



Area Planning Committee (North)

Date Thursday 24 February 2022
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 25 November 2021
(Pages 3 - 16)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee
(North Durham)
 - a) DM/21/03809/FPA - The Falcon, Hilda Park, South Pelaw, Chester-le-Street (Pages 17 - 36)
The erection of a fuel filling station, convenience store, canopy, petrol pumps, with associated access and car parking
 - b) DM/21/01066/OUT - Land to the east of Gray Terrace, New Kyo, Stanley (Pages 37 - 58)
Outline Application with all matters reserved for 18 self-build plots with new access road and associated landscaping
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
16 February 2022

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

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

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

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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 **Thursday 25 November 2021 at 9.30 am**

Present:

Councillor M McGaun (Chair)

Members of the Committee:

Councillors B Bainbridge, G Binney, L Brown, M Currah, C Marshall, E Peeke, J Purvis, J Quinn and A Watson (Vice-Chair)

Apologies:

Apologies for absence were received from Councillors J Blakey, J Chaplow, K Earley, J Griffiths, D Haney and S Wilson

1 Apologies for Absence

Apologies for absence were received from Councillors K Earley, J Griffiths and S Wilson

2 Substitute Members

There were no substitutes.

3 Minutes of the Meeting held on 28 September 2021

The minutes of the meeting held on 28 September 2021 were confirmed as a correct record and signed by the Chair.

4 Declarations of Interest (if any)

There were no declarations of interest.

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

a DM/21/02324/RM - 14 The Pastures, formerly plot 13) - 14 The Pastures, Lanchester DH7 0BT

The Committee considered a report of the Senior Planning Officer which sought approval of reserved matters consisting; appearance, landscaping, layout and scale from approval DM/19/00118/VOC (14 the Pastures, formerly Plot 13).

The Senior Planning Officer provided a detailed presentation of the application which included a site plan, site photographs and the existing and proposed layout. Members had visited the site the previous day.

The Chair welcomed Councillor D Oliver, local Member who was in attendance to speak on behalf of residents.

Councillor Oliver advised that ultimately, he agreed with the officer's recommendation and noted the strong community feeling regarding the scale and mass of this development and the impact on No 8 The Paddock. He went on to state that it was felt that the design did not fit in with the community and its needs and the height of the property was out of character with other dwellings in this cluster of residential properties.

He furthermore outlined that the concerns raised by Lanchester Parish Council were valid and he agreed that there was scope for the applicant to bring forward a more synthetic development.

The Chair then welcomed Mr D Friesner, representing Lanchester Parish Council who was in attendance to speak in objection to the application.

Mr Friesner stated that Lanchester Parish Council welcomed the Officer's recommendation to refuse this application and noted their conclusion that the application fails Policy 31 of the County Durham Plan. However, Lanchester Parish Council maintains that there were additional reasons for recommending refusal, which although referred to in your officer's Report and Conclusion, are not included within the overall recommendation.

The two additional reasons relate to: the significant importance and weight which should now be attributed to Policy LNP2 of the Lanchester Neighbourhood Plan, since it was made by the County Council earlier this year, and Policy 29 of the County Durham Plan 2020.

Our original letters of objection clearly laid down the many and several material grounds for refusal.

He went on to reference the decision made by the Committee on Tuesday 28 September 2021, to consider another development at this location. Agenda item 5d considered a proposed development at no. 15 The Pastures (Plot 14), Lanchester (DM/21/02516/RM).

After much discussion, the Committee voted to refuse the application on the grounds that it was contrary to Policies 29 (a. and e.) and 31 of the Durham County Plan 2020 and Policy LNP2 (a., b., c. and e.) of the Lanchester Neighbourhood Plan 2021. Mr Freisener explained that those reasons were equally relevant in this application.

Mr Friesner went on to highlight that the application was for a very large development. The size, mass and density were considered to be too big for this plot – its scale and footprint is also being too large.

The whole Pastures development was clearly visible as you approached the village and the appearance of the overall site and developments to date were considered intrusive. Together with this development, they were not in keeping with and nor reflected or respected the rural village setting and character of Lanchester.

Furthermore, he explained that the relationship of the development to existing properties within the Paddock was of critical importance, more so than other houses within the vicinity such as those which faced on to Ford Road. The Paddock comprises completely single storey bungalows with significant space between dwellings. This development will not integrate well with existing dwellings. Existing residents will face a brick wall barrier of development along the whole length of their garden boundaries. In this instance, the existing neighbour will be confronted by three properties overlooking theirs.

In addition, contrary to the Inspector's guidance outlined in their Decision statement (paragraph 18) about privacy and amenity of existing residents, which they anticipated would be satisfactorily addressed at the application stage, this application does not achieve this. Significant and considerable loss of privacy and other harm to the amenity of neighbouring residents would result from such a large imposing and invasive development.

Since each of the 14 plots were to be self-build, the Inspector could not reasonably comment further upon specific development types. Each development would always therefore be evaluated at the Reserved Matters stage of an application. Therefore, it is important that again consistency is shown.

In conclusion he commented that Lanchester Parish Council agreed that the development is contrary to the Council's own Supplementary Planning Document. Existing residents will be seriously affected, a view shared by local objectors and supported by our own County Councillors. This view is consistent with the Appeal Inspector's statements.

He therefore requested that in voting to refuse the application, Lanchester Parish Council urged the Committee to amend the Officer's original recommendation and reason for refusal, by adding 2 further reasons. The first additional reason relating to the Lanchester Neighbourhood Plan Policy LNP2 (a,b,c and e) and the second, Policy 29 (a and e) of the County Durham Plan 2020, both of which you have previously referenced in decisions of your Committee about the Pastures as outlined above.

The Chair then welcomed Mr M Lee, Applicant's Agent who was in attendance to speak in support of the application.

Mr Lee explained that the application being considered was a far reduced and paired back design following consultation with Planning Officers.

Regarding the single issue of concern regarding privacy, he noted that the neighbouring property and window of concern was part of an extended part of the property now being used as a living space rather than a garage, the purpose of the extension when built.

He further noted that the two properties would have an angled relationship rather than a direct one, with a bathroom window always having been shown in the location to ensure makes the 24 metres distance point to closest habitable window. He went on to refer to the way in which the SDP provides guidance on how distances should be measured.

Mr Lee also noted that his client also wanted to ensure their own privacy and added that they had amended plans significantly to achieve the best outcome for both properties.

The Senior Planning Officer in response to comments made noted that the development site was landlocked and whilst the presence of these plots was already identified they had not all yet been built at full scale. With regard to suggestions made by Lanchester Parish Council regarding the addition of policies for refusal he advised that they were not considered relevant in this application.

Councillor Quinn noted that he had found the site visit undertaken the previous day to be invaluable and highlighted the privacy distances between the proposed property and existing properties at The Paddock, of which the separation distances did not meet the required 21 metres.

Councillor Watson noted that policy framework had significantly altered in recent years and recognised that the proposed application did not meet legal requirements in terms of scale and massing and was contrary to requirements of the SPD and Policy 31 of the County Durham Plan. He further acknowledged Lanchester Parish Council's additional reasons but he was guided by officers and supported the recommendation for refusal.

Councillor Marshall asked whether the extension at No 8 had been completed before or after the outline planning application for this site. The Senior Planning Officer advised that many of the bungalows on The Paddock development had been extended prior to any permission granted at The Pastures.

With reference to the particular extension at No 8 The Paddock, he explained that this had been converted from a garage to living space, with a patio window and there was no route to challenge the internal use of that extension and nor was the extension relevant to this application. He further explained that a direct relationship was established between the two properties and it was important to ensure that the privacy of both dwellings was protected.

The Officers recommendation for refusal was moved by Councillor A Watson and seconded by Councillor L Brown and following a vote being take it was:

Resolved:

That the application be refused on the grounds that the proposed dwelling does not meet the required separation distances set out in the County Durham plan Residential Amenity Standards Supplementary Planning Document 2020 in so far as they required to ensure reasonable expectations of privacy as required by Policy 31 of the County Durham Plan 2020.

b DM/21/03477/RM - 3 The Pastures, Lanchester DH7 0BT

The Committee considered a report of the Senior Planning Officer which sought approval of reserved matters for plot 3, appearance, landscaping, layout, materials, and scale of development (for copy see file of Minutes).

The Senior Planning Officer provided a detailed presentation of the application which included a site plan, site photographs and the existing and proposed layout. Members had visited the site the previous day. He further advised that one additional letter of objection had been received since the report had been published, taking the total number of objections to seven.

The Chair welcomed Councillor D Oliver, Local Member who was in attendance to speak on behalf of the residents.

Councillor Oliver explained that whilst he appreciated that each application should be considered on its own merits there was some residual concerns regarding the scale of the proposed dwelling and that's its appearance was out of keeping with the rest of the area and would be a dominate feature in what was a rural area. In a similar vain to the previous application, he also noted the potential intrusion on neighbouring properties and reflected upon

the Inspector's report of 2017, noting his concerns and that the tests raised within, had still not yet been met.

Once again, he added that there were more positive options available for this site.

The Chair then welcomed Mr D Friesner, Lanchester Parish Council who was in attendance to speak in objection to the application.

Mr Friesner commented that in addition to his representations made on the previous application he would like to make the following observations to support our strong objection to this application.

Our objection focuses upon 3 main areas: Firstly, the Lanchester Neighbourhood Plan (2019-2034) and its Policy LNP2; secondly, the County Durham Plan 2020, Policies 29 (a and e) and 31 and finally; the Council's Residential Amenity Standards, Supplementary Planning Document 2020.

He further referenced explicit guidance (paragraph 18) about privacy and amenity made by the Appeal Inspector in their decision (APP/X1335/W/16/3160472) dated 15th June 2017 which they anticipated would be satisfactorily addressed at the application stage. This application has not done that. Significant and considerable loss of privacy and harm to amenity will result.

Lanchester Parish Council also attributed significant weight to Policy LNP2 of The Lanchester Neighbourhood Plan. The development fails the criteria set (a, b, c and e)

He also thanked the committee for visiting the site this week. He added that those who attended will have noticed the very high canopies of the existing trees which do not provide privacy to existing residents. Although some way off, the adverse impact of the current Pastures developments which are either completed or are ongoing, is clearly seen and already an imposition to existing residents.

The development will be even more intrusive to the existing residents of no's 5 and 6 The Paddock when the domineering 10m property height, site levels and the slope and fall of the plot as well are considered as well as its much closer proximity. Again, existing residents will face a brick wall barrier of development along the whole length of their garden boundaries, with 4 dwellings to be built.

Furthermore the development failed Policies 29 (a and e) and 31 of the County Durham Plan and it is contrary to the County Durham Residential Amenity Standards, Supplementary Planning Document 2020 Section 2.1

which states, “It is important that the amenity of adjacent properties are protected in relation to the over-dominance, loss of privacy and loss of daylight...” and Section 3.7, “It is therefore important to ensure that the amenity that existing residents can reasonably expect to enjoy is not significantly compromised”.

Your reasons for refusal with no. 15 The Pastures are equally relevant and valid for the application to be considered by you today.

In summary, he urged the Committee on behalf of Lanchester Parish Council to vote to refuse the application on the grounds that it was contrary to Policies 29 (a. and e.) and 31 of the Durham County Plan 2020 and Policy LNP2 (a,b,c and e.) of the Lanchester Neighbourhood Plan 2021.

The Chair then welcomed Mr B Endean, Applicants Agent, who was in attendance to speak in support of the application.

Mr Endean reminded the committee that Plot 3 had outline permission and therefore this application sought only deal with the reserved matters. He explained that his client was a successful business, retiring in 2022 who sought a location to build a comfortable family home. The proposed dwelling was of traditional design, with integral garage built using typical materials for this area. In addition, its location was planned to be located well over the 21 metres stipulated separation distance at 30 metres and any impact on amenity was protected by this distance and sensitive landscaping.

In conclusion he advised that the application adhered to all local plan policies and respectfully asked the committee to approve the application.

Councillor Quinn commented that he would be happy to accept the application on the grounds that a condition was included which would prevent the garage with dormer from being utilised for separate living space in the future.

Councillor Marshall noted that he was conscious of the points made by officers and acknowledged that he application already had outline permission. He further noted that self-build properties tended to offer a different mix of houses and this encouraged investment in the area. It was therefore important to bear in mind that investors weren't drawn to the area on false promises.

He therefore added that he would be happy to accept the officer's recommendation with the addition of a condition as requested by Councillor Quinn.

The Officer's recommendation for approval was moved by Councillor Marshall and seconded by Councillor Brown and following a vote being taken it was:

Resolved:

That the application be approved subject to the conditions as listed in the report.

c DM/21/03035/FPA - Horsleyhope Mill, Healeyfield Lane, Horsleyhope, Consett, DH8 9DA

The Committee considered a report of the Principal Planning Officer which sought approval for the demolition of a timber frame to be replaced with steel frame under corrugated iron and timber boarding side cladding for the storage of agricultural machinery used in conjunction with the existing livestock farm (for copy see file of Minutes).

The Chair welcomed Mr A Barrass, Applicant, who was in attendance to speak in support of the application.

Mr Barrass explained that he had grown up on the farm, which had been in his family for 3 generations. The current store was redundant and partially collapsed and the proposed design was subservient to the existing building range following advice received from Planning Officers. The design furthermore retained the agricultural character of the landscape and no alternative sites were available for its siting which would not further impact on the AONB. This design was sympathetic to the AONB and minimised the impact on such.

He further noted that neighbouring farms had recent new farm buildings in the AONB area all of which had been approved.

In addition, he was pleased to note that there had been no objections from the public and Muggleswick Parish Council were in support of the application. He therefore respectfully asked the committee to consider approving the family farm building, noting that as applicants they had listened to and addressed concerns raised by the Planning Officer.

Councillor Brown asked whether there was any risk of erosion from Horsleyhope Burn. In response the applicant advised that as a family they had always worked to protect the Byre (a non-protected-asset) and was not aware that the Burn had come anywhere near close to flooding in 38 years.

Councillor Watson added that in his opinion the new build store would improve the visual appearance of the area and noted that Muggleswick also supported the application.

Councillor Bainbridge asked how close the neighbouring buildings were that the applicant had referred to. It was noted that Spring Well Farm was within proximity to the application site.

Councillor Marshall asked whether there had been any feedback from the AONB since the publication of the report. The Principal Planning Officer advised that no comments had been received but landscape colleagues did have a close relationship with them, and their comments were included within the report.

The Principal Planning Officer went on to explain that the location of the site was very important with the current collection of buildings in situ being pleasing and something which should be protected, however appreciated that this was a very finely balanced decision and hence why so many discussions with the applicant had been undertaken.

Councillor Quinn asked whether the applicant could advise what would happen if the application could not be approved. Mr Barrass explained that it would likely result in the need for a shipping container to be placed on site.

Councillor Brown accepted that this was a difficult decision to make when bearing in mind the farmers livelihood and other factors, however felt that on balance approval outweighed any reasons for refusal.

Councillor Marshall commented that whilst he felt uncomfortable taking the opposing view to officers, he felt that there must be a way that the application could be approved under material considerations relating to rural business and economy and that in this instance common sense must prevail.

As a point of order C Cuskin, Solicitor advised that the council and its planning committees had a statutory duty when considering applications with the AONB to ensure that any application approved preserved and enhanced the area and Members would need to feel comfortable that the application met this test.

Councillor Watson noted that this was a matter of opinion and judgement and therefore moved that the application be approved. Councillor Currah seconded the proposal and following a vote being taken it was:

Resolved:

That the application be approved subject to conditions being agreed in consultation with the Principal Planning Officer and Chair of the Planning Committee.

**d DM/21/03374/FPA - 21 Rickleton Avenue, Chester-Le-Street
DH3 4AE**

The Committee considered a report of the Planning Officer which sought approval of a two-storey side extension with loft conversion to include a dormer window (Resubmission of DM/21/01379/FPA) (for copy see file of Minutes).

The Planning Officer provided a detailed presentation of the application which included a site plan, site photographs and the existing and proposed layout. Members had visited the site the previous day.

The Committee Services Officer then read a statement provided by local Member, Councillor Craig Martin as follows:

“Thank you as a committee and planning officers for taking the time to consider this application. I'm sorry I am unable to attend due to work commitments and provide representations in person after calling this in. To allow for further debate and discussion on the design of this extension, in particular the shape of the roof.

Throughout the whole process and previous applications, I've been in communication with residents that have objections, the applicant, and planning officers. To ensure everyone is informed and their voices are heard. It has been requested that I take this opportunity to raise two points.

There have been wild rumours circulating around the community around the potential of this becoming 'housing of multiple occupancy' (HMO). Despite the applicant confirming they have no intention of using the property for such a thing. If the committee is minded to accept this application, I request that you amend this application, if possible. To put a condition on the application so that its use in the future explicitly cannot be used as a HMO. So that residents are given absolute certainty on this matter.

Secondly, throughout this process I've been having numerous conversations with senior planning officers on the potential options. Using the loft space for another room was noted to be an acceptable amendment to the plans in principle. This information was passed onto the applicant. Along with words of caution about working outside the planning system.

I ask all members of the committee to listen carefully to all arguments put forward by residents and the applicant. Come to a decision so that this matter can come to a conclusion”.

The Chair then asked the Principal planning officer to read a statement which had been provided by Mrs Johnson, local resident who wished to put forward his objections, but was unable to attend the meeting for health reasons.

“I wish to draw the attention of the Committee to the comment made by the Highways Authority on the proposed development at 21 Rickleton Avenue, Chester le Street :-

“If the development increases the number of bedrooms to 5 then the number of parking provisions would need to be addressed “

I understand that the loft conversion has resulted in the number of bedrooms now being 5.

I have commented that the site has now been developed to an extent that there is only parking space for one car within the site. There is only a single garage and no parking space for visitors' cars.

The property occupies a corner site where there is already a problem with car parking on the road and footpaths beside the junction of Rickleton Avenue and Camperdown Avenue which leads to the Blind Lane Junction. I have requested double yellow lines be considered.

I wish to enquire whether the Highways Authority's comment has been addressed and what is the outcome? and does it solve this problem situation being created by this proposed development?

In my opinion there is one very important reason why this development has proved to be so problematic as to be rejected by both planners and the Community and yet has been given little mention in the Report.

The owner of the property does not intend to live in it himself with his family and therefore has shown little interest in the appearance of the building and little regard for the plan he submitted for approval. He has built for the purpose of furthering his business interests and he is in the business of lettings and room rental, his speciality being HMOs for the euphemistically called 'vulnerable adults'.

This business does not belong in Rickleton Avenue. There is strong opposition to it in principle but the Report dismissively refers to “a HMO would require planning permission in its own right”. To me that sounds like storing it for the future.

The aesthetic appearance of the building work at No 21 has been given priority in the Report on this development proposal and I agree the Gable wall is hideous with its almost comical plumbing feature and the roof colour and construction is a real 'sore thumb' of a feature and overall is unacceptable.

But the real and present danger is that one individual would be allowed to further their business interests against the wider public interest and protest of the Community. This is a residential area where the Community Charges are high and the opposition to this development proposal is strong and adamant. Such a business development belongs in the business centre of Chester le Street. Please factor this into the discussion at the Committee Meeting today”.

The Chair then welcomed Mr Kumar, Applicant who was in attendance to speak in support of the application.

Mr Kumar explained that he was unsure how he found himself in this situation following advice sought from his local Councillor over the lockdown period. He advised that at that time it was suggested that he would be able to proceed with the extension and apply for permission retrospectively. He added that he truly apologised that he had got this wrong and that he did not set out to do any work without the requisite permissions.

He went on to explain that he had owned the property for 17 years and only ever rented to families. Regarding comments made relating to HMOs he advised that this is something he would nor want or seek to do at this property, noting that there was no place for a HMO in this area. He went on to explain that he too lived in this area and wanted only to enhance it.

Regarding comparison drawn against number 19, he explained that even if the roof was removed and hip roof replaced, there would still be significant differences to that property.

The Principal Planning Officer added at this point for clarification that should the applicant wish to use this property as an HMO in the future, a material change in use form C4 dwelling would occur and would require permission. Therefore, on that basis prohibiting use as an HMO would not meet the test for a planning condition.

Councillor Watson commented that retrospective planning permission would never be recommended nor the course of action taken by the applicant. He therefore felt the officers had the recommendation right and the reasons for refusal were quite clear.

Councillor Bainbridge asked whether the roof had been hipped when the property was bought. In response the applicant advised that it had been hipped, however the extension had allowed him to incorporate another smaller room.

Councillor Quinn added that he had additional concerns regarding this application given that a lot of the work undertaken did not match plans, including the addition of a gable end window and soil pipe to name a few. On that basis he too felt the recommendation of refusal was correct.

Councillor Marshall added that he was inclined to agree with comments made, noting that it was alarming that a local member had passed on this advice to a resident and added his sympathy if this is indeed what had happened. Therefore, he agreed that given the anomalies with the application and work carried out he felt the committee had no choice on this one.

The Officer recommendation for refusal was moved by Councillor Watson and seconded by Councillor Quinn and following a vote being taken it was:

Resolved:

That the application be refused on the grounds that the proposal, including the gable roof, results in an overly dominant, unbalanced and visually intrusive addition to the existing dwelling in a prominent residential area. The proposal causes harm to the character and appearance of the area and is not sympathetic to the existing building. The proposal is contrary to Policy 29 and 31 of the County Durham Plan; the Council's Residential Amenity Standards Supplementary Document and Part 12 of the National Planning Policy Framework.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/03809/FPA
FULL APPLICATION DESCRIPTION:	The erection of a fuel filling station, convenience store, canopy, petrol pumps, with associated access and car parking
NAME OF APPLICANT:	Mr Ali Rezaei
ADDRESS:	The Falcon Hilda Park South Pelaw Chester-le-Street DH2 2JP
ELECTORAL DIVISION:	Chester-le-Street North
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site at South Pelaw is on the north-west edge of Chester-le-Street, fronting the main C183 to Pelton and the A693 leading to Stanley. With Victorian brick-built properties fronting the main road, the settlement is characterised by local-authority built residential estates north of the main road, and the 1960s private housing of Hilda Park, to the south of the main road, the latter including a large primary school.
2. There is a staggered junction serving the two estates around which there is a small local centre. The site sits north of the junction into Hilda Park, and was until recently occupied by a public house, built at the same time as the estate. Planning approval was granted in March 2020 of the demolition of the pub and the erection of 7 bungalows. The site was cleared, and development works in the form of a front boundary wall started. Within this boundary wall is a recess within which a bus shelter, serves an in-highway northbound bus stop. North of the site but separated by a pedestrian access to a court of residential flats and private garages is a commercial garage, this site originally having been a petrol filling station.
3. South of the access into the estate is a short run of shops, including a convenience store with Post Office, a hot food take-away and a beauty salon. These units have residential flats above. They are set back from the main road behind a hard surface forecourt which is part bollarded. There is an on-street parking layby along the front of the shops, which extends further, along the front of the Victorian terraces to the south-east, opposite which sits the southbound bus stop.

4. Facing the site across the C183 a 10m grass verge including tree planting and an estate road with footpath, separates the front gardens of the local-authority built dwellings from the site.
5. The site itself is a cleared rectangle of land with the aforementioned part-completed wall on the main roadside boundary. Flats in Rosewood Gardens overlook the north-west boundary of the site across a footpath, and the close-boarded wooden fence that defines the site boundary. The south-west boundary of the site is formed by the varied rear garden fences of a short residential cul-de-sac. Of the five dwellings whose curtilages' share the boundary, two present gable walls towards the site, one has a slightly unusual arrangement with first floor windows all obscured, and two present their full rear elevations towards the site, across gardens 9.7m in length. The western corner of the site is slightly lower than the adjacent gardens, exposed and evidenced in site clearance works. The former entrance to the public house, intended as the point of access to the approved scheme of bungalows is evident on the south-west boundary of the site, accessing the Hilda Park estate road opposite an on-street parking layby and the gable end of the retail units.

The Proposal

6. The application proposes a petrol filling station comprising four pump islands under a canopy and a retail building that will include a storage room and staff facilities. This building is proposed in the western corner of the site, presenting a mono-pitched gable between 3.5 and 5.2m in height to the flats at Rosewood gardens. The pump islands and canopy project forward from the building towards the bus-stop. Vehicular access and egress is proposed either side of the bus stop, and from the historic access point into the site, from Hilda Park. The southern part of the site is proposed left open for parking and the provision of EV charging points. The applicant has confirmed there will be no car washing facilities on-site.
7. The existing 1800mm pillars and wall on the front boundary will be replaced with a 900mm wall with 150mm capping, this carried around the Hilda Park frontage also. A 1800mm high close boarded acoustic standard fence will be reflected along the boundaries shared with residential dwellings in Hilda Park described above, and alongside the footpath that serves Rosewood Gardens.
8. This application is being considered by committee at the request of Cllr. Tracie Smith who has 'serious concerns that the erection of a filling station will have a detrimental impact on my residents quiet enjoyment' and will exacerbate complaints regarding sight lines at the junction of Hilda Park.

PLANNING HISTORY

9. DM/19/03874/FPA: Demolition of existing Public House and erection of 7no. bungalows with associated site works – Approved March 2020
DM/21/01322/VOC: Minor Amendments to house-types and layout of approval – Approved July 2021
DRC/20/00326: Discharge of conditions no.6 (contaminated land phases 2 & 3) in relation to previous planning application DM/19/03874/FPA – Approved July 2021

PLANNING POLICY

NATIONAL POLICY

10. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 6 – Building a strong, competitive economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
14. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 11 Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
17. *NPPF Part 12 Achieving Well-Designed Places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

18. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

20. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan 2020

21. *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.
22. *Policy 9 Retail Hierarchy and Town Centre Development* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county
23. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.

24. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
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 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
27. *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.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. Highways Officers have carried out a detailed assessment of the proposals and advise the proposed 12 parking spaces with two accessible parking spaces is adequate parking provision, along with the 4 cycle parking spaces to be provided. A vehicular swept path tracking drawing has been submitted showing a delivery tanker can operate in and out of the site. No objection is offered to any element, subject to conditions requiring vehicular visibility splays be protected.

INTERNAL CONSULTEE RESPONSES:

29. Environmental Health (Air Quality) Officers advise: *'According to the design and access statement uploaded to the planning portal, the proposed development includes the redevelopment of a vacant plot into a 4-pump petrol station and convenience store. The submission documents do not include consideration of air quality-related impacts.'*

Petrol stations are a source of emissions to air, from VOCs associated with the fuel stored and sold, and combustion emissions associated with vehicles accessing the station.

According to Defra guidance LAQM TG(16), petrol stations that meet one of the following criteria may have the potential to constrain the relevant air quality objective for VOCs (benzene):

- 1) Petrol throughput > 2,000m³ or 2 million litres per year*
- 2) Near a busy road (>30,000 vehicles/day)*
- 3) Exposure within 10m from the pumps*

It is assumed that a 4-pump station would not meet item 1 listed above and that the number of daily vehicles on Pelton Lane and Hilda Park falls well below that referred to in item 2. The site plan uploaded to the portal demonstrates that item 3 is not exceeded with the nearest sensitive exposure (residential properties on Rosewood Gardens) over 10m away from the petrol pumps.

Professional experience of similar developments has suggested that they do not necessarily generate a lot of additional traffic, but instead draw in custom from existing traffic already using the adjacent roads. The number of petrol pumps and car parking spaces proposed suggest this is likely the case for the proposed development. As such, it is considered unlikely that additional vehicle emissions could have a significant effect on local air quality.

Due to the proximity of residential properties to the site boundary, it is recommended that the Council seek commitment to appropriate dust control measures during the construction phase to be set out within a Construction Management Plan, typically by way of planning condition. The dust control measures should be proportionate to the dust risk in line with Institute of Air Quality Management construction dust guidance'.

- 30. Environmental Health (Nuisance) Officers have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant TANs (Technical Advice Notes). Following a discussion regarding the detail of the proposals and supporting information and potential for nuisance, they have suggested restrictions for car washes and generators on site and a condition for acoustic fencing on boundaries shared with residential property.*
- 31. Environmental Health (Contamination) Officers have examined the submitted reports, concluding, 'made Ground and some contamination has been identified in the soils. Ground gas protection measures are not required. Given the information provided I agree with the observations and recommendations. There is no requirement for a contaminated land condition'.*
- 32. The Council's Petrol Officer has been consulted but has provided no response.*

PUBLIC RESPONSES:

- 33. A consultation exercise of 52 letters was undertaken, a site notice was posted on the main road and an advertisement placed in the press. 209 objections have been received in response, and one letter of support from a nearby resident.*
- 34. The main reasons for objection are summarised below. All correspondence is available on the Council's website for the detail of objections, with only some technical issues redacted:*

Highways

The proposal will attract extra traffic into the area and compromise road safety. Residents consider that Highway visibility at the junction into the Hilda Park Estate is poor and will be further compromised by the development and the traffic movements associated with it. Tankers and Delivery wagons will create risk to the elderly, the disabled dog walkers and exceptional risk to children accessing the nearby school along 'a small residential road'. Residents say the Council will be held accountable for accidents involving children. The Highway will be damaged by the weight of tankers.

If there are fuel shortages, panic buying would create chaos in the surrounding estates.

Sustainability

Electric vehicle demand will make the petrol filling station redundant. The development will attract cars to the area increasing pollution. The COP26 conference recently discussed the climate change implications of fossil fuels. With Council and Central Government initiatives to move away from reliance on fossil fuels for vehicles and domestic heating, approval of the proposals is contended to oppose the trends and be inconsistent with wider Council policies.

Demand

There are existing petrol stations within easy reach of residents, with variously 10 claimed within a three-mile radius, 2 claimed within a 5-mile radius. Existing petrol stations are claimed to operate under capacity. A trend for closing petrol stations is claimed, with the application claimed as focussed on the convenience store element and its future expansion. Other sites and uses are suggested.

Various figures are quoted for the ceasing of production of petrol and diesel cars, with some setting out this as an outright ban.

Competition

The competition that the proposed retail element will generate will compromise existing businesses. The owner of the nearest convenience store, now including a Post Office writes on this point in particular. Petrol Filling Stations struggle to remain viable. Others support him as a valued part of the local community, and the service he has provided during the Covid period.

Residential Amenity and Health

The light and noise pollution on the local residents would have a negative impact for people nearby. This includes the visual effects of a canopy and the likely signage that will follow. The operation will present light pollution to adjacent dwellings, with concerns for both the forecourt lighting and advertising. Local residents homeworking will be particularly affected.

Queuing cars with engines running for the proposed opening hours will destroy peaceful enjoyment of adjacent gardens – the basis and comparisons within the submitted noise reports are questioned for relevance. A wooden fence would not give protection for this relationship.

Residents' mental health will suffer if the proposals are allowed. Risk of fire and explosions will be a constant fear. Residents physical health will be affected with the use increasing the likelihood of cancer. Reference is made by a number of correspondents to at 2011 paper from a Spanish University considering the dangers

of airborne particulates from petrol filling stations, recommending a 50m buffer from petrol stations. Note is made that this research is used by Birmingham City Council. A study from Nigeria is also referenced.

The proposed canopy will result in loss of light for adjacent gardens.

There is a risk of fuel seeping into sewage systems and waterways.

The proposal will attract criminal activity and anti-social behaviour to the area.

The bin store is likely to attract vermin.

House prices and insurance will be negatively affected. Homes will be difficult to sell.

Residents suggest compensation in the event of an approval.

The proposal is considered contrary to Human Rights.

Land Stability

Excavations will cause disturbance for surrounding buildings.

Preferred

The scheme was recently approved for bungalows – this form of development is preferred in terms of scale, amenity and construction implications, as would affordable housing.

Ecology

The lighting of the site is claimed likely to be detrimental to the local bat population.

Archaeology

As a settlement with Roman connections, the site may have archaeological potential.

35. Letters In Support

The letter of support welcomes the use and notes the benefits of the employment use of the site.

APPLICANT'S STATEMENT:

36. The applicant has submitted the following statement to address concerns raised through the public consultation exercise:

'We have summarized and address the key points mentioned in public objections below'.

'Increase of traffic on the road and risk of road accident to children and elderly
The site is situated at top edge of the South Pelow (sic) on side of Pelton Lane connecting Pelton to Chester Le Street town centre and not considered as major road location and mostly used by local residents.

We do not believe extra traffic will be added to existing traffic or people drive from outside of the area to South Pelaw to get fuel or to use the convenience store,

therefore there will be no change to level of traffic and ultimately no change to level of risk to pedestrians specially children and elderly.

We believe proposed access and exit to the site will slow down the flow of the traffic on Pelton Lane as road users will slow down to enter the site and be more cautious on the Pelton Lane for vehicles exiting and entering the site.

Air quality and fumes of the fuel

There will be almost zero fumes or vapour of the fuel will be released in the air thanks to latest technology used in our fuel pumps which vacuums all the vapours from vehicle's tank into underground tanks as they fill up.

As well our underground tanks are equipped with vapour recovery setup which transfer the vapours back into the tanker as they getting filled up.

EV to take over fossil fuelled vehicles, local and global environmental impact

We will provide two ultrafast EV charging point on site to meet the demand of all road users and they will be expand as the demand increases.

Latest researches shows EVs are not completely environmental friendly as there are huge complications with disposal of their large battery. Below are example of recent researches on EVs battery disposal.

- Current EV batteries "are really not designed to be recycled," says Thompson, a research fellow at the Faraday Institution, a research centre focused on battery issues in the United Kingdom*
- Professor Andrew Abbott, of the University of Leicester said: "Electrification of just 2% of the current global car fleet would represent a line of cars that could stretch around the circumference of the Earth – some 140 million vehicles. Landfill is clearly not an option for this amount of waste.*
- "It's not just lithium that can contaminate soil and groundwater. Nickel, cobalt, manganese and other metals found in EV batteries pose an even greater threat than lithium to both human life and the ecosystem." "EV batteries will contaminate the environment and threaten public health. Nickel has been shown to cause lung and nasal cancers, reduce lung function, and cause bronchitis. Cobalt can cause serious health conditions such as asthma and pneumonia, and it is a possible carcinogen. Exposure to manganese can result in respiratory problems, loss of coordination, and other neurological problems.*

We believe local or global environment will not be effected by our operation of retailing fuel and this will not encourage road users to use fossil fuelled vehicles neither discourage EV users to switch to fossil fuelled vehicles.

Impact on existing nearby businesses

We believe there will be no impact on two other convenience stores nearby as our convenience store will be mostly used by road users who are purchasing fuel. We are going to have different customer base from other two shops which don't offer parking on site to their customers.

Noise and lighting pollution

We have provided and submit noise and lighting impact assessment to local council which indicate that the level of noise and lighting produced while the site is operational are in line with planning policies and Compliance has been achieved on both scheme of lighting and noise pollution level.

Location and suitability of the site for proposed use

The site of former falcon house located next to large Auto Services and MOT station which previously was a fuel filling station and the shop in late 90s.

We believe the proposed use for this site will match the characteristics of this stretch of Pelton Lane with a large Auto repair unit and row of shops situated on either side of the site.

Conclusion

We strongly believe there will be no adverse effect on the residential amenity of neighbours or on the character of the neighbourhood by our proposed development and 10 to 12 full and part time job opportunities will be created'.

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=R21E6LGDJ7H00>

PLANNING CONSIDERATIONS AND ASSESSMENT

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

The Development Plan

38. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
39. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
- c. approving development proposals that accord with an up-to-date development plan without delay;

The Principle of Development

40. The application site is in a mixed-use area in a small local centre sited on a main road between two large residential estates. The site has until recently been occupied by a public house, now cleared, and has an approval for dwellings, which was commenced. The site may be considered 'brownfield'. Immediate neighbours are residential and commercial. In principle the site could accommodate a wide range of uses, with assessment led by the relevant criteria of Policy 6, as the land is not allocated for a specific use within the County Plan and is within the built-up area.

41. Whether the land is compatible with adjacent land uses for criteria 6a. will be considered below in assessment against Policy 31 for residential amenity. There has been extensive objection to the competition the retail unit proposed within the development will bring to existing businesses. For the retail element of the proposal, Policy 9 advises only that, 'the loss of essential shops and services will be resisted'. To seek to influence competition within the assessment of a planning application is not appropriate and therefore not material. For criteria 6c. the potential to affect archaeology has been mentioned – the site has been previously developed and is some distance from Chester-le-Street's Roman remains – there is no likelihood of the development affecting heritage assets or archaeology in the ground. For criteria 6d., the scale character and appearance will be assessed below against Policy 29 and Part 12 of the Framework. Highway safety is a consideration and a significant concern to the local community, so compliance with criteria 6e. will be assessed in detail against Policy 21 and part 9 of the Framework. Criteria 6f.'s requirement for good access to sustainable modes of transport is met by the site relationship to the main road, it's bus stops and close access to cycle paths, allowing staff to access the site without the use of private cars. For criteria h, a late concern regarding drainage will be addressed below and finally for criteria i., the proposal does make use of brownfield land.

Residential Amenity

42. There is concern raised by residential neighbours for the nature and operation of the proposed use, with a number of dimensions.
43. In terms of the physical relationship to the site, the dwellings at Pelaw Crescent are separated by 35m from the site, this including a main road, an estate road and a wide grass verge including trees. Whilst the proposal introduces a new access and egress, which will change the front elevation of these dwellings' relationship to vehicular movements, the separation distance and nature of the intervening land uses is such that it is considered acceptable.
44. North-west of the site, six flats at Rosewood Gardens overlook the land. Floorplans on a historic application indicate these dwellings are accessed from the front elevation, with the ground floor flat having access to a rear garden, the first floor flat having no private external amenity space. Environmental Health Officers have recommended a close boarded, 2m fence around the west boundaries of the site. This will directly protect the residents of the ground floor flats, whose historic relationship with the former public house has likewise been with a fence. Residents of the first-floor flats will look over the fence to the side of the proposed retail unit, across a bin compound, towards the forecourt. This relationship is concluded acceptable. Officers consider it relevant that there has been a historic relationship between these dwellings and a commercial operation, in particular the large formal car parks of a public house, operating to licencing hours. Aerial photography imagery indicates that whilst there has been flora on this boundary, it does not appear significant enough to screen this relationship. What flora there was cleared in preparation for the approved bungalow development.
45. The detailed relationship to the adjacent dwellings in the cul-de-sac to the west in Hilda Park is set out in the introduction. Five dwellings share a garden boundary with the site, two of which present gables to the site, one dwelling has all first-floor windows with obscure glazing, and two present two full floors of windows to the rear boundary. These two dwellings look over the open area of the proposed layout, with number 10 having an overlapping view of the rear of the proposed building – 1.5m of structure above the 2m high close boarded fence, 12m from the main rear elevation of that dwelling, 9.5m from its single storey rear extension. These two dwellings (and the two

adjacent) previously looked towards the rear of the public house, over the access road to the pub's car park, at a separation distance of around 17m. This access road serving the pub car park will have generated late night traffic movements. The close boarded acoustic standard wooden fence suggested by Environmental Health Officers will give the ground floors and gardens of the adjacent gardens in Hilda Park an appropriate level of protection for the physical implications of the proposed relationship.

46. There is a single first floor gable window on the gable of the arcade facing the site over the main estate road and layby at the entrance to Hilda Park, a distance of some 50m from the nearest proposed structure. Given the separation distance and the intervening highway, the relationship to this window is considered acceptable.
47. The detailed physical relationships surrounding residential property is considered acceptable for reasonable expectations of residential amenity as protected by Policy 31 of the County Plan and part 15 of the Framework.
48. For the physical relationship to other adjacent land uses, the proposal is not considered to have an inappropriate physical relationship to either the short arcade of shops to the south, nor the commercial garage on the former petrol station site to the north.
49. The operation of the petrol filling station and the potential for actual and mental disturbance to local residents from airborne pollutants for health and odour, from noise and from light pollution are all concerns raised in detail. The application was supported by specialist reports, and whilst some objectors questioned the underpinnings and comparisons set out within them, these were assessed by the Council's specialist teams in Environmental Health to inform the Planning assessment. The responses are set out above and conclude that the relationships between the proposed petrol pumps operation and dwellings is acceptable.
50. For the aspect of potential noise pollution, this is subject to conditions restricting certain operations and the installation of an acoustic fence.
51. For airborne particulates objectors rely heavily on an academic report from a Spanish University in 2011 – pointing out that this document is included in the evidence base of Birmingham City Council's Development Plan. It is this and another similar document that caused the redaction issues in objections noted above.
52. Notwithstanding the use of the document by others, it is heavily copyrighted and qualified as to how it should be used. Weight should not be afforded to it just because it is part of the evidence base of another LPA's development plan. Environmental Health Officer's assessment is based upon the guidance set out Local Air Quality Management Technical Guidance (TG16), published in April 2021 by Defra – the Department for Environment, Food and Rural Affairs. The response identifies the nearest sensitive receptor as the flats at Rosewood Gardens and finds the relationship meets the required standards. This will take into account the nature of the apparatus used in the vapour retrieval systems and modern standards for operation. Quite how comparable the operation described by the Spanish academic report and the systems and regulations currently in use in this country is open to question. The relevant guidance is that contained in TG16, not the Spanish academic report.
53. Light implications are set out in a report accompanying the submission, with the illumination concentrated to the front of the retail unit and under the canopy. Those lighting units most likely to directly affect adjacent residents are on the sides of the building – serving the service yard to the north and the car parking area to the south. A condition to agree the detailed nature of these, which could be motion sensor is

proposed in the interests of residential amenity, likewise the level of illumination when the business is closed. Again, noting that the operation of the public house would have given a degree of night-time use, in particular for car headlights, and again that the proposed close boarded fence will protect this aspect at ground-floor level, the relationship between the proposed use and residential properties is considered capable of appropriate mitigation.

54. Potential effects to mental health and anxiety are stated concerns of many objectors, and difficult to quantify. Officers note that a petrol filling station on a main road in an urban area, immediately surrounded by houses is not an unusual historic arrangement, being apparent in many towns and cities. In such circumstances, whilst the fears may be real, there is no proper evidence upon which to afford this issue significant weight and in any event, it is considered to be appropriately mitigated by the operation of the proposal to modern safety standards. This issue is not considered one capable of sustaining a refusal. This has been considered both in terms of the direct effects stated, and implications for Human Rights, as discussed later in this report.
55. Environmental Health Officers have further identified the potential for dust generated during the construction process to have an adverse effect on neighbours, suggesting a condition be imposed to ensure this is controlled.

Highways Safety and Access

56. The County Highways Officer has assessed the proposals in detail and offers no objection subject to a condition ensuring visibility at the front of the site. The condition may slightly affect the applicant's front boundary marker proposals, so a condition is proposed to agree this detail.
57. Whilst there is significant objection and anecdotal evidence of highways issues from the consultation exercise, Officers must be led in their assessment of the proposals by the professional and qualified opinion of the Highways Department. The specifications and capacities of the main C183 road that forms the site frontage, the junction with that from Hilda Park, that forms a side boundary and its relationship with the staggered junction into Conyers Avenue and the residential estates to the east, the position of bus stops, laybys and adjacent businesses have all been inspected on-site. The vehicular and pedestrian environment is established, and the implications of the introduction of two new connections onto the main road and reuse of the side access considered. It appears the proposal is likely to rely on passing trade, rather than generating significant new vehicle movements. The convenience store is well located for the existing bus stops and is within walking distance of a large number of dwellings. Secure cycle parking facilities are shown on the layout. The proposal is safely and sustainably located in highways terms and is therefore compliant with the relevant elements of Policy 21 of the County Plan and part 12 of the Framework. In the absence of an objection from the Council's Highways Department, it is not considered that a highway safety refusal reason could be sustained.

Sustainability

58. Much has been written in the consultation exercise about climate change issues, and the Government and County Council's commitment to a reduction in carbon-based fuel use. This is presented as a matter of principle against which the proposals should be refused. Whilst electric car ownership is increasing, with 11.6% of new vehicles sold in 2020 were battery powered vehicles, and a further 7% were plug-in hybrids, the

number of available public charging points for such motorists in the north-east of England is 32 per 100,000 population (source DfT). Therefore, whilst take-up of private non-fossil fuel transport is increasing in popularity, it is not until 2030 that the Government currently plan to prohibit sales of new petrol and diesel cars (not including hybrids). The change is therefore proposed to be phased, with the use and sale of used of fossil fuel driven cars extending beyond this date.

59. Planning decisions must be determined against the Policies in the County Durham Plan, informed by appropriate National Guidance. Whilst wider County Council policies can be material in considering an application, they cannot carry the same weight as the Development Plan and National Planning guidance. The Council have declared a Climate Emergency and committed to reduce carbon emissions from Durham County Council's operations by 80% from 2008/09 levels by 2030, making significant progress towards making Durham County Council and County Durham as a whole carbon neutral. Various initiatives encourage sustainable behaviour.
60. There is a specific initiative to integrate sustainability within planning and this is reflected in the requirements of Policy 29 of the Plan, and specifically a fabric-based approach to new building works and energy and resource management.
61. The applicant has offered installation of two EV charging points at the site, and it is accepted that this will increase the sustainability offer of the site.
62. There are no Planning Policies precluding the development of petrol filling stations and given that during the transition period to alternate technologies will take some time, to propose refusal on the grounds suggested is considered both unreasonable and unsustainable.

Layout and Design

63. The proposal is for a small petrol filling station and convenience store of modern functional appearance, complimentary to the smart and modern appearance of the adjacent commercial garage. The shallow roof pitch reduces potential effects on surrounding houses and gardens to a minimum – i.e., with 1.5m of building appearing above the required 2m boundary fence. The presence of the building will screen direct views of the illuminated under-canopy to the nearest dwellings. A separate planning application will be required for signage and any illumination on the canopy faces. An informative reminds the developer of this requirement.
64. There are large areas of the site laid out for parking, without development planned. The applicant has confirmed that there will be no car washing operation in this area and this will be subject to a condition. This is in order to protect the visual appearance of this part of the site along with potential residential amenity implications that this type of operation, whether mechanical or hand-wash, could bring.
65. The proposals are considered compliant with the relevant requirements of Policy 29 of the Development Plan and part 12 of the Framework.

Ecology

66. With the previous buildings cleared from the site – subject to investigation for the presence of bats by the previous landowner, the potential for the presence of protected species on the site was removed. The proposed lighting scheme will not have an effect on bats – as objectors claim – that would require mitigation.

Flooding and Drainage

67. The development is below the thresholds where drainage information is required to accompany an application, or where the Council's Drainage Team as Strategic Flood Risk Authority is required to be consulted. Nonetheless with a large area of hardstanding proposed and given the nature of the use, a condition to ensure that surface water run-off is properly handled, and any filtration of the water required is put in place is proposed to address this technical issue.

Other Considerations

68. The application forms set out an intention to provide 4 full time and 10 part time jobs (equating to 9 full time jobs overall) on the site. This is of positive material weight in the planning assessment.
69. Environmental Health (Contamination Officers) concur with the submitted reports and do not suggest a condition – requesting only a standard 'informative' to cover the potential for unexpected contamination
70. The site is not within the Coalfield Development High Risk Area and not affected by records of historic mining activity. Other aspects of land stability and groundworks are within the remit of the Building Regulation process. Where there are specialist implications for the works, such as for the installation, and if necessary, the removal or decommissioning of the fuel tanks that would serve the pumps, there is legislation outside the Planning process to regulate and control this, which it would be inappropriate of any planning approval to seek to duplicate.
71. Concerns for the proposal to attract anti-social behaviour are predominantly the purview of the Police, but in any event, there is no evidence that such would be the case.
72. There is no reason why a properly maintained service area and bin-store should attract vermin as suggested. Environmental Health powers are available to the Council if this does become an issue.
73. Local residents offer concerns for the effect of the proposal on house prices and insurance. These are not considered of significant material weight in a planning assessment and are not protected by Planning Policies.
74. Breaches of the Human Rights Act 1998 and the European Convention on Human Rights are claimed for the proposed effects on residential amenity. However, in so far as there would be any interference with human rights, the proposals have been assessed as acceptable under the required planning legislation and also necessary and proportionate. Likewise, consideration as to whether the proposals involve any issues for equality and diversity have been part of the process Officers have used to arrive at their recommendation. There are no aspects of the proposals in conflict with the Equalities Act 2010 that would compromise residents with protected characteristics.
75. Objector's preferences for the extant consent for bungalows and other potential uses for the land are not relevant to the assessment.

CONCLUSION

76. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
77. The application site is considered an appropriate location for the uses proposed when compared against the relevant Policies in the Development Plan. Whilst the proposals are contentious in the local area, it is considered that where concerns are material to the planning assessment they can be mitigated by an appropriate suite of conditions.

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(ies) 6, 21, 29, 31, 34 and 35 of the County Durham Plan and Parts 2, 4, 6, 8, 9, 11, 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.
4. A close-boarded Acoustic Fence 2m in height to a detailed specification to be agreed in writing with the Local planning authority must be erected along the north-west and south-west boundaries of the site before the petrol filling station hereby approved comes into operation and thereafter retained in perpetuity whilst the use is in operation.
Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the Durham County plan 2020 and part 15 of the Framework.
5. Prior to the first operation of the development hereby approved, details of all means of enclosure of the site on roadside boundaries 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 and retained without alteration.
Reason: In the interests of the visual amenity of the area and highway safety, to comply with Policies 6, 29 and 21 of the County Durham Plan 2020 and Parts 12 and 9 of the National Planning Policy Framework.
6. Before the development is brought into use the 'in' and 'out' one way system access needs to be built and constructed to DCC highway standards in accordance with the

approved plan. The site visibility cords plotted in both directions at 2.4 x 43 metres must be clear to visibility to under 1 metre in height from ground level before the site is brought into use at both accesses and retained thereafter whilst the use is in operation.

Reasons: in the interests of highway safety, as required by Policy 21 of the Durham County Plan 2020 and part 9 of the Framework.

7. Two EV charging points must be erected in a location to be agreed in writing with the Local planning authority and along with the secure cycle parking shown on the approved plans, made available when the use is brought into operation.

Reason: In the interests of sustainable development and to comply with policy 21 of the Durham County Plan 2020 and part 9 of the Framework.

8. Notwithstanding the information shown on the submitted plans, a scheme of surface water drainage, prepared by a competent and appropriately qualified person, with treatment of water where shown to be required must be submitted to and agreed in writing with the Local Planning Authority before the surfacing of the site commences.

Reason: In the interests of sustainable drainage as required by policies 6 and 35 of the Durham County Plan 2020 and part 14 of the Framework

9. Before the development hereby approved is brought into operation a detailed scheme for the operation of lighting proposed on the site including hours of use must be submitted to and approved in writing by the Local planning authority and thereafter operated in full accordance with said written agreement.

Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the Durham County plan 2020 and part 15 of the Framework.

10. Before the development hereby approved is implemented, the applicant must submit a written scheme of dust control measures to be operated during the construction phase set out within a Construction Management Plan, proportionate to the dust risk in accordance with Institute of Air Quality Management construction dust guidance for approval by the Local planning authority in writing, the building works being thereafter undertaken in full accordance with this agreement.

Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the Durham County plan 2020 and part 15 of the Framework.

11. No additional structures, plant or equipment may be erected within the development site, and no car washing facility, whether mechanical or hand-wash may be erected, sited or operated on the site without the express consent of the Local planning authority.

Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the Durham County plan 2020 and part 15 of the Framework.

12. All elements of the development hereby approved must only be operated within the hours 0600hrs until 2300hrs inclusive, 7 days a week.

Reason: In the interest of residential amenity to ensure compliance with Policy 31 of the Durham County plan 2020 and part 15 of the 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

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- Statutory, internal and public consultation responses
- The National Planning Policy Framework 2021
- National Planning Practice Guidance Notes
- County Durham Plan 2020
- Residential Amenity Standards SPD (2020)
- DfT – Low Emission and Electric Vehicles (Website)
- DeFRA - Local Air Quality Management Technical Guidance (TG16), April 2021
- Human Rights Act 1998
- Equality Act 2010



<p>Planning Services</p>	<p>DM/21/03809/FPA The erection of a fuel filling station, convenience store, canopy, petrol pumps, with associated access and car parking</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>		
	<p>Date 24th February 2022</p>	<p>Scale NTS</p>

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/01066/OUT
FULL APPLICATION DESCRIPTION:	Outline Application with all matters reserved for 18 self-build plots with new access road and associated landscaping
NAME OF APPLICANT:	Victoria McElvaney
SIE ADDRESS:	Land to the east of Gray Terrace New Kyo DH9 7LB
ELECTORAL DIVISION:	Annfield Plain
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 1.74ha of open grazing land adjacent the eastern extent of New Kyo, one of the settlements conjoined with Annfield Plain, sited 1 mile south-west of the centre of Stanley. The existing settlement is separated from a modern bypass as part of the A693 linking Consett, Stanley and Chester-le-Street to the A1(M) by the site and a 50m wide tree buffer. The site and the tree belt slope significantly from the settlement, down to the road. The junction of the main road through New Kyo, Shieldrow Lane with the A693, is around 100m north-east of the site. The land is not subject to landscape designations.
2. The eastern edge of the village presents a strong traditional vernacular, with two storey brick built, slate roofed terraces looking across Shieldrow Lane to the site. Further towards the village centre are grassed areas including the cleared site and on-going redevelopment of a former Working Men's Club. The tree buffer wraps around the east and north of the site. The site is surrounded by a simple post and wire fence, separated from the adjacent footway by a verge of around 3m in depth. The roadside footway includes a bus shelter at the northern and southern ends of the site. The Lodge, a detached two storey red brick dwelling to the south of the site, is separated from it by a part metalled track that is both designated as a footpath and has in the past formed an access to the football pitches to the south-west. The footpath leads south, across the A693 towards Quaking Houses. Beyond the football pitches are two separate major housing developments.

3. The site itself is sloping unimproved grassland, used for grazing and other than very small areas of scrub, and is featureless. A long irregular rectangle in shape, the site is around 280m in length along the contour and 70m in sloping width.

The Proposal

4. This is an Outline application, with all matters reserved. This means that the principle of development is sought, with all details for consideration through future applications.
5. The proposals were submitted for a 'plot-build' development of 23 units. The single point of access to the development is shown – at the northern extent of the site along with an indicative representation of how the development may be set out. The Local Authority must be confident that the site can accommodate the quantum of development proposed and therefore there have been extended detailed discussions regarding some elements of the proposals – leading to a reduction in the number of units proposed during the process to the 18 currently presented.
6. This application is being considered by Committee by virtue of its size.

PLANNING HISTORY

7. None relevant.

PLANNING POLICY

NATIONAL POLICY

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
9. *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.
10. *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.
11. *NPPF Part 5 – Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

12. *NPPF Part 6 – Building a strong, competitive economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
13. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 11 Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
16. *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.
17. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
18. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green

space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

20. Of particular relevance to the consideration of this application is advice on *Self-build and custom housebuilding*.

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

LOCAL PLAN POLICY:

The County Durham Plan

21. *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.
22. *Policy 15 Addressing Housing Need* notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities.
23. *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.
24. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
25. *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.
26. *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.

27. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
28. *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.
29. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
30. *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.
31. *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.
32. *Policy 39 Landscape* states that 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 and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
33. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.

34. *Policy 41 Biodiversity and Geodiversity* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
35. *Policy 56 Safeguarding Mineral Resources*. Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.
36. The Council has adopted a Residential Amenity Standards Supplementary Planning Document (SPD) in 2020 that has fully adopted Policy weight in assessing applications, with, relevant for this application, requirements for separation distances and minimum garden lengths.
37. There is no Neighbourhood Plan in force in this area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. *Highways Officers* - have agreed after detailed discussions, that an adoptable standard Highways layout can be achieved on the site. Offering detailed comments for the design of the junction at the site entrance.
39. *Northumbrian Water* - note that the planning application contains drainage plans, however, the developer has not yet submitted a pre-planning enquiry to allow Northumbrian Water to be able to assess our capacity to treat the flows from the development. A condition is suggested to require a detailed scheme of foul and surface water.
40. *Durham Constabulary* – no comments provided.

INTERNAL CONSULTEE RESPONSES:

41. *Spatial Policy* – provide a detailed analysis of the scheme in relation to the Development Plan with the following highlighted from their response:
In terms of Policy 6, the main issues are likely to fall within criteria 'b', 'c', 'd', 'e', 'h' and 'i'. Criteria 'c' prevents the loss of recreation land unless it can be mitigated or compensated for, which would be fully assessed under Policy 26 of the Plan. The layout appears indicative, however the final scheme should ensure appropriate design, highway safety, as well as minimising vulnerability and providing resilience to impacts arising from climate change, including but not limited to, flooding – appropriate specialists will be able to advise on these factors.

As originally submitted, the layout appeared compromised and poorly related to the existing settlement. Proposals should ensure as a minimum acceptable privacy and garden requirements, in accordance with best practice design guidance including the requirements of Policy 29.

Policy 26 states development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefits of the development clearly outweigh that loss or harm and an assessment has been

undertaken which has clearly shown the open space or land to be surplus to requirements. This site would be unlikely to be regarded as an especially valued space in policy terms and it may be the case that some moderate enhancements could mitigate for the loss of provision in this instance. Notwithstanding these considerations, a proposal of this scale would also be normally required to provide amenity/natural green space within the site envelope (c. 760qm) as well as contributions towards existing open space and green infrastructure in the area (further advice could be provided at the detailed planning stage however this would amount to around £1574 per dwelling).

42. *Archaeology* - There are no known heritage assets within the proposed development area and none nearby which would suggest a previously unidentified archaeological resource therefore there is no archaeological objection to these proposals.
43. *Design and Conservation* – initially raised concerns at the lack of a strong street frontage and considered the submitted Design Code difficult to interpret, with detailed advice for materials. Following an amended drawing they commented that ‘whilst not directly addressing Shield Row Lane, the amended plan now includes development set back beyond an area of open space, with dwelling frontage providing natural surveillance of the space. This improves on the previous layout which resulted in development turning its back on the street’.
44. *Ecology* – noted that the DEFRA metric shows a significant loss of biodiversity arising from development. The applicant needs to provide details on how this loss will be compensated for at this stage in order to deliver biodiversity net gains. The LPA needs to be confident that the development can achieve BNG preferably through the provision of an off-site location under the control of the applicant.

The LPA may be able to discuss a financial contribution / leasing of land to the applicant for the purposes of habitat creation / enhancement over the 30yr period, but these mechanisms are dependent on the LPA having land available at the time of the application and confidence that we can deliver the required BNG.

At this stage the amount of land required will be based on the proposed Biodiversity Metric and proposed Landscaping Plan, this area will be refined once the revised Landscaping plan and metric are provided as per the s106 – but an area needs to be established at this stage alongside an appropriate location.

45. *Drainage* – advise that the design of the surface water drainage system should comply with Policies 35 & 36 of the County Durham Plan Adopted 2020 in relation to Flood Risk and Sustainable drainage Systems, which in turn should be read in conjunction with the Design Code as set out in Building for a Healthy Life Design Tool. The limiting surface water discharge from the proposed development shall comply with greenfield QBAR Rural Rate for up to the 1 in 100 year event plus 40% climate change and also 10% urban creep.
46. *Education* – confirm that there is sufficient capacity to accommodate the pupils likely to be generated by the development and no mitigation is required.
47. *Environmental Health (Air Quality)* - The site layout plan shows that there will be a setback distance of over 55m between the nearest residential property and the A693. Air quality conditions across the site and at the location of the proposed properties is therefore likely to be of a good standard and not at risk of exceeding an air quality objective.

The development itself will consist of up to 23 dwellings and will not generate enough additional road traffic, and associated emissions, to warrant screening or detailed assessment of such emissions.

The construction of the proposed development will be a potential source of dust emissions that could impact on the amenity and health of existing residential dwellings near to the site. The applicant must investigate the potential for this and if identified as required produce a scheme of dust mitigation measures to be secured by condition.

48. *Environmental Health (Nuisance)* – A noise assessment has been submitted, which identifies road traffic noise as being the dominant noise source. Mitigation measures have been suggested to achieve the threshold levels stated in the TANs. The noise levels indicate outdoor living areas in the north-western part of the site, closest to Shield Row will require mitigation to achieve daytime guideline values of 55dB. To achieve the required levels, it is recommended the dwellings are screened with close boarded acoustic fencing.

Also suggested is a condition for acoustic fencing adjacent Shieldrow lane and also detailed recommendations for double glazing and ventilation in parts of the site.

49. *Environmental Health (Contamination)* – have reviewed the submitted plans recommending that as a nearby landfill is referred to as low-medium risk a phase 2 site investigation is recommended. They do not consider that the application provides sufficient information to allow a full assessment of the risks from land contamination. The phase 2 is also required to inform contamination mitigation requirements.
50. *Landscape* - The site does not lie in an area covered by any national or local landscape designations or in an area identified in the County Durham Plan as an Area of Higher Landscape Value (AHLV). Trees within the site are not covered by a Tree Preservation Order (TPO). There would be a fundamental change from a currently green agricultural field to urban housing with associated road and footpaths. Landscape effects would be substantial and adverse at site level but moderate in the context of the surrounding locality, considering the proximity of the site to the existing urban area. Most of the land within the site lies outside of the settlement boundary and the proposal would therefore represent an incursion into the countryside. It is observed that there is already housing development in progress to the west of the site and this should be considered in the context of the proposed site and the wider landscape.
51. *Public Rights of Way* - Public footpath no. 23 Stanley adjacent would not appear to be impacted.
52. *Trees* - No objection, Hedges are located outside the site boundary, no trees are within.

EXTERNAL CONSULTEE RESPONSES:

53. *Healthcare* – The NHS have set out their methodology for assessing the likely impacts of the development on healthcare provides, concluding a mitigation payment of £11,130 is required, noting: The three local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of s.106 funds secured.

PUBLIC RESPONSES:

54. A consultation exercise consisting of 35 direct letters, site notices on the roadside frontage and on the public footpath, and an advertisement in the local press elicited 2 letters of objection, one authored 'on behalf of the residents of Grey Terrace'.
55. The objectors do not believe the proposed development respects the local context and the type of housing in the immediate area, with the scale of the buildings being 2 to 3 storeys, not in keeping and would be out of character. The proposal would demonstrably harm the amenities enjoyed by the local residents, in particular safe and available on-road parking and a green space, currently used for grazing, that has attracted wildlife to the area. Landscaping proposed will only benefit new residents.
56. The open aspect of Grey Terrace will be lost, and existing residential privacy and amenity will be compromised. There are significant concerns for parking, with the existing terraces only having access to on-street frontage parking: 'Any loss of a current on-road parking space will mean the loss of a valuable residential amenity'. The proposed access to the development is a serious threat to highway, residents and public safety, with a restricted view in its layout complicated by the presence of bus stops.
57. The area has already been saturated with developments being built on green spaces all along this road. This development will be another that will not be providing low-cost affordable housing that would be beneficial for the area. Objectors believe that the majority of people in the local area could not afford to take advantage of the homes on this development as a result of low incomes.
58. Concerns from the extended nature of disturbance likely as a result of the plot-build nature of the proposals will have a detrimental impact on the quality of life of the residents of Gray Terrace, Ely Terrace and North Terrace. In the event of an approval a strong suite of conditions is requested.
59. Residents acknowledge that loss of view and devaluation of property are not material factors but ask them to be taken into account.

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=QQJ75CGDMQJ00>

PLANNING CONSIDERATIONS AND ASSESSMENT

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

The Development Plan

61. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
62. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
 - c. approving development proposals that accord with an up-to-date development plan without delay;
63. As a non-allocated edge of settlement site determination is led by Policy 6 of the County Plan. This states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are outside the built-up area but are well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and a set of stated criteria.
64. The site is well related to a settlement, so the relevant criteria for consideration in this instance are: criteria a. requires the development is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land: the site is surrounded by residential dwellings, a shelter belt separating the land from the A693 and playing fields. The implications of the relationship to the highway can be mitigated (discussed below), and footpath Officers raise no concerns at the relationship to the footpath. Residential and woodland uses present no problems in principle. The requirements of this criteria are met.
65. Criteria b. seeks to ensure development does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development. None of these elements are proposed: the site infills an area of open space to the south of Shieldrow Lane and is a logical extension of existing traditional and modern development south of this highway – the playing fields to the west being formerly associated with a school on that land – therefore associated with the urban environment.
66. For criteria c., the development does not result in the loss of open land that has recreational, ecological or heritage value: the land is fenced paddock without public access, the ecology value can be mitigated, and Archaeology Officers have confirmed the land has no interest to them, the historic map progression indicating that the land has been used as garden/allotments for the houses opposite or otherwise undeveloped. The land does not contribute significantly to the character of the locality. Accordingly, criteria c is met.
67. In respect of criteria d, as an outline application and for plot-build, ensuring the development is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement, will in large part for determination through the required reserved matters applications, although in general terms the topography will require development to follow the contours, mirroring the form of the existing village.

68. Highways Officers have discussed the design of the required bellmouth junction at the entrance to the development and confirmed an adoptable standard road layout can be achieved, but in terms of criteria e. have not raised any concerns that the development would be prejudicial to highway safety or have a severe residual cumulative impact on network capacity, meeting also the requirements of Policy 21 of the County Plan.
69. With two bus stops on the site frontage and two opposite, the criteria f. requirement for good access by sustainable modes of transport to relevant services and facilities reflecting the size of the settlement and the level of service provision within that settlement is met.
70. Criteria g. is not considered relevant.
71. Drainage issues protected by criteria h. that development minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding have been discussed with Drainage Officers, and enhanced schemes and proposals provided. Whilst detailed agreement has not been reached on these the submissions show the applicant's approach, and the extent of the site available for sustainable drainage features, indicates an acceptable scheme is achievable. Subject to a condition to ensure this is achieved and implemented at an appropriate stage of development, this criteria, and by default the more detailed requirements of Policy 35 are considered appropriately met. On a similar subject, Northumbrian Water has indicated that subject to a condition, they raise no objection, meeting the requirements for foul water control set out in Policy 36.
72. The proposal does not involve previously developed (brownfield) land as encouraged, but not insisted upon by criteria i. and likewise does not reflect priorities for urban regeneration as encouraged by criteria j. This does not weigh against the proposal in the assessment.
73. Whilst Policy 6 is the lead Development Plan Policy against which the application must be assessed, the backdrop of government advice for Self-build and custom housebuilding set out in The National Planning Policy Guidance notes, last updated in February 2021 is also relevant to the principle. This advises that '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 Authorities are required to give enough suitable development permissions to meet the identified demand. Part 5 of the NPPF confirms that self-build developments are exempt from requirements for affordable housing provision. Policy 19 of the County Plan encourages plot-build schemes and sets out the Council's responsibilities for enabling such.

Sustainable Design

74. Policy 29 of the Development Plan follows the lead of Paragraph 124 of the NPPF which explains that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
75. The indicative site layout plan has been amended during the extended course of the application reducing the number of units proposed from 23 to 18. Originally in the form of two rows facing onto a central spine road, concerns were raised as to how this would 'present' itself to the main road and the facing existing dwellings. The layout now concentrates development on the lower contour of the site, which lessens the direct

relationships and some of the concerns of Design Officers. Whilst much of the control of the scheme in terms of how it appears will be achieved necessarily at the Reserved Matters stage, plot by plot, Officers are satisfied that an acceptable layout can be achieved on the site.

76. At this stage the submitted 'Design Guide for Self-Build Plots' provides sufficient initial guidance for scale, materials and appearance to inform prospective developers, who will be strongly encouraged to engage with Planning Officers pre-submission. Reserved matters can control a reasonable compromise between objectors' concerns that the dwellings will not integrate into the area, and the necessity to allow plot-build schemes to reflect the ambitions of the individual developers. The development is effectively set up to encourage split level dwellings – two storey at the higher part of each plot, where most visible from the public domain, and three storey at the rear, reducing the need for expensive landforming.
77. Requirements for accessible and sustainable dwellings in Policy 29 will be highlighted in a condition as described in the Policy 6 assessment.

Residential Amenity

78. Policy 31 of the Plan seeks to protect residential amenity, and some concerns have been raised by existing residents from the consultation exercise. The Policy is read in conjunction with the Residential Amenity Standards SPD which sets out spacing standards and requirements for minimum garden lengths.
79. The submitted indicative layout plans and site section show the necessary separations can be met to existing dwellings and between plots in principle, with the necessary allowance for the changes in level evident across the site. The layout plans also confirm that the size of the site allows for the required 9m garden lengths. Officers note that whilst the submitted plans show the number of plots proposed can be achieved on-site with sufficient land left available for ecology and drainage requirements, and that each plot is large enough to achieve the required garden lengths, separation distances and car parking requirements, the land available for the development of the dwellings is comparatively small for a plot-build scheme, notwithstanding their split-level nature. Compliance with Nationally Described Space Standards is however achievable.
80. Whilst this is a matter for the applicant, to set the expectations of individual developers conditions are proposed to require specific attention to be paid to these Policy requirements, and likewise those for sustainability as requirements of Policies 29 and 15. The conditions will also address requirements for noise insulation and acoustic fencing outlined in the Environmental Health Officer's advice.
81. The topography of the site compromises the likely ability of individual developers to achieve accessibility requirements, an eventuality allowed for in Policy 15.
82. Further, to give the Council control over the potential residential amenity implications of extension of any individual dwelling approved, it is proposed to remove permitted development rights for these elements.
83. Residential amenity concerns remain over the build process, which will be extended through the nature of a plot-build scheme. Conditions for hours of working, a Construction Management Plan and road cleaning are proposed to satisfactorily mitigate these issues, as indicated by Environmental Health Officers

Ecology

84. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. The applicant has shown areas for biodiversity gain and as this report is written is providing updated information to show through a biodiversity metric whether the requirement can be met on-site, or whether an expected slight shortfall will have to be secured through monies in lieu in a legal undertaking. Members will be given a verbal update at the committee meeting with regard to the outcome of this requirement, but late discussions between the applicant and County Ecologists have agreed a way of meeting the required standards.

Flooding and Drainage

85. Policies 35 and 36 of the emerging CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Whilst the developer has submitted a more detailed scheme to show that the detail of a sustainable drainage scheme can be achieved and signed off, enough has been submitted, and sufficient land is available to show this can be achieved. An appropriate condition is proposed.
86. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. Northumbrian Water suggest imposition of a suitable condition to meet their requirements and therefore those of condition 36.

Infrastructure and Open Space

87. Policy 26 of the CDP seeks to protect valued and functional open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. The value of the open space at present is wholly visual, the site being fenced grazing land without public access and therefore function. The open land is not sited to add significant character to the settlement.
88. Spatial Policy Officers have set out the figure required to mitigate new demand for Open Space when not met on site. The indicative layout does indicate there is potential for on-site provision and public footpaths within green spaces of the development.

Planning Obligations

89. Policy 25 advises that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs.

90. Paragraph 57 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.
91. The S106 Agreement which would secure the following all of which are considered to meet the required tests; the monies identified by the Local Healthcare Trust to mitigate the demands the development will put on their services – the sum will need to be agreed pro-rata to the number of units that are developed, and a sum for open space and play provision at a rate of £1574 per dwelling to bring compliance with the relevant elements of Policy 26. Any shortfall of the required net-biodiversity gain can be achieved through monies in lieu using this mechanism.

Other Considerations

92. It is acknowledged that Environmental Health (Contamination) Officers have recommended the submission of additional reports given the site's proximity to a nearby former tip. This is a technical exercise and would usually result in detailed reports that investigate and propose mitigation and verification before residential occupation. With other residential developments immediately to the south in similar relationship to spoil, it is considered that the usual phased contamination reports by condition can address this issue.
93. There are no Coal Mining Legacy records affecting the site.
94. Spatial Policy Officers have advised that given the nature of the land uses in the area there are no Safeguarding Mineral Resources implications to the development assessed against Policy 56 of the Development Plan.
95. There are no implications from the development to the adjacent Public Right of Way.
96. There are no landscape designations affecting the site and no trees. Landscape Officers acknowledge that there is already housing development in progress to the west of the site, and this should be considered in the context of the proposed site and the wider landscape. Officers consider that there is no conflict is with Policies 39 and 40 of the Plan.
97. As objectors acknowledge, that loss of view and devaluation of property are not material factors in the decision-making process.
98. Whilst not quantified within the submission, the economic activity that will be generated by the development – which by virtue of the plot build aspect is likely to be more locally concentrated than usual through the use of local builders and suppliers.
99. There have been no aspects of the proposals that would undermine any aspect of Human Rights legislation. Policy 29 seeks to improve accessibility to ensure the dwellings are attractive to as wide an age group as possible. An informal Equalities Assessment (EqIA) by officers concludes there are no aspects of the scheme that cause issue with the requirements of the Equalities Act 2010.

100. The application has been assessed and it is considered that on balance there is sufficient information provided to support the Outline consent, with all matters reserved. There are implications to the structure of conditions in such a scenario. Any approval will be governed by an overall Time Limit condition. Thereafter two phases of conditions are proposed: The first phase will require detail of the strategic and common aspects that affect the whole site – effectively taking the development to the point where there are serviced plots on the site. The second phase will be the reserved matters for each individual plot.

CONCLUSION

101. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
102. The application – in Outline form with all matters reserved essentially requests the principle of development and illustrates how development could be undertaken.
103. The assessment is led by County Durham Plan Policy 6 – Development on unallocated sites, with the relevant criteria then leading to assessment against the Policies for specific topics. The site is well located to the existing settlement but of low functional value. Sufficient information has been provided to show that policy requirements can be met, albeit some consultees have pointed out the full information has not been provided or agreed. This is often the nature of an Outline scheme.
104. Critical areas for mitigation have been identified and these are reflected in the conditions.
105. Likewise, areas for financial mitigation through a planning obligation have been agreed, although as the development is in Outline form and allows for a maximum number of units, this will have to be flexible in form to reflect the actual number built.

RECOMMENDATION

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

- a financial contribution of £1,574 per dwelling be provided to mitigate Green Infrastructure and Public Open Space demands from the development, and;
- a financial contribution of £8,710, as directly proportionate to the scale of the development be provided to mitigate the demands the development will impose on local healthcare services noting the three local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries.
- The undertaking of a scheme of management of land identified for landscaping / ecology improvements for a minimum period of 30 years in accordance to achieve the required net bio-diversity gain on-site.
- Where the required net-biodiversity gain cannot be delivered on-site monies in lieu of the net-biodiversity gain.

And subject to the following conditions:

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

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

2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development of features required to service the whole site, as opposed to the development of individual plots, must be begun not later than the expiration of two years from the final approval of the reserved matters. The development of each plot must be begun not later than the expiration of two years from the final approval of the reserved matters of that plot.

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

3. The development hereby approved shall be carried out in accordance with the following approved plans: Site Location / Layout Plan 2045-01-F.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 15, 19, 21, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41 and 56 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 of the National Planning Policy Framework.

4. Before any part of the development hereby approved is commenced, an existing site levels survey for the whole site and a detailed proposed highways levels plan for all communal vehicular and pedestrian highways, and shared drives must be submitted to and approved in writing by the Local planning authority. Further, an existing and proposed detailed levels plan for the development plots and all other areas of the site, indicating all areas of cut and fill and all proposed retaining structures must be submitted to and approved in writing by the Local Planning Authority, being thereafter carried out in accordance with said written agreement.

Reason: To ensure the development is in scale and character with the surrounding area, in accordance with Policy 29 of the Durham County Plan 2020 and part 12 of the Framework.

5. Thereafter, before any individual plot commences development a proposed ground levels plan to cover the whole plot and show all formed slopes and retaining structures, existing and proposed boundary markers, and elevations showing finished floor, eaves and ridge levels must be submitted to and approved in writing by the Local Planning Authority, with the development then carried out in full accordance with said approval.

Reason: To ensure the development is in scale and character with the surrounding area and adjacent plots, in accordance with Policy 29 of the Durham County Plan 2020 and part 12 of the Framework.

6. Before the development hereby approved is commenced the applicant must submit to the Local Planning Authority and have approved in writing a scheme of detailed highways works, to include a road junction design with a 10.0 metre junction entry radii, the access is a 4.8m wide carriageway width including plotted clear site visibility cords from the access at 2.4m x 70m in both directions and full constructional details

of the proposed road, to be of a standard capable of adoption, including levels, kerbs, drainage, footways, footway crossings and shared drives shall be submitted to and approved in writing by the Local planning authority. A schedule for construction of the road and triggers for implementation must be included in said document. The works must be carried out in full accordance with the written agreement.

Reason: In the interests of Highway Safety as required by Policy 21 of the Durham County Plan 2020 and part 11 of the Framework.

7. Development of the individual plots must be carried out in accordance with the advice set out in the submitted 'Design Guide for Self-Build Plots'. Each Reserved Matters application for an individual plot must clearly set out: a schedule of proposed external materials to include all elevational materials including but not restricted to, roofing, rainwater goods, roof edging, fenestration and hard-surfacing areas including vehicular hardstanding, pedestrian paths and patios. Full details of all proposed retaining structures and slopes at site boundaries must be set out in scaled drawn sections. A Sustainability Statement to demonstrate achieved reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations (unless the Building Regulations are enhanced) must be submitted and the plans must be annotated to show compliance with the Nationally Described Space Standards (NDSS). All plots must demonstrate compliance with the separation standards and minimum garden lengths set out in the Durham County Residential Amenity Standards SPD. All plots must demonstrate compliance with Durham County Council's Parking and Accessibility Standards. All the described information must be submitted to and approved in writing by the Local planning authority before the development of the plot it relates to commences, being thereafter implemented in full accordance with said agreed scheme.

Reason: to achieve a well-designed and sustainable scheme, in accordance with Policies 15 21 and 29 of the Durham County Plan 2020, the adopted Residential Amenity Standards SPD and Parts 11 and 12 of the Framework.

8. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Said scheme must include triggers for implementation and completion. Thereafter the development shall take place in accordance with the approved details. The limiting surface water discharge from the proposed development shall comply with greenfield QBAR Rural Rate for up to the 1 in 100 year event plus 40% climate change and also 10% urban creep.

Reason: To prevent the increased risk of flooding from any sources in accordance with Policies 35 and 36 of the Durham County Plan 2020 and part 14 of the NPPF.

9. Prior to commencement of the approved scheme the applicant must provide an updated biodiversity metric, an updated landscape/habitat layout plan and an updated habitat management plan to demonstrate the required biodiversity gains can be delivered on-site.

Reason: To ensure the development achieves the required net biodiversity gain and to comply with Policy 41 of the Durham County Plan 2020 and Parts 12 and 15 of the National Planning Policy Framework.

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

submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan-based details of the following:

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including replacement, watering, rabbit protection, tree stakes, guards etc.
- Details of the responsible person, company or organisation and thereafter any changes to this.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

11. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out within an agreed timescale. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: 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.

12. No dwellings shall be occupied until a scheme for the ongoing maintenance of the areas of public open space within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance and cutting schedule in perpetuity.

Reason: In the interests of appearance of the area in accordance with Policies 26 and 29 of the County Durham Plan and Parts 8 and 12 of the National Planning Policy Framework.

13. No development shall commence until a land contamination Phase 2 site investigation has been carried out, which shall include a sampling and analysis plan. The implications for contamination of the adjacent tip must also be fully investigated and mitigated. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and must 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 suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

14. 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 County Durham Plan and Part 15 of the National Planning Policy Framework.

15. Outdoor living areas in the north-western part of the site, closest to Shield Row will require mitigation to achieve daytime guideline values of 55dB LAeq. To achieve the required levels, the five dwellings nearest the boundary with Shieldrow Lane and the public footpath must demonstrate compliance with this requirement through a scheme of close boarded acoustic fencing on their rear boundaries of a specification to be submitted to and approved in writing by the Local Planning Authority, being thereafter implemented in full accordance with said agreement and retained to such in perpetuity.

Reason: In the interests of residential amenity in accordance with the requirements of Policy 31 of the County plan 2020 and part 15 of the Framework.

16. To ensure that that internal noise levels of no more than 55db LAeq for living rooms and bedrooms closest to the A693 and Shield Row Lane are met with the windows closed, standard thermal double glazing must be implemented on the elevations facing those highways. Ventilation must as a minimum, comply with Building Regulations 2000 Approved Document F1 Means of Ventilation and British Standard BS5925 1991: 'Code of Practice for Ventilation Principles and Designing for Natural Ventilation'. Said standards must be achieved during construction and maintained in perpetuity.

Reason: In the interests of residential amenity as required by Policy 31 of the Durham County Plan 2020 and part 15 of the Framework.

17. The applicant must submit a Dust Management Plan, which will set out the measures to be applied at the construction site, including a monitoring regime, complaints procedure and actions should dust be found to be impacting on offsite locations to the Local planning authority for approval in writing. All developers on site must adhere to said written agreement at all times during the construction process.

Reason: In the interests of residential amenity as required by Policy 31 of the County plan 2020 and part 15 of the Framework.

18. Before development is commenced a management scheme of road cleaning must be submitted to and approved in writing by the Local planning authority, being thereafter adhered to at all times.

Reason: In the interests of Highway Safety and residential amenity compliant with policies 21 and 31 of the Durham County Plan 2020 and parts 11 and 12 of the Framework.

19. No construction operations, including the use of plant, equipment and deliveries, which are likely to give disturbance to local residents should take place before 0730hrs and

continue after 1800hrs Monday to Friday, or commence before 0800hrs and continue after 1300hrs on Saturday. No works should be carried out on a Sunday or a Bank Holiday.

Reason: In the interests of residential amenity as required by Policy 31 of the County plan 2020 and part 15 of the Framework.

20. 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) (England) 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 shall be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of residential amenity as required by Policy 31 of the Durham County Plan 2020 and part 15 of the 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

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

Statutory, internal and public consultation responses

The National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan

County Durham Strategic Housing Land Assessment Report (2019)

County Durham Strategic Housing Market Assessment (2019)

Open Space Needs Assessment (2018)

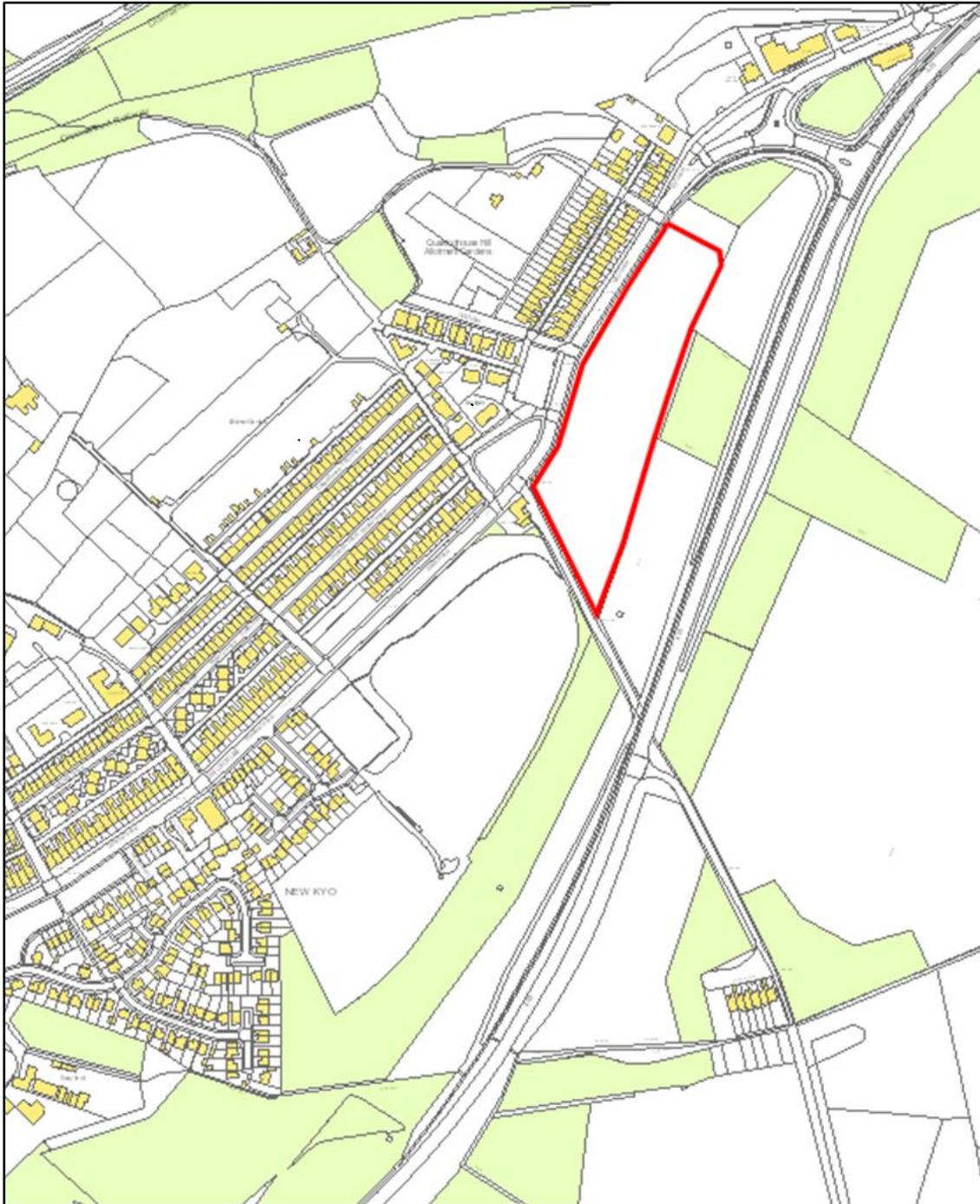
Residential Amenity Standards SPD (2020)

County Durham Building for Life SPD (2019)

County Durham Landscape Strategy (2008)

Human Rights Act 1998

Equality Act 2010



Planning Services

DM/21/01066/OUT - Outline Application with all matters reserved for 18 self-build plots with new access road and associated landscaping

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Date 24th February 2022

Scale NTS

