The predominant materials in this part of the existing settlement are buff bricks, brown concrete roof tiles under shallow pitched roofs, and render and plain hung tile panels. The few vernacular buildings are stone with slate roofs. Strict adherence to this now somewhat dated and restricted range of materials exhibited by adjacent

development is considered contrary to Part 12 of the Framework's and Policy 29's intent to raise design standards. The elevational and materials approach is therefore concluded acceptable, subject to confirmation in detail via imposition of an appropriate condition ensuring detailed compliance with the requirements of Policies 29 and LNP2.

Residential Privacy

77. The aforementioned Residential Amenity Guide SPD is also the appropriate tool for assessing Residential Privacy issues. The required separation distances are 21m for facing habitable room windows, but whilst a tolerance is given for differences in levels, there is no advice for angled relationships. Reasonable separations are also set by the aforementioned requirement for a 9m garden length. The separation distances set out above are more than is expected to ensure residential privacy for both existing and new residents. The existing bungalow effectively overlooks the proposed two storey dwelling.
78. The distance to 6 The Paddock, a further objection, is well over double the requirement at an extreme angle.
79. The impacts on the privacy of the existing neighbours are concluded acceptable and policy compliant.

Highway Safety

80. Highway safety issues have largely been dealt with through the Outline consent and subsequent Variation of Condition and Discharge of Condition applications. The development as submitted does not provide sufficient off-street parking to meet County Highways Standards. This is being pursued and appears capable of resolution by either the use of recessed garage doors or a wider drive. A precautionary condition is proposed to ensure this is resolved. On this basis the proposals are considered compliant with the requirements of Part 9 of the Framework and Policy 21 of the County Plan.
81. Where there have been shortcomings with ensuring compliance with the road-cleaning conditions imposed on the main consent, the issue lies with monitoring and enforcement, and should not count against new developers. A mechanism to cope with the sporadic need to meet this requirement is being discussed with the main developer. National planning advice argues strongly against duplicating conditions.

Other Issues

82. The scheme will provide for a landscaping strip between the rear garden fence and the estate entrance which in association with the estate entrance landscaping scheme will visually soften the approach to the development.
83. Complaints regarding landscaping appear to relate to the overall site. The upper site boundary is part of the area under review for an amended landscaping scheme that has been discussed over a period of months that should be submitted as this application is determined. The scheme will cover amended proposals for the site entrance and site boundaries. It has been discussed between the

applicant's landscape advisors and County Landscape Officers and has been amended to meet the requirements of the latter.

84. The required separation from the trees in The Paddock was set by the Outline consent, reflected on the site by the Heras fencing. Changes to site levels to form the individual plots has likewise already been set. With the development outside the root protection zone and using the agreed levels, the required assessment of the relationship to trees arrives at residential amenity. The trees are to the north of the new dwelling, ensuring light is not an issue. There will be maintenance implications to their presence, but that dwellings can coexist with the trees is indicated by the homes in The Paddock.
85. A change in the context within which the trees within the Tree Preservation Order would be viewed from within and outside the village was implicit within the grant of outline consent – the trees no longer forming the boundary of the built development of the village. This objection to the application is considered untenable.
86. A number of objectors claim the original consent granted by the Planning Inspector includes a restriction of 25% of the plot for built development – with a detailed analysis of all plots approved to date, and the current application site set out. Appeal Decision APP/X1355/W/16/3160472 sets out 14 conditions but does not impose such a restriction.
87. Breaches of the Human Rights Act 1988 and the European Convention on Human Rights are claimed for the proposed relationship between existing and the proposed dwelling. This was an aspect of the Outline consent considered by the Inspector, who found that there was no issue in principle with the grant of outline consent, as achievement of an acceptable relationship was possible. The above planning assessment concludes that it is Officer's judgement that the proposed relationship is acceptable in terms of the requirements of national and local planning policy, and this could reasonably lead to a similar conclusion in terms of assessment of impingement to the right to a private family life under Article 8.
88. Conditions applied to the Outline consent apply to each of the individual plots. Therefore, the requested drainage condition is already in place led by conditions 5 and 6 of approval DM/16/00871/OUT. Each developer must carry out their part of the agreed scheme. Requirements of the existing Sustainability Condition require additional attention by the applicants. 'Informatives' attached to an approval can be applied to remind the individual developers of their responsibilities to the remaining and overarching conditions applied to previous consents that they are bound by.
89. Consistent with the approval of other plots, it is considered appropriate to remove residential permitted development rights to give the Council as Local Planning Authority control over any future extensions and alterations that may be imposed. The new dwelling would not benefit from permitted development rights allowing additional storeys.

CONCLUSION

87. With Outline consent in place, the detailed assessments required by the Development Plan Framework: i.e. The Durham County Plan and the Lanchester Village Neighbourhood Plan of matters of scale, character, appearance and

effects on residential amenity and privacy, informed by the National Planning Policy Framework and Planning Policy Guidance are set out above.

88. The policy Framework has evolved significantly from the granting of Outline consent, and Officers have sought to give this appropriate regarding in terms of consistency whilst meeting legal requirements. The opinions expressed against the proposal have been considered and given due regard, but ultimately, in effectively trying to impose additional restrictions on development contrary to that intended by the Planning Inspector, are not considered sustainable for the suggested refusal.
89. The proposal has been assessed in detail and is considered to meet the constraints of the site and be acceptable in relationship to existing dwellings on and adjacent the site. It is recommended that the application be approved subject to appropriate conditions.

RECOMMENDATION

90. That the application be **APPROVED** subject to the following conditions:
1. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.
Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
 2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 21, 29, 31, 35, 36, and 40 of the Durham County Plan, 2020, Policy LNP2 of the Lanchester Neighbourhood Plan 2021 and parts 2, 4, 5, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.
 3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. The condition is required pre-commencement to ensure that the visual impacts from the development are controlled from the outset, maintaining the character of the area.
 4. Prior to the first occupation the development hereby approved, details of all means of enclosure and retaining structures of the site shall be submitted to and approved in writing by the Local Planning Authority. These shall be constructed in accordance with the approved details thereafter.
Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
 5. Before the dwelling hereby approved is occupied, a plan to show the provision of three external parking spaces must be submitted to, agreed in writing by the Local Planning Authority and implemented in full.

Reason: In the interests of highway safety as required by Policy 21 of the Durham County Plan 2020 and part 9 of the National Planning Policy Framework.

6. The vehicular hard-surfacing areas hereby approved must be built of a permeable construction.

Reason: To assist in the Sustainable Drainage of the site, as required by part 14 of the NPPF.

7. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include accurate plan-based details of the following:

- Details of landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The detailed landscaping scheme must include a schedule for the implementation of the works tied to the erection of the approved dwelling. The Local Planning Authority shall be notified in advance of the start on-site date and the completion date of all external works. The approved landscaping scheme must be implemented in full, within the agreed timeframe. Trees, hedges and shrubs planted as part of an approved scheme shall not be removed without agreement within five years of their planting, with any specimens that fail within the first five years replaced to the agreed specification within the first available planting season.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. The condition is required pre-commencement to ensure that the visual impacts from the development are controlled from the outset, maintaining the character of the area.

8. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, E, F, Part 2, and Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwelling hereby approved and any buildings, and boundary markers within and around the curtilage of the dwelling house(s) shall be submitted to and approved by the Local Planning Authority.

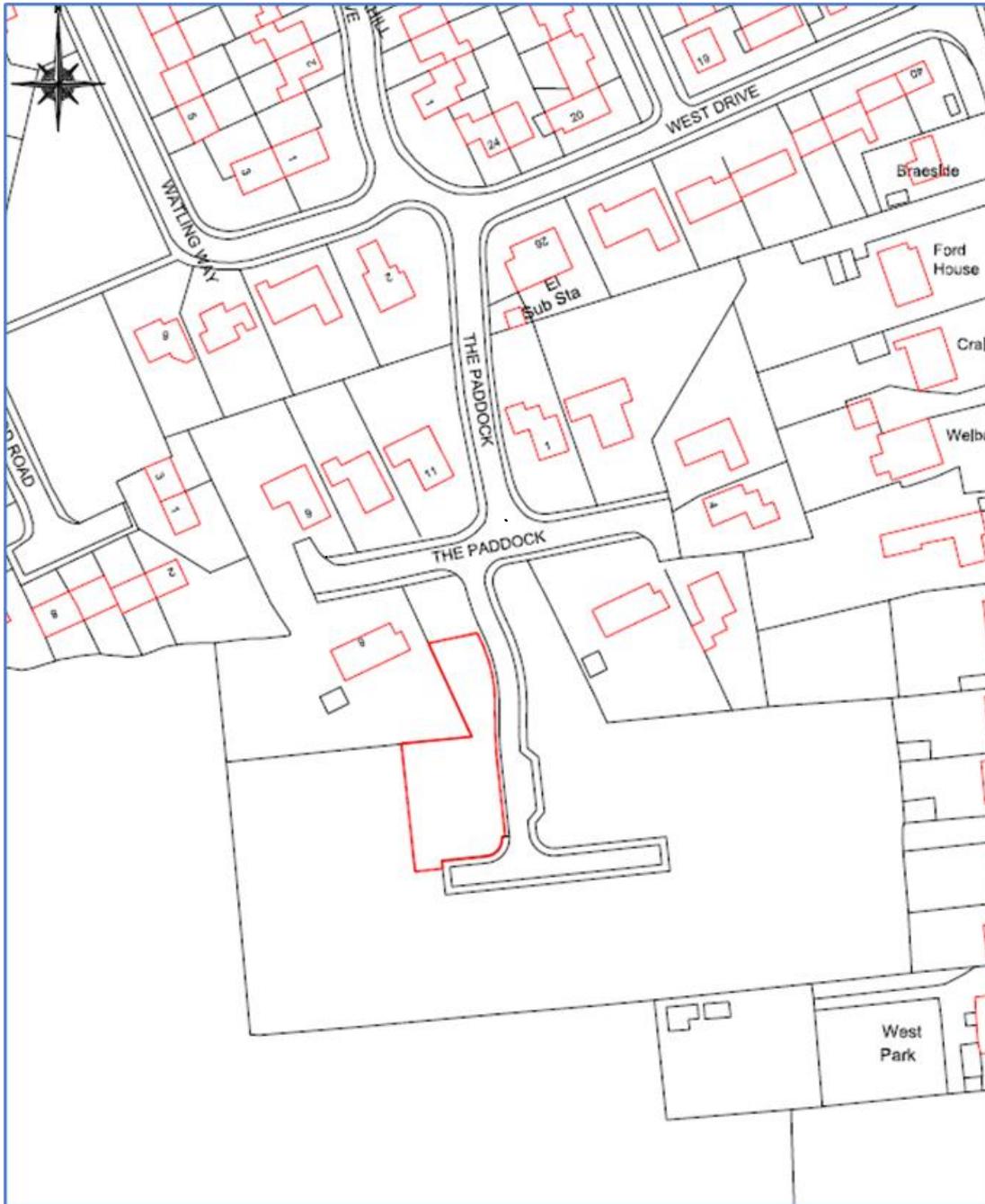
Reason: In order that the Local Planning Authority may exercise further control in this locality in the interests of the visual amenity of the area and to comply with Policy 31 of the Durham County Plan 2020

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

The National Planning Policy Framework (2021)
National Planning Practice Guidance Notes
Durham County Plan 2020
Lanchester Village Neighbourhood Plan June 2021
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

DM/21/02516/RM

Approval of reserved matters (appearance, landscaping, layout and scale) relating to planning permission DM/16/00871/OUT

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Comments

Date 28 September 2021

Scale NTS

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/20/03609/FPA
FULL APPLICATION DESCRIPTION:	Use of interior and exterior curtilage of Greencroft indoor shops for the holding of occasional seasonal events.
NAME OF APPLICANT:	Mr Marshall
ADDRESS:	Field House, West Road, Annfield Plain, Stanley, DH9 7XA.
ELECTORAL DIVISION:	Annfield Plain Louisa Ollivere
CASE OFFICER:	Senior Planning Officer Telephone: 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The site is the former builder's yard office building now known as Greencroft Indoor shops with an associated outdoor car wash and front curtilage parking areas. The site is adjacent to and south of West road, a main road in and out of Annfield Plain. The area is predominantly residential with dwellings to the south, east and north east . There is however an industrial company to the west. To the north and across the road is an area of public open space.
2. The site is within the settlement of Annfield Plain but outside of the defined centre of Annfield Plain.

The Proposal

3. Permission is sought to use the interior and exterior of the buildings on site for the holding of occasional seasonal events such as 'scarewash' at Halloween, and Christmas events such as a temporary ice rink and area for Coca Cola Truck visits. Over the past year similar events have taken place without the benefit of planning permission and permission is now sought to regularise any future events.
4. The events would create further full time employment for 2 persons. The events would be held between 9am to 7pm Monday to Saturday and 9am to 4pm Sundays and Bank Holidays.
5. No additional parking is proposed above the current 16 car parking spaces available on site used to serve the current businesses.

6. This application is being reported to Committee upon the request of Councillor Joan Nicholson on the grounds that the proposal will impact upon highway safety, increase traffic and parking on street and impact upon neighbouring residents.

PLANNING HISTORY

7. DM/20/00138/FPA Change of use to car wash (retrospective) (Approved).

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
10. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *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.
13. *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.
14. *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity,

building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

15. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate. Amongst other aims decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site to impacts that could arise from the development. Noise should be mitigated and reduced to a minimum potential adverse impact to avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development the applicant should be required to provide suitable mitigation.

NATIONAL PLANNING PRACTICE GUIDANCE:

17. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
18. Noise: Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved.

LOCAL PLAN POLICY:

19. The following policies in the County Durham Plan are relevant to the consideration of this application.
20. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to

character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration (where applicable).

21. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
22. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

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

<https://www.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

23. Highways Officer – Notes that the site has previous planning history for mixed use commercial development. Highways have previously raised concerns that the fact that the operations of the car wash along with the other lawful mixed uses mean parking and accessibility at site could be problematic and may cause an adverse highways impact as parking would not be contained at the site thus over spilling onto the public highway. The Officer advises that these proposed events would compound the present parking issues already highlighted and the safe operation of a suitable one way traffic system. Any such future held events at the site would therefore not be supported by highways because of these reasons.

INTERNAL CONSULTEE RESPONSES:

24. Environmental Health (Nuisance) – Have requested further detail into the type of events that are proposed and whether the events involve the playing of music, live or amplified, and request details which specify the provisions to be made for the control of noise emanating from the proposed development to include details of any management, layout and/or structural measures that will be implemented. The Officer also advises that an environmental noise assessment may be required, depending upon the nature of the events to be held.

25. Councillor Nicholson: Has concerns about this planning application and refers to previous events that have been held on the premises have caused problems for the surrounding properties. The Councillor comments that police have been involved with parking issues and the constant parked cars are causing road traffic problems and requests a multi-agency approach to this property and the problems being caused to local residents.

Other Consultees

26. Durham Constabulary: No comments received to date.

PUBLIC RESPONSES:

27. A total of 42 letters of consultation were sent out to surrounding residents. This has resulted in 7 letters of objection from local residents.
28. The concerns are summarised as follows:
- Traffic problems will be caused
 - Noise issues
 - Past events have led to traffic and noise problems (music, shouting beeping of horns etc) late at night and police attending.
 - There is already excessive parking on the street and surrounding streets from the uses on this site -this is a hazard for drivers and pedestrians. This will worsen.
 - The parking on street is opposite a bus stop and already blocks traffic flow.
 - Many of surrounding residents are elderly or families sensitive to noise.
 - Anti-social behaviour from people attending the events.

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

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QKYS0QGD0G000>

APPLICANTS STATEMENT

29. Our events are going to be all solely family events and as you will see from last years Christmas events we didn't have a single complaint about noise as we took on board our issues from the scarewash and corrected them, and as for the scarewash, we didn't get noise complaints, we rectified all issues to make sure going forward we do stuff right.

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

30. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development in this location, amenity considerations, highway safety, sustainability,, use of land, urban regeneration and economic impacts.

The Principle Issues

31. The lead County Durham Plan policy in relation to this development is Policy 6 (Development on Unallocated Sites). This essentially permits development on unallocated sites but within the built-up area or outside the built-up area but well related to a settlement provided certain criteria are met. There are 10 criteria a-j relating to compatibility, physical and visual relationship of site to settlement, loss of open land, design considerations, highway safety, locational sustainability, impact on neighbourhood, climate change, use of brownfield land (if relevant) and priorities for urban regeneration priorities (where appropriate).
32. Criteria b) of the CDP Policy 6 is not considered relevant in this case as the proposal involves a use with no new permanent buildings or structures therefore there should be no permanent visual impacts to the settlement from the proposal. Criteria c) is not considered relevant in this case as this is not open land. Nor is criteria d) relevant in relation to design as there is no permanent built form proposed. Criteria g) is not considered relevant as the proposal does not involve the loss of a facility. Criteria h) relating to climate change/flooding is not considered particularly relevant as the proposal does not involve any permanent built form.
33. Annfield Plan is a settlement and the site is with the built-up area of the settlement. The acceptability of the proposal rests on the relevant criteria of policy 6 being met and each of these will be considered in turn in the following section of the report alongside other relevant policy considerations.

Amenity considerations

34. Criteria a) of Policy 6 requires development to be compatible with existing uses of adjacent land. The surrounding uses are predominantly residential. Therefore, consideration of residential amenity and pollution policies is essential in terms of compatibility. Policy 29 of the CDP requires proposals to provide high standards of amenity and privacy, and to minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 of the CDP requires development to have no unacceptable impact on living conditions and to ensure that future occupiers of proposed developments have acceptable living conditions. It advises that proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
35. Paragraph 130 (f) of the NPPF requires developments to have a high standard of amenity for existing and future users and para 30 recognises that it is important to that developments do not result in crime and disorder, and fear of crime that would undermine the quality of life or community cohesion and resilience. Paragraph 185 of

the NPPF requires new development to be appropriate to its location taking into account the likely effect of pollution on health, living conditions and the sensitivity of the area. The framework requires development to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and quality of life.

36. The site is surrounded by older persons bungalows to the east and south in close proximity and family housing across the road to the north. This being the case the proposed amenity of existing residents is a material consideration, with the occupiers of nearby residential dwellings particularly concerned about noise, disturbance and anti-social behaviour.
37. The Council's Environmental Health Officer is concerned about noise from the proposed events and has requested further details as to the type of events proposed, whether music will be played and amplified, how noise will be managed and mitigated and advised that a noise assessment may be required once more is known about the events. Despite requests limited information has been supplied other than the events being described as family events and that measures were taken in response to a previous events to ensure noise complaints were not received at the next event.
38. It has therefore not been adequately demonstrated that the development would not have an unacceptable impact on living conditions or that satisfactory mitigation measures are in place to prevent noise in this noise sensitive area. There is clear policy conflict in this respect. In regard to anti-social behaviour, whilst this has been a problem in the past more recent events have been better managed and the type of family events envisaged should not result in this being a significant concern, unlike noise.
39. On this basis it is considered that the proposed development is not compatible with the existing residential use of adjacent land and there is policy conflict with CDP Policy 6 criteria (a) and Policy 31 and Section 12, Paragraph 130 of the NPPF in that respect.

Highway Safety

40. Criteria e) of policy 6 of the CDP requires proposals to not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Policy 21 of the CDP requires all development to deliver sustainable transport by amongst other less relevant criteria ensuring that any vehicular traffic generated by new development can be safely accommodated and ensuring development has regard to Parking and Accessibility Supplementary Planning Documents. Paragraph 111 of the NPPF advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.
41. As local residents' detail, there are already problems with on street parking on the main road in the vicinity of the site due to the numerous vehicles associated with the employees of indoor shops and car wash in addition to customers parking. Whilst it is acknowledged that the ticketing of events has prevented the extreme traffic backlog experienced in October 2020, the events would still attract visitors to the site that is already struggling to cope with parking. The Highways Officer considers that the proposed events would compound the present parking issues and the safe operation of a suitable one way traffic system. As such it is considered that the proposal would be prejudicial to highway safety and is not supported in highway safety policy terms.

Locational sustainability credentials

42. Criteria f) of Policy 6 of the CDP requires development to have good access by sustainable modes of transport to relevant services and facilities and to reflect the size of the settlement and the level of service provision within the settlement. Paragraph 110 of the NPPF advises that appropriate opportunities to promote sustainable transport modes can be-or have been- taken up, given the type of development and its location.
43. The site lies within the built-up residential area and close to the local centre and directly opposite a bus stop with regular services to surrounding areas. Against this background, it appears that the site is likely to be reasonably accessible by employees and customers by modes of transport other than the private car. This weighs in favour of this development, in accordance with Policy 6 of the CDP and Paragraph 110 of the NPPF.

Use of land

44. Criteria i) of policy 6 of the County Durham Plan supports the use of previously developed land. This land is currently brownfield being occupied by shops and hardstanding therefore the use gains some support in this respect.

Priorities for urban regeneration

45. Criteria j) of policy 6 advises that where appropriate, development should reflect priorities for urban regeneration. In neighbourhoods such as this the priorities are improving the housing offer, narrowing the deprivation and inequalities gap between communities, establishing communities where people live, can live and want to live, improve equality of access to employment and services and mitigating the impact of welfare reform on our most vulnerable residents. The proposal would not offer much in this regard. Nor is the scale and nature of the business one with potential to drive economic growth in terms of productivity, employment or business stock moving forward. The proposal does not gain support in respect of this criteria.

Building a strong, competitive economy

46. Paragraph 81 of the NPPF advises that significant weight should be placed on the need to support economic growth and productivity. The proposal would have some economic benefits in terms of employment and boosting the footfall to current business on site. These would be limited benefits and would not weigh heavily in favour of this proposal.

CONCLUSION

47. Whilst the site is in a sustainable location and there would be some limited economic benefits the use of the land is not supported as it is not compatible with the

neighbouring residential use and it would be prejudicial to highway safety given the current parking problems at the site. The proposal is considered in conflict with County Durham Plan Policies 6 criteria a) and e), 21, 29 and 31 and Parts 9 and 15 of the NPPF. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. It is not considered that there are material considerations in this case to justify a departure from the local plan policy therefore the application is recommended for refusal.

RECOMMENDATION

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

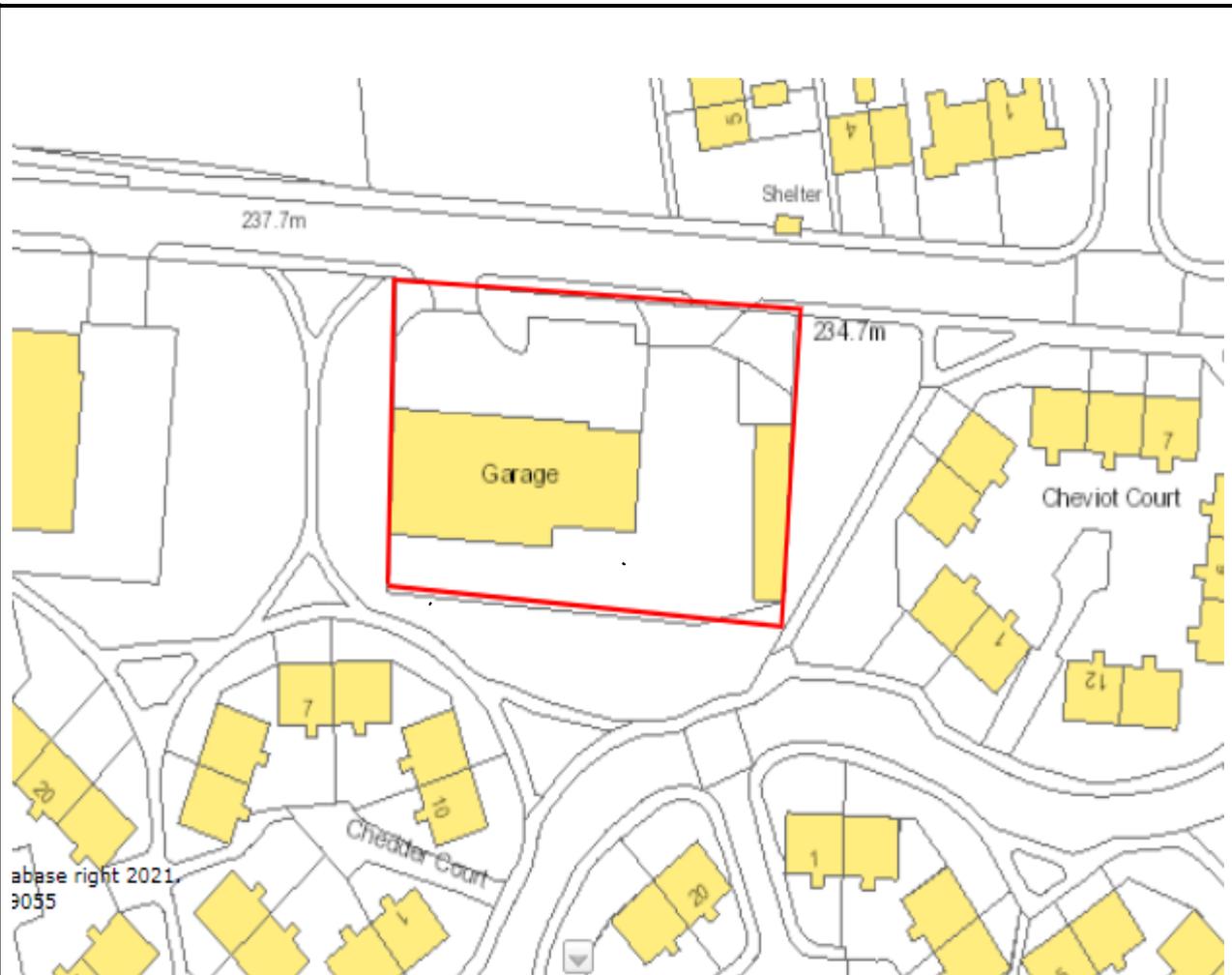
1. It has not been adequately demonstrated that the development would not have an unacceptable impact on living conditions from increased levels of noise or that satisfactory mitigation measures are in place to prevent impacts from noise in this noise sensitive area. On this basis it is considered that the proposed development is not compatible with the existing residential use of adjacent land and there is policy conflict with County Durham Plan Policy 6 criteria a) and Policy 31, and Paragraph 130 of the National Planning Policy Framework.
2. The proposal would be prejudicial to highway safety in the surrounding area as there is insufficient car parking capacity on site to cope with additional parking which will see a significant increase and will likely interfere with the safe current, on-site one way system in operation. The proposal is therefore contrary to County Durham Plan Policy 6 criteria e) and Policy 21, and Paragraph 111 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

The National Planning Policy Framework (2021)
National Planning Practice Guidance Notes
The County Durham Plan 2020
Statutory, internal, and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

DM/20/03609/FPA

Use of interior and exterior curtilage of Greencroft indoor shops for the holding of occasional seasonal events.

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Comments

Date 28.09.2021

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