



## Area Planning Committee (North)

**Date** Thursday 24 March 2022  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 24 February 2022 (Pages 3 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
  - a) DM/22/00184/OUT - Land to the West of Briardene, Cadger Bank, Lanchester (Pages 11 - 48)

Residential development of up to 46 dwellings with new access from Cadger Bank and associated works.
  - b) DM/22/00135/VOC - Land East Of Castledene Road Delves Lane (Pages 49 - 66)

Application to remove condition 13 (highway improvements) pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) for 105 dwellings (outline - all matters reserved except access).
6. Appeal Update (Pages 67 - 70)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

**Helen Lynch**  
Head of Legal and Democratic Services

County Hall  
Durham  
16 March 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 24 February 2022 at 9.30 am**

**Present:**

**Councillor M McGaun (Chair)**

**Members of the Committee:**

Councillors B Bainbridge, G Binney, L Brown, D Haney, C Marshall, E Peeke, J Purvis, J Quinn and S Wilson

**Also Present:** Councillor T Smith

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Blakey, M Currah and A Watson.

**2 Substitute Members**

Councillor P Jopling substitute for Councillor M Currah

**3 Minutes of the Meeting held on 25 November 2021**

The minutes of the meeting held on 25 November 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/21/03809/FPA - The Falcon, Hilda Park, South Pelaw, Chester-le-Street**

The Committee considered a report of the Senior Planning Officer which sought approval for the erection of a fuel filling station, convenience store,

canopy, petrol pumps, with associated access and car parking (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 then proceeded to read the following two letters which had been received following the publication of the report:

Kevan Jones MP

'I have been contacted by a number of my constituents who are concerned about the above planning application for a fuel filling station in South Pelaw in my constituency.

Residents are concerned that that this application has arisen, despite permission previously being granted for a residential development on this site.

The development of a petrol station at this location would undermine several of the objectives of the County Durham Plan which requires development to support the transition to a low carbon economy and support the development of renewable energy sources.

I note that Section 21 of the application form states that the proposal does not involve the use or storage of hazardous substances. If this is true then I for one would be interested to know how a petrol station can operate without storing large quantities of petrol and diesel.

In light of the above, I am writing to object to this application'.

Councillor Tracie Smith

'Since I was informed about the planning application for the erection of a fuel filling station and convenience store I have spent the last 7 days listening to what residents have got to say on this matter. As the elected Member for Chester le Street North ward my view of this proposed development is influenced by what people tell me. I have had a significant amount of people read my Facebook post, emails sent directly to me from residents. I have door knocked on numerous homes and have also been stopped in the street by local residents. The overwhelming view that has been communicated to me is that there is a need for me to strongly object to this proposed development for two key reasons:-

Highways – Congestion, risk of collisions and risk of accidents and injuries to pedestrians including Schoolchildren.

Impact on residents “Quiet Enjoyment”

In respect of congestion residents feel that there is already a lack of parking for the existing parade of shops and this has caused a number of near misses at the junction. This overspill of parking does not give a sufficient sight line for cars coming out of the junction into the main road particularly around daily school drop off and pick-ups and this risk will increase significantly by the added volume of vehicles, HGVs and petrol tankers coming in and out of the fuel filling station.

Residents of Pelaw Estate which is opposite the proposed development have had concerns for some time about the lack of a crossing at this site. Children and residents regularly cross the road to access the parade of shops or en route to CofE primary school. The increased volume of traffic exacerbated by the lack of sight lines at the junction will significantly increase the risk of accidents and fatalities.

Quiet Enjoyment – Prior to this proposed development residents complained about the fluorescent lit sign of North East Autocare shining into their homes. This problem will pale into insignificance if the petrol station and convenience store goes ahead because of the significant light pollution this will create. Residents have also raised Public Health concerns about the Quality of Air impacted by petrol and diesel fumes, pollution from car exhausts and the noise of vehicle engines and the slamming of car doors.

Residents are also concerned that the “Quiet Enjoyment” of their back gardens will be ruined by this proposal.

What happens next?

When planning applications are made the local Ward Councillor has the opportunity to request that the planning application is “called in”. I have “called in” this application. This means I will be representing residents’ issues as described above at the planning committee.’

The Senior Planning Officer in responding to the letter received from Kevan Jones MP advised that the forms had been submitted correctly, checked and verified against legislation by the Councils Solicitor.

The Chair then welcomed Councillor T Smith, local Member, who was in attendance to speak in objection to the application.

Councillor Smith explained that she had called in this application following a number of representations made to her from residents. She made reference to the County Durham Plan and targets in relation to the reduction of CO2 emissions, she added that the garage would add further pollutants to the air quality in County Durham and felt that the applicants' comments made in his statement regarding his intention to support the use of EV vehicles should be taken with a pinch of salt.

It was well known that the adverse impacts that fossil fuels had on climate change was significant and felt that as corporate parents this did not send a good message to the young people of County Durham who were taught about decarbonisation in schools.

She further commented that bungalows were desperately needed in this area and loss of this land for residential development would be of detriment to the area.

With regard, to residential amenity, she was of the opinion, that the development would have an overbearing impact of the community, the building as oppressive in size and its proximity to other dwellings and the ability for those residents to enjoy their gardens. She further referred to the minimum distance requirements for new dwellings, noting that 21 metres was required as standard, with this development falling short of that distance and would have a much greater impact than a dwelling would.

She went on to raise concerns regarding the opening hours and A1 use, noting that the times of opening were excessive and would result in noise and disruption for long periods of the day, due to cars entering and exiting the station, engine noise and deliveries taking place.

Councillor Smith also went on to read a letter from Mr and Mrs Cain submitted on 8 December 2021 which noted that the application failed to meet Policy 31 of the County Durham Plan, and paragraphs 174, 185 and 187 of the National Planning Policy Framework.

She respectfully asked that the application be refused.

Mr D Smith, local resident explained that he and his wife had saved to buy their dream home here and whilst a public house was nearby when they bought it, there were never any issues with noise whilst it was open. They had in fact wanted the pub to be saved when it was at risk of closure.

He went on to outline his concerns that he would no longer be able to enjoy his garden for BBQ's, have friends over or even hang washing out due to the lingering smell of petrol which would be in the air. The garden was important

to his family and was in fact his wife's sanctuary, providing a safe space in which she could relax which was good for her mental wellbeing.

Furthermore, he added his concerns that when the pub was demolished cracks had appeared in his house and asked what assurances could be given that the building works would not cause greater damage to his property.

Mrs H Talbot, local resident added that she had major concerns regarding the health implications of siting the petrol station so close to residential dwellings and noted various academic studies which she had researched regarding chronic exposure to petrol fumes and the impact upon white blood cells in the body. She noted that given its proximity to dwelling and the neighbouring school the siting of a fuel station in this location could give rise to respiratory conditions and she asked whether the council would be culpable given the known risks.

She further made reference to the Council's Climate Emergency and suggested that the addition of a fuel station was ethically irresponsible and the council should in these times lead by example.

In conclusion she referenced the Chester-le-Street Local Plan, noting that bungalows were desperately needed in the area, which she also felt were a more suitable form of development.

In response to the various comments and concerns raised the Senior Planning Officer noted that the implications on public health were carefully regulated by other systems outside of planning and therefore planning could not duplicate when making their determination. With regard to comments made regarding hazardous substances being stored on site, he explained that the fuel station intended to store well below the threshold volume.

He further referred to Defra guidance LAQM TG(16), which stated that 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 > 2,000m<sup>3</sup> or 2 million litres per year
- 2) Near a busy road (>30,000 vehicles/day)
- 3) Exposure within 10m from the pumps

He explained that it was 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 fell 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.

He also explained that vapour retrieval apparatus and modern standards for operation would be applied. The operation described by the academic report reference by Mrs Talbot and the systems and regulations currently in use in this country is open to question. The relevant guidance is that contained in TG16.

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

Mr Rezaei noted that he was available for questions should there be any, however noted that he lived in Ouston, close to both a petrol station and primary school and he was not aware of any incidents or accidents or harm caused to residents due to the location of the Esso garage.

He further noted that his proposals achieved compliance in regard to noise pollution and regarding the suitability of the site, he explained that given the sites mixed use the scheme fit perfectly here. With regards to comments made stating there was a need for bungalows, he referenced a site at South Pelaw which had proposed a development of bungalows and was recently rejected after gathering a number of objections, so not all residents would be in favour of housing development as suggested by the objector.

Councillor Wilson asked for some further clarification regarding air quality and standards. He further noted that delivery times could be of detriment to residents and asked whether this was something which could be conditioned in any approval granted.

The Senior Planning Officer explained that they could look to include a condition to restrict delivery times. Regarding the query relating to air quality and how this was assessed, paragraph 29 of the report provided more detail.

Councillor Wilson further raised a query regarding distance thresholds for hazardous substances and the Senior Planning Officer advised that there was around 12 metres distance between the residential properties and the back of the proposed building, which meant that the distance to the pumps was well beyond the 10 metre threshold. Matters relating to the storage of hazardous substances had already been covered the Senior Planning Officer advised.

Councillor Jopling asked whether the pub which had been previously situated on the site was single or two storey. The Senior Planning Officer advised that the majority of the building was single storey with some two storey elements. He added that it was effectively a different location and scale to the pub therefore difficult to draw any comparisons.

Councillor Jopling further added that the nearest alternative fuel station was some distance away although competition could not be taken into account when making a determination. She noted from a personal point of view that she had at one point lived within 20 metres of a petrol station for a long period of time and had never encountered any issues regarding pollution or noise.

Councillor Quinn asked whether it was the applicant's intention to increase the number of EV charging points should the demand for fuel shift to electric. The Applicant advised that yes this was something that he would develop and look to expand, should the demand for EV points increase.

Councillor Brown added that she could see no planning grounds on which to refuse the application, however agreed that times of construction should be conditioned to minimise the impact upon residents during its construction stage along with delivery times also to be specified.

Councillor Marshall added that whilst he agreed with a lot that had been said, he himself would not like to live adjacent. Whilst it was recognised that fossil fuels were bad, they would be around for some time, with the demand for EV vehicles not being there yet. He explained that despite him disagreeing with the principle of development there were no material grounds for refusal.

The Officers recommendation for approval was **Moved** by Councillor Brown and **Seconded** by Councillor Jopling.

The Principal Planning Officer clarified that the standard working hours would be applied as a condition and together with the timing of deliveries would be worked through with the applicant.

**Resolved:**

That the application be **Approved** subject to the conditions as contained in the report and the addition of a standard condition relating to hours of construction and a further condition to be agreed in consultation with the Chair and Vice-Chair.

**b DM/21/01066/OUT - Land to the east of Gray Terrace, New Kyo, Stanley**

The Committee considered a report of the Senior Planning Officer which sought outline planning approval with all matters reserved for 18 self-build plots with new access road and associated landscaping (for copy see file for Minutes)

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

The Chair welcomed S Walsh, Applicants Agent who was in attendance to speak in support of the application.

She advised that she was available for questions however to provide a brief overview, the applicant had worked long and hard with planners to achieve a good scheme which had resulted in some changes to the layout which took advantage of the natural slope of the land, providing a low-density development which respected the right to a view of the adjacent terrace.

The self-build offer was unique and something that didn't come along very often and this site was able to provide a low-density development within a sustainable location.

Councillor Marshall welcomed the approach from the applicant and thanked them for taking the time to work through issues with the planners. As a local member to Stanley he knew only too well the difficulties faced by developers in terms of viability so this new development was good to see despite it not providing a contribution to social housing.

Councillor Jopling asked for some clarification regarding parking. S Walsh advised that each plot had its own parking within the curtilage and spaces were also allocated for visitor parking. This would mean that on-site parking at Grey Terrace wouldn't be exacerbated.

Councillor Brown asked whether further information could be provided as to the viability of the scheme. S Walsh advised that securing a self-build mortgage had become a lot easier in recent years and plot were in some cases more affordable which allowed schemes such as this to come forward. She added that from her own experience the other various self-build plots that she had been involved in had proven to be very successful.

The Officers recommendation for approval was **Moved** by Councillor Marshall and **Seconded** by Councillor Brown.

**Resolved:**

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

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/22/00184/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Residential development of up to 46 dwellings with new access from Cadger Bank and associated works
<b>NAME OF APPLICANT:</b>	Mr Apinder Ghura
<b>ADDRESS:</b>	Land to the West of Briardene Cadger Bank Lanchester
<b>ELECTORAL DIVISION:</b>	Lanchester
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. Lanchester is a large village that sits on the A691 midway between Durham City and Consett. To the north are the larger mining originated settlements of Annfield Plain and Stanley, whilst south of the village is a network of small rural and mining related settlements including Cornsay, Quebec, Satley and Esh.
2. Based around a central historic core designated as a Conservation Area, the village was extensively extended in the late 20th Century by primarily Local Authority built housing on the east A691 access to the settlement, and latterly large estates of private residential development on the west side, where Newbiggin Lane and the B6296 at Cadger Bank enter the village. The Conservation Area includes a spur that extends along Cadger Bank.
3. The village is set in a steep sided valley at the confluence of Smallhope Burn and Alderdene Burn, which close to the east of the village meet the River Browney. These watercourses, although small, have a history of flooding, affecting the village centre and surrounding countryside. The countryside is a mix of arable and grazing agricultural land, which since the adoption of the County Plan in 2020 fully surrounds the settlement with an Area of High Landscape Value designation. There are no Public Rights of Way in the countryside surrounding the site.
4. A short separation of 130m west of the village on Cadger Bank, on the south side of the B6292 lies the partly visible remains of the Roman Fort of Longovicium with Dere Street Roman Road intersecting north/south across the modern highway between the fort and the settlement. The fort is the standard playing card shape, some 2.80 ha in size, with the extent of the associated formal scheduled ancient monument (SAM) designation, which

stretches across the River Browney to the south, and farmland to the north of the main road, some 74.5ha in area. A layby with an information board sits just west of the Fort. Archaeological investigations have identified that the Roman remains extend beyond the SAM as non-designated heritage assets (NDHAs), including the area of the application site.

5. The application site is some 3.58ha in size, broadly rectangular in shape and sits on the north side of the B6292 at Cadger Bank, with its north and east boundaries shared with modern residential development on Briardene and Fox Hills Crescent. To the west the countryside is in agricultural use formed of semi-improved grassland, likewise the land to the south of the main road. The site boundaries reflect the historic field pattern showing on Ordnance Survey Maps dating to 1860.
6. Formed of semi-improved grassland used for grazing, the sloping topography of the site is one of its defining features. The whole site slopes down to the north-east, with the northern part of the site then falling steeply to a small watercourse – Alderdene Burn – from a belt of mature trees, some of which are formally protected. A second belt of protected mature trees bisects the middle of the site reflecting the line of a historic field boundary. The front, southern boundary of the site, facing the B6292 is formed by a stone wall separated from that highway by around 5.3m of steeply sloping verge, designated within the Adopted Highway, and a public footpath that runs on one side of the main road. A field gate currently accesses the site from a point adjacent the nearest dwelling at its south-east corner. The boundary with the agricultural land to the west is hedged. The boundaries with existing dwellings at the village edge which sit at a lower level are a mix of fencing types, many low level and lightweight in nature, to take advantage of open views across the application site in its existing use and aspect: this being informally grazed semi-improved grassland open countryside.
7. The site is outside the Settlement Boundary as defined in the Lanchester Neighbourhood Plan 2021 with a resultant designation as open countryside. The site is included within the aforementioned Area of High Landscape Value designation.
8. A subterranean pipeline, a high-pressure water main, runs north/south across the western part of the site, this feature including a ‘no-build’ buffer zone either side of it.

### The Proposal

9. This is an Outline planning application, with all detailed matters reserved for later determination that seeks approval for the principle of residential development on the site. It provides indicative plans to attempt to demonstrate how development could be undertaken and that the proposed upper number of units proposed – 46 – could be achieved. Reports are provided to justify the principle of development, to show the principal issues could be addressed or appropriately mitigated and to proportionally demonstrate that technical requirements are capable of being undertaken in line with required standards.
10. This application is being considered by Committee as a major development.

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## **PLANNING HISTORY**

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11. DM/15/03222/FPA Residential Development of 52 Dwellings with new access and associated works. Application Refused. Appeal Dismissed.

12. DM/20/03045/OUT Outline application for Residential development of up to 46 dwellings with new access from Cadger Bank and associated works (all matters reserved). Application Withdrawn.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

13. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
14. *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.
15. *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.
16. *NPPF Part 5 – Delivering a sufficient supply of 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.
17. *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. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.
18. *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.
19. *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.

20. *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.
21. *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.
22. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
23. *NPPF Part 16 - Conserving and Enhancing the Historic Environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

24. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. These documents provide planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; housing assessments; natural environment; neighbourhood planning; open space local green space; and planning obligations. These notes are under constant review and subject to updating.

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

#### **LOCAL PLAN POLICY:**

##### The County Durham Plan

25. *Policy 6 Development on Unallocated Sites.* The development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are outside the built-up area (except where a settlement boundary has been defined in a Neighbourhood Plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and a range of detailed criteria.
26. *Policy 10 Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.

27. *Policy 11 Rural Housing and Employment Exception Sites.* New housing and employment related development that is contrary to Policy 6 and Policy 10 will be permitted where (for housing), the development is well related to the settlement, there is an identified need for affordable or specialist housing to justify it's scale and nature, market housing is kept to a minimum and only included where justified for the viability of affordable provision and the affordable housing is made available to the local community identified as being in need.
28. *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.
29. *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.
30. *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.
31. *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.
32. *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.
33. *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).
34. *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.

35. Policy 31 is informed by the *Residential Amenity Standards SPD 2020* which includes a range of criteria for new residential including separation distances and minimum garden lengths.
36. *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.
37. *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.
38. *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.
39. *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.
40. *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.
41. *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.
42. *Policy 43 Protected Species and Nationally and Locally Protected Sites*. Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
43. *Policy 44 Historic Environment*. Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.

The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

44. *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.

#### Lanchester Neighbourhood Plan 2021

45. *Policy LNP1 - The Boundary and Setting of Lanchester Village.* Defines a settlement boundary for the village, outside which land will be treated as open countryside and development will not be supported unless specifically allowed for the in the County Durham Plan and the NPPF.
46. *Policy LNP2 - Design of New Development.* Specifies a range of criteria under topic headings of: Design layout and Appearance, Scale and Density, Integration into the built or natural setting, and Accommodate Demographic Change, directing developers to a list of Guidance.
47. *Policy LNP3 - Historic Environment.* Proposals for development which will impact upon a Locally Valued Heritage Asset will be assessed in relation to the net positive or negative effects that would occur to the asset in terms of sustaining. and enhancing its significance. All proposals should seek to ensure the long-term conservation of the asset and avoid substantial harm to, or loss of, its significance.
48. *Policy LNP4 - Green Spaces and the Rural Environment.* For Green infrastructure, development proposals which maintain, improve or extend the parish's green infrastructure resource and network will be supported. Footpath and bridleway network; proposals should seek to extend the routes for walkers, cyclists and horse riders to access the village and countryside network and accommodate people of all ages including those with push-chairs and wheel-chairs.

<https://www.durham.gov.uk/media/30929/Lanchester-Neighbourhood-Plan-Pre-Submission-Consultation-June-2019/pdf/LanchesterNeighbourhoodPlanPreSubmissionConsultation.pdf?m=637044075008000000#:~:text=The%20Lanchester%20Neighbourhood%20Plan%20provides,policies%20to%20realise%20the%20vision.>

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

49. *Historic England.* Such is the importance of this consultee's comments that they are only lightly summarised:
50. **Summary:** Historic England objects to the application on heritage grounds. This outline proposal would be harmful to the setting of the scheduled Roman fort and settlement at Lanchester, as well as to non-designated heritage assets associated with it which may be demonstrably of equivalent significance to, and clearly are a continuation of, the adjacent scheduled civilian settlement.

51. The outline proposal would markedly erode the rural setting of the wider monument by urbanising its north-eastern boundary. The effect of development on this site will be to curtail some of the site-specific commanding views of, and from, the Fort. This would cause harm to its setting as noted in the Planning Inspector's report in 2017 which upheld the previous refusal of planning permission.
52. An outline application with all matters reserved is problematic for this site. Consequently, it is not possible to fully understand the harm without further details and the indicative layout would not be binding should permission be granted.
53. The application fails to meet the requirements of the policies set out in Section 16 of the NPPF as it neither sustains nor enhances the significance of the highly significant heritage assets. Neither does it present the necessary clear and convincing justification for the harm to the heritage assets. For these reasons, Historic England objects to the proposal.
54. **Significance: Lanchester Roman Fort, Scheduled Monument:** The heritage values of the well-preserved remains of Lanchester Fort and its civilian settlement are high and contribute to its national importance.
55. The proposed development area lies directly east of the boundary of the well-preserved remains of Lanchester Roman Fort and Settlement (Longovicium). This site originated in the mid-2nd century AD, guarding the strategic route north to Hadrian's Wall and beyond as the Romans consolidated their control over northern Britain. The fort and its civilian settlement were rebuilt several times as its fortunes waxed and waned until the end of the Roman occupation of Britain around AD 410.
56. The evidential value of in-situ archaeological remains directly associated with the Roman civilian settlement is high. These features have the potential to contribute to our understanding of frontier life during the lifespan of the fort.
57. The rural landscape and setting of the fort and its settlement close to, but yet set apart from, the modern village, is important to its significance for two reasons:
  - Its location on a high spur of land with strategic and commanding near 360-degree views over the landscape clearly illustrates Roman military planning and thinking.
  - Aside from intermittent modern traffic, a sense of the remoteness of the Roman frontier landscape is maintained. The modern development of Lanchester sits below the brow of the hill to the east / north-east and thus there is little visual or noise intrusion into the immediate setting.

The communal value of the site is well documented by the very active organisation "Friends of Longovicium" which is based in Lanchester village. They have sought funding for, and undertaken with appropriate licencing, numerous geophysical surveys of the fort and settlement over the past decade. These have vastly increased our wider knowledge and understanding of the site, and contributed to improving the management of the monument.
58. The fort and settlement are of national importance and are legally protected as a scheduled monument (SM DU22; National Heritage List for England HA 1002361). Recent geophysical surveys have provided evidence of how extensive the associated civilian settlement was, extending into the proposed development site which is outside the boundary of the monument.
59. **Lanchester Conservation Area:** The development site is adjacent to the Lanchester Conservation Area, specifically a spur of the Conservation Area which radiates out from the historic core of the village along Cadger Bank. Whilst the bulk of the Conservation Area's significance is contained within its historic core, this spur illustrates the village's

historic links with its rural landscape. It does this in a visually appealing way that includes stone walls, mature planting and the gradual thinning out of historic buildings.

60. **Impact: Direct impact to Lanchester Roman Fort Scheduled Monument:** Whilst outside of the boundary of the scheduled monument, the proposed development will impact on in-situ remains directly associated with the Roman fort and its civilian settlement.
61. Geophysical survey and evaluation undertaken for the previously refused 2015 application (submitted in support of the current application) shows that development will impact on:
- the remains of settlement and property boundaries;
  - rubbish pits;
  - probable Roman quarrying activity;
  - the boundary of the civilian settlement.

It can be demonstrated that these remains in this context can be considered to be of at least local and regional importance, and likely national importance, for the information they hold about Roman use and activity along the edges of the civilian settlement. The archaeological features in the proposal area are vulnerable to any development activity as evaluation indicates they are located at relatively shallow depths below ground.

62. Section 4.1 of the Heritage Impact Assessment suggests that the physical impact on these archaeological features would be limited through the creation of a buffer zone. However, we remain concerned about this as:
- the proposed buffer zone is limited in scope and many archaeological features lie beyond it which will still be severely impacted upon;
  - the proposed layout is indicative only and would not be a binding part of any permission issued.

Therefore, it is Historic England's view that the proposal would cause substantial harm through the loss of non-designated archaeological assets which may be demonstrably of equivalent significance to, and clearly are a continuation of, the adjacent scheduled civilian settlement.

63. **Indirect impact to Lanchester Roman Fort Scheduled Monument:** The tranquillity and sense of remoteness of the rural setting of the monument makes a strong contribution to the significance of Lanchester Roman fort. The setting of the Roman fort and settlement at Lanchester would be harmed through the encroachment of modern housing, traffic and lighting proposed here.
64. Although the current village edge lies relatively close to the monument, topography and the substantial gap between the monument and village creates a very strong, and key, visual buffer between Roman and modern settlement. This, in turn, still allows a modern appreciation of the strategic location chosen by the Romans, with its good long-distance visibility, as well as a feeling for the remote frontier landscape the fort once guarded.
65. This outline proposal would markedly erode this rural setting and its tranquillity, thus harming the significance of Lanchester Roman fort by:
- bringing the modern village much closer to the monument and suburbanising the north-eastern boundary of the monument;
  - curtailing some of the site-specific commanding views of, and from, the Fort; and
  - reducing the continued ability to appreciate the monument's setting in relative peace.

A landscaped buffer between the monument and the development would do little to mitigate this effect. As we note above, such a buffer is also only part of an indicative site layout meaning that full impacts of the proposed development have not been assessed. In addition, the indicative masterplan would not be binding should permission be granted.

66. It is Historic England's view that the proposal would have an unacceptable impact on the setting of the monument. We concur with the Planning Inspector who in 2017 upheld the refusal of planning permission for the previous application that development here would cause a less than substantial level of harm to the setting of the scheduled monument which would not be mitigated by the indicative outline layout.
67. **Impact to Lanchester Conservation Area:** The proposal site marks the current western edge of the village and as such acts as visual prelude to the conservation area whose boundary along Cadger Bank marks the gradual transition between the rural and urban. This would be eroded by the proposal and extend the village beyond its settlement boundary.
68. **Policy:** This application needs to be judged against Government policy on the importance of conserving heritage for the benefit of current and future generations, as set out in the National Planning Policy Framework (NPPF 2021):
- Paragraph 189 is clear that heritage assets are an irreplaceable resource and should be conserved so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
  - Paragraph 197 looks to planning authorities to recognise the benefits of development which seeks to sustain and enhance heritage assets; make use of the positive contribution that heritage assets can make to sustainable communities, as well as how new development can make a positive contribution to local character and distinctiveness.
  - Paragraph 199 requires that when there is an impact from a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.
  - Paragraph 200 requires that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In addition, substantial harm or loss to a scheduled monument must be wholly exceptional.
  - Footnote 68 requires that non-designated archaeological assets which are evidently of equal significance to scheduled monument should be considered as if they were designated. This means that they should be considered subject to the same policies as designated assets.
  - Paragraph 202 requires that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal including where appropriate securing its optimum viable use.
  - Paragraph 203 is also clear that the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
69. It is also important to take into consideration the adopted County Durham Local Plan policies in relation to the outline proposal.
70. **Position:** Whilst we recognise that each application should be judged on its merit, and there are differences between this proposal and the one upheld at appeal in 2017, the differences are not sufficient to make this proposal any less harmful than the original even though there are fewer houses.

71. As the proposal is for development outside the settlement boundary, on land not allocated in the local plan for housing, it does not present a clear and convincing justification for development as required by NPPF para. 200. In addition, it fails to meet the requirements of para. 197, as it neither sustains nor enhances the significance of the heritage assets.
72. Historic England objects to this application as development of this site will cause harm to the setting and significance of the Lanchester Fort Scheduled Monument through:
- the encroachment of development close to the scheduled site which impacts on its setting, thus harming the ability to understand its strategic location in relation to the landscape;
  - the impact on non-designated heritage assets, in this case archaeological remains of settlement directly associated with the scheduled fort; and,
  - the inappropriateness of an outline application with all matters reserved for development which harms a nationally important monument. The non-binding nature of the indicative layout plan submitted also means that there cannot be certainty about delivery of any mitigation benefits or reduction in harm that this might produce.
73. **Recommendation:** Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of Section 16 of the NPPF nor policies of the adopted County Durham Local Plan. We ask that any public benefits of the proposal are robustly scrutinised as required by para. 202, and the application be determined after an appropriate balance of these against the above heritage harms, specifically in line with:
- NPPF paragraphs 199; 200 - 203 and footnote 68
  - County Durham Local Plan Policies 4; 6(c) and 44
- In addition, in determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as well as section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
74. *Highways.* The application site has already been subject to a planning appeal in 2015, where the principle of highway access was accepted. From the information provided I would make the following highways comments: The peak hour traffic trip rates generated from the site would not cause a material impact on the surrounding highway network. The illustrative master plan site plan shows steep land gradients, at this stage I would make the applicant aware that all internal roads would need to be to DCC Residential Adoption Standards. The current 30mph gateway feature this needs to be moved uphill in front of the proposed access.
75. I would raise concerns due to the housing density of these proposals there is no on street visitor parking space indicated on the internal highways layout plan which should be conveniently located, evenly distributed and accessible this needs to be reviewed by the applicant. The applicant has clearly not considered any visitor parking at the development.
76. *Northumbrian Water* have no issues to raise with the above application, provided the application is approved and carried out within strict accordance with the submitted document entitled "Flood Risk Assessment & Drainage Strategy". In this document it states the foul flows shall discharge to the foul sewer at manhole 1303, whilst the surface water flows shall discharge to the watercourse. A compliance condition is suggested.
77. They further note the presence of a strategic water main crosses the site and may be affected by the proposed development. Northumbrian Water do not permit a building over

or close to our apparatus. They will work with the developer to establish the exact location of the assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development.

78. *The Coal Authority* confirm that the application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
79. Coal Authority records indicate that the site is underlain by recorded shallow coal workings and that the site is likely to have been subject to historic unrecorded coal mine workings at shallow depth associated with a thick coal outcrop. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases. The site also lies within a Surface Coal Resource Zone.
80. The submitted Coal Mining Risk Assessment is unable discount the risk to surface stability based on the information assessed and therefore recommends that further investigation and assessment is needed to determine the thickness and location of coal seams below the site and the extent of any old workings (if present). Further, wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. Additionally, where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy.
81. The Coal Authority recommend imposition of suggested pre-commencement conditions to ensure proper investigation, and thereafter where required mitigation of the above issues. Subject to this, no objection is raised.

#### **INTERNAL CONSULTEE RESPONSES:**

82. *Spatial Policy Officers* note that the site is greenfield and utilised for agricultural purposes – it lies to the west of Lanchester settlement. The site is designated as an Area of Higher Landscape Value; it also lies adjacent to Lanchester Roman Fort (Longovicium) Scheduled Monument and Lanchester Conservation Area. A settlement boundary is set down in the Lanchester Neighbourhood Plan (under Policy LNP1), which is drawn to the east of the proposal site, excluding it from the main built-up area.
83. Policy LNP1 states that land outside the settlement boundary will be treated as open countryside and development proposals will not be supported unless they are specifically allowed for in the NPPF and they accord with the policies of the Development Plan.
84. As an unallocated site, this proposal would fall to be assessed against Policy 6 of the CDP. This informs that development will not be supported where it is outside of a defined in a neighbourhood plan settlement boundary, as it would be in the open countryside and contrary to the aims of the development plan. It would also draw no support from Policy 10 which enforces firm controls on new residential development in the countryside.
85. Policy 39 of the Plan sets down that development located in higher value landscape areas will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. This is backed up by Policy LNP4B of the neighbourhood plan which identifies the site as falling within the Smallhope Burn Valley. It informs that proposals that may impact on the Lanchester Parish Landscape of High Value should demonstrate

that they have taken account of the Lanchester Parish Landscape of High Value assessment and will not have an unacceptable adverse impact on the landscape character. Proposals will be considered against the relevant policies of the CDP.

86. Policy 44 (Historic Environment) is clear that development will be expected to sustain the significance of heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate.
87. Scheduled Monuments are regarded as amongst the most significant historic assets, so even a minor impact would be unlikely to be permitted. The site is also regarded as a locally valued heritage asset in the neighbourhood plan (Viculus /civil settlement of Longovicium (Cadger Bank)). Policy LNP3 states that proposals for development which will impact upon the significance and setting of a non-designated heritage asset (including a Locally Valued Heritage Asset) will be assessed in relation to the net positive or negative effects that would occur to the asset in terms of sustaining and enhancing its significance. All proposals should seek to ensure the long-term conservation of the asset and avoid or minimise any conflict between its significance and any aspect of the proposal. Where harm is identified a full justification will be provided to allow an appropriate balanced judgement.
88. A number of additional neighbourhood plan are invoked, including LNP2 which sets down a number of design requirements. Criteria 'b' and 'c' are especially important for the consideration of this proposal as they require proposals to be of a scale and density that reflect the rural character and setting of the development and to integrate into the built or natural setting. Development should deliver accessible and well-connected environments that meet the needs of users; it should integrate into the rural setting of the Parish and respect wildlife. Layouts should reflect existing settlement patterns and make linkages with footpaths and cycle ways.
89. A number of important local views are identified under Policy LNP4E, including views which would be impacted by this development proposal. Developers are required to demonstrate that the proposal will not have a significant adverse impact on these publicly accessible views.
90. It is noted that the site is captured under reference 1/LA/07 within the SHLAA. The SHLAA assessment notes the site is considered unsuitable for housing development on archaeological grounds. This is primarily due to proximity to the setting of the Scheduled Monument of Lanchester Roman Fort, as well as within the setting of Lanchester CA. Furthermore, recent studies have indicated that archaeology relating to the fort is likely to extend into the Cadger Bank site which would be negatively impacted upon should the site be developed.
91. A list of other relevant policies in the Development Plans is identified.
92. In summary: The proposal is located within the setting of a Scheduled Monument and on the edge of the Conservation Area. It is also within an Area of Higher Landscape Value. The proposal is likely to have negative adverse/harmful impacts upon these designations. The potential for residential development in this location has already been resisted (including via appeal) corroborating the validity of these policy constraints.
93. The Neighbourhood Plan articulates a Settlement Boundary which effectively renders the site in the countryside. The scheme would conflict with Policies 6, 10 and LNP1.

94. They identify further policies including 25, 29 and 56, as well as those set down in the Lanchester Neighbourhood Plan, which would also apply in the determination of this proposal as well as highlighting some key considerations that would need to be addressed should a detailed scheme be forthcoming.
95. *Archaeology.* Such is the importance of this consultee's comments that they are only lightly summarised:
96. *Description/Context:* The proposal site lies immediately adjacent to the northern sector of the eastern boundary of the nationally important Scheduled Monument of Lanchester Roman fort and its accompanying civilian settlement. It forms part of a zone of open ground between it and the modern housing occupying the lower ground to the east. The Roman fort lies 115 metres to the south-west of the proposal site where its defensive wall still stands to a height of more than 2 metres above ground level. The boundary of the Scheduled area was defined in the late twentieth century at a time when the precise location and extent of the civil settlement beside the fort were unknown. A programme of geophysical survey carried out in 2008-09 revealed that, contrary to some earlier theories, the civil settlement here took the form of ribbon development along the Roman road known in later times as Dere Street which passes by the fort some 60 metres to the east. This settlement extends for nearly 300 metres both to the south and to the north of the fort and in total has a length of nearly 1 kilometre. The settlement follows a layout normal for such communities consisting of long narrow buildings set end-on to the road frontage with fenced and/or ditched property plots to the rear. Beyond the limits of the settlement Dere Street would have been lined by cemeteries belonging to the Roman community.
97. The results of the geophysical surveys indicated that the remains of properties on the east side of Dere Street north of the fort extended into the land west of Briardene. This was subsequently confirmed by geophysical survey and trial-trenching carried out in connection with an application for residential development in 2015 which revealed the rear portion of property plots and, running longitudinally across the centre of the site, a substantial ditch considered to define the eastern limit of the settlement
98. *Significance:* As an extensive and well-preserved archaeological site Lanchester possesses high evidential value because of the wealth of information it contains relating to an important period in Lanchester's development. It also has high value in historical terms representing a period of at least two hundred and fifty years of Lanchester's existence. The people of Lanchester take great pride in their Roman heritage, as demonstrated by the work of the 'Friends of Longovicium' over many years and the number of objections to the 2015 application for residential development, and so the Roman site and its surroundings also have great communal value.
99. The proposal site makes a major contribution to the significance of the heritage asset. Firstly, although not included within the boundary of the Scheduled area the site nonetheless contains the physical remains of an integral and important part of the Roman settlement. Lanchester is the best preserved of the six such settlements in County Durham, having largely escaped any form of later development or major erosion.
100. Secondly, the proposal site in its current state makes a vital contribution to the setting of the Roman settlement. A major and fundamental element of the significance of the Longovicium site is its open rural character, enabling the position of the fort and the civil settlement in relation to the landscape to be clearly and fully appreciated. It is the only Roman fort in County Durham where the original strategic location of such an installation, and its relationship to the topography, can be understood without the impediment of later settlement, development or afforestation in the vicinity. As most of the civil settlement at Lanchester grew up as ribbon development along Dere Street to the east of the fort, it is

this aspect of the scheduled monument that is particularly sensitive to any form of change. The contribution of setting to the significance of a heritage asset is often expressed by reference to views alone but qualitative issues can be equally important such as quiet and tranquillity (English Heritage, Good Practice Advice Note 3 – The Setting of Heritage Assets, para. 9, 2015).

101. In terms of the preservation of both its physical remains and its setting Lanchester is unique among the Roman forts of County Durham.
102. The Current Proposal: A re-design of the scheme submitted and rejected in 2015 has reduced the number of houses from 52 to 46 achieved by deleting those units along the south-western boundary.
103. Impact on Significance – a. Archaeology: The proposal would encroach upon and entail the partial destruction of the archaeological remains of the settlement associated with the Roman fort. Although not included within the boundary of the area designated as a Scheduled Monument, the archaeology within the land west of Briardene is nevertheless part of a heritage asset of which the remainder and majority has been designated of national importance and thus Paragraph 194 footnote 63 of the NPPF applies.
104. Impact on Significance – b. Setting: Development on the land west of Briardene would constitute the first ever encroachment onto the open area which currently separates the site of Roman Longovicium from the modern housing estates to the east. This would cause a fundamental change to the baseline condition of the monument's setting transforming it from a tranquil area of open ground into a suburban area with all the associated effects of human activity. This would result not only in significant visual intrusion but also greatly increased levels of vehicular traffic as well as noise, light spill and air pollution. It would cause harm to the setting of the monument which is unique for this class of monument in County Durham. Once developed it is highly unlikely that the site would ever revert to open ground in the future and thus the harm to the significance of the scheduled monument would almost certainly be irreversible and permanent.
105. Allowing this development could potentially have additional consequences in the future. It would be the first time that development was allowed within the open zone that currently separates the monument from the housing estates to the east. As such it could set a precedent for and serve to encourage further proposals within this 'clear zone' which it would be more difficult to resist resulting in further degradation of the monument's setting and even greater harm to its significance. It would also detract from any future scheme of improved access, interpretation and presentation.
106. A detailed assessment of the Planning Policy context is provided.
107. Conclusion: The re-design of the previous scheme submitted in this proposal would lessen the impact on both the archaeological remains on the site and the setting of the scheduled monument but only by a very slight degree. The assertion in Section 5 of the Heritage Impact Assessment prepared by Solstice Heritage Ltd in support of this application that the proposed development would '...have a neutral impact on the setting of the surrounding heritage assets, including the scheduled Roman fort of Longovicium ...' simply does not stand up to scrutiny. The proposal – being 90% of the earlier proposed development - would still constitute a fundamental change in the character of the land, converting it from tranquil open countryside to built-up suburban development with all its concomitant visual and aural effects. It would constitute the first ever extension of the built-up area of the village onto the 'buffer zone' of open ground that currently forms a clear separation of ancient and modern settlements. Indeed, it would bring the modern settlement close to the boundary of the Scheduled Monument resulting in a fundamental change to the special character of its setting and consequently degrading its significance.

In addition, as admitted in the submitted Heritage Impact Assessment, the proposal would involve the destruction of the physical remains of part of the civil settlement.

108. In summary, this proposal is in substantial conflict with the national and local policies listed above. It would involve the destruction of part of the best-preserved archaeological site of this type in the county and would also have a detrimental impact on the setting of the scheduled monument, in combination resulting in harm to its significance. The proposal would certainly neither conserve nor enhance the significance of the nationally important heritage asset of Longovicium fort and settlement.
109. *Landscape.* The proposals would entail an incursion of development into a valued landscape (AHLV). They would be likely to cause some localised harm to the character, quality, and distinctiveness of the local landscape and to the special qualities of the AHLV. The proposals don't contain adequate mitigation measures to address some aspects of that harm. As the proposal is outline some of that harm could in principle be reduced by improved design, although that could affect the quantum of development. There would be residual harm, however the development was designed, and the loss of an attractive area of valued countryside. The proposals would be likely to conflict with CDP Policy 39 (unless the benefits of development clearly outweigh that harm) and the requirements of policies 6 and 29. The proposals would be likely to conflict with LNP4B and 4E.
110. *Design.* Advice directs towards the comments submitted on the withdrawn application: With regard to the indicative layout, the general layout of the site reflects that previously submitted however dwellings have been turned to present boundary fences and gables to Cadger Bank. This does not reflect the existing plan form of the settlement where development fronts the road, albeit set back behind landscaping. In addition, the proposed layout is not as successful in providing natural surveillance of the east-west central open space, as the previously proposed layout.
111. It is also noted that the current scheme was considered through the Council's Design Review process which was critical of the proposals, concluding:
- The site lies within the open countryside and in the setting of the scheduled monument.
  - The development is not suitably connected to the surroundings.
  - Existing facilities and services are within walking distance however access is challenging due to topography.
  - Existing bus stops are over 600m from the site entrance and access is challenging due to topography.
  - The scheme does not create a place with locally inspired or otherwise distinctive character.
  - Appropriate consideration has not been given to the creation of well-defined streets and spaces.
112. *Drainage.* In accordance with the Councils Policy developments should be designed to include a Green & Blue Infrastructure; with SuDS features such as basins, swales, filtration strips / drains, rain gardens etc.; if designed correctly Suds can save infrastructure costs and give environmental benefits. Such developments should provide a quality design incorporating sustainable drainage solutions together with green space areas; providing a surface water management train to treat water as close as to where it falls and transmit it through the site mimicking the natural process of the water cycle. The proposed layout does not appear to show areas for the landscape, ecology and SuDs combination running through the site; we therefore recommend the layout is amended.

113. *Ecology*. There is insufficient information provided within the application for the LPA to access the development against the requirements of the NPPF and Local Plan. The Preliminary Ecological Assessment by E3 Ecology and dated March 2020 states that further surveys are required in order to fully understand the site and before the report can be used to support a planning application. The previous survey work and reports are now out of date and require updating.
114. The further surveys required are detailed in the PEA and, in summary, and include: Botanical surveys, Habitat suitability surveys of ponds ref great crested newts, Breeding Bird Survey, Preliminary bat roost assessments ref trees, Bat activity surveys, Badger survey, Otter and water vole survey. These surveys should be completed and used to inform the development layout and an assessment of whether the site delivers net gains for biodiversity. The LPA will expect that the DEFRA Metric will be used as part of the net gain assessment and provided as part of this outline application.
115. *Education*. Based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 46 dwellings would produce 14 pupils of primary school age and 6 pupils of Secondary age.
116. Lanchester EP Primary School has no spare accommodation and is not capable of being expanded due to highways issues and traffic congestion. The Education Service would therefore not support this development proceeding.
117. *Affordable Housing*. Have not replied to their consultation. Spatial Policy comments note that for this area is a 20% affordable housing requirement (10% ownership and 10% rent).
118. *Environmental Health (Contamination)*. The findings of the submitted reports are accepted. A standard phase approach to investigate and where required mitigate then validate this exercise is requested.
119. *Environmental Health (Air Quality)*. Whilst the reports submitted appear to be historic carry-overs from the last application their nature is such that they are still relevant. No objection is raised for the implications for the operational phase of the development, with no impact on the Durham Air Quality Management Area, 10km from the site likely. There are elements of the assessment methodology for the construction phase that are unclear or missing. There is no reference to how the proposed development will meet its energy demand, which may entail further assessments.
120. Overall, the assessment demonstrates that the proposed development does not have a significant effect on local air quality. Whilst there remains some doubt as to the robustness of the construction phase assessment in particular, it is considered that any further work would still maintain the same conclusions.
121. *Environmental Health (Nuisance)*. The information submitted demonstrates that the application complies with the thresholds stated within the Council's Technical Advice Notes (TANS). This would indicate that the development will not lead to an adverse impact.

122. In addition, I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows: I am satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

#### **EXTERNAL CONSULTEE RESPONSES:**

123. *Healthcare.* NHS Tees Valley CCG have evaluated the potential impacts of the development, stating, 'Local GP Practices are keen to maintain/improve their access, and an increase in patient numbers may require adjustments to existing premises/access methods. Please be advised that we would be unable to guarantee to provide sustainable health services in these areas in future, should contributions not be upheld by developers'. They identify a sum of £22,218 to mitigate the demands the development will place on identified local healthcare providers who are currently operating at full capacity.
124. *Police.* Durham Constabulary Crime Prevention Unit recommend that the principles of Secured by Design are adopted on this site.

#### **PUBLIC RESPONSES:**

125. A total of 86 representations have been received in response to the consultation exercise involving 72 individual letters, press and site notices. Of these, 85 of them object to the proposals with 1 representation. There are a number of duplicate and repeated objections. Objectors include Lanchester Parish Council, The Campaign to Protect Rural Lanchester, The Lanchester Partnership and the Friends of Logovicium.
126. The main reasons for objection are as follows: The Importance of the Roman fort and the unexcavated vicus as assets of national and local importance, and engender a sense of local pride and association with the past is a constant theme of correspondents. The historic site's importance and future potential as a tourist attraction would be compromised by the development. The site of Longovicium is the best preserved complete Roman fort in County Durham and one of best in the whole country. The Planning Inspector highlighted the 'remote' nature of the fort and how important it is that it remains distinct from Lanchester as a separate settlement, with the fort effectively commanding the high ground. Objectors are disappointed that the clear refusal on this issue is requested revisited. The new proposed buffer zone, will do little to reduce the harm to the SAM. The development will also undermine the Conservation Area.
127. The development is outside the newly defined settlement boundary, with the new County Plan not identifying Lanchester for new residential development sites. The adoption of the Lanchester Neighbourhood Plan is expected to protect against proposals such as this. Both the Village and the County have housing supply sites identified and no need for the application site.
128. The visual harm and an intrusion into the surrounding countryside both in its own right and in forming the setting of the Roman fort, in both short views and from across the valley is a consistent objection.
129. Right to Light and privacy, both in relation to adjacent dwellings and from overlooking from the viewing platform are offered as objections. The effects of the higher nature of the site for privacy are a specific concern. Views from the community allotments and orchard at Margery Flatts will be affected – a significant community resource with over 50 members.

There will be a loss of view for immediate neighbours. New lighting will impede the night sky for most residents of the village.

130. Lanchester's well documented history of flooding will be put under further pressure. Flooding in adjacent gardens is a concern to immediate neighbours of Alderdene Burn, with the siting of the outfall unsightly.
131. There will be detrimental effects on wildlife, which will be displaced from the greenfield site. Survey work is noted as out-of-date. The proposed development involves construction of a new road and houses which are likely to impact the existing root zone of trees covered by a TPO. The location of SUDS in the southern section of the development is also likely to impact the existing root zone of the same trees, which form a landmark in the landscape from many viewpoints. In the light of the disastrous recent history of flooding in Britain and its effect on crops there must be a long term strategy to preserve upland agricultural land in the interests of food security, residential security and business security.
132. Existing Village infrastructure, whether schools, doctors, shops and parking struggles to cope with existing demand – the proposals' demands cannot be accommodated. New trade will go elsewhere and there will be no benefit for local businesses.
133. There are Highway Safety issues from the speed and nature of existing vehicular traffic and the proposed site entrance – with the presence of Lanchester Dairies noted in particular – exacerbated by the topography on the Cadger Bank at the village boundary. There are further safety issues for pedestrians, with the nature of the footpaths to the site – in width and elevation likely to deter walking, leading to greater reliance on private cars – there being no public transport available outside the village centre. There are safety implications for cyclists using the Sustrans path lower down Cadger Bank. Developments in surrounding settlements put further pressure on local roads. Errors in the Transport Statement are noted.
134. A development of this size would undermine the social cohesion of a small close knit village community. Objectors note there has been no consultation with the local community.
135. Residents object to the commercial nature of the proposals. There is no shortage of housing in the village, with a range of properties always available, and no need for the type of housing proposed. The development would set a precedent. The proposals are contended as unsustainable, inconsistent with the County Council's Climate Emergency approach.
136. The development would devalue existing property and affect existing privacy and amenity. Airborne dust from construction site will create an environmental problem. Consultation fatigue from repeat applications is claimed. The lack of surety in the nature of an Outline application is a concern. There are concerns for subsidence from historic mining activity.

#### **APPLICANT'S STATEMENT:**

137. Whilst the application site is located on the edge of the built-up part of Lanchester it is not an isolated location and is bound by existing residential properties to the east and north. The area surrounding the site is predominantly residential in nature with the land having all of the characteristics of an edge-of-settlement location. Moreover, the site is located just 0.5km west of the village centre where there is a good range of local services and facilities available including a pharmacy, post office, takeaways, hairdressing salon, restaurants, community centre, local supermarket, petrol filling station and schools. It has

previously been accepted by both the Council and an appeal Inspector that the services and facilities available in Lanchester are accessible from the application site and it is therefore a sustainable location for new housing. This position has not changed.

138. It is accepted that the Neighbourhood Plan defines a settlement boundary for Lanchester and that the relevant policy states that land outside of the boundary will be treated as open countryside. It goes on to state that development proposals [beyond the defined settlement boundary] will not be supported unless they are specifically allowed for in the NPPF and they would accord with the policies of the development plan. In this context it is important to highlight the wording of Policy 6 of the County Durham Plan which clearly states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan will be permitted where they are either (i) within the built-up area; or (ii) outside the built-up area but well-related to the settlement. The proposal would align firmly with the aims and objectives of both the NPPF and the County Durham Plan, including the fundamental principles of Policies 6 and 10, thus ensuring compliance with the Neighbourhood Plan.
139. In housing supply terms there is a strong justification for approving the application in the interests of significantly boosting housing supply, particularly from a housing windfall opportunity for which there is an allowance of 100 dwelling per annum in the County Durham Plan. Approval of the application would allow for the delivery of much needed housing growth in a settlement that is both sustainable in its own right and also within easy reach by public transport of larger settlements but which has experienced barely any housing growth over the past 30 years. The NPPF and the County Durham Plan have a key objective of allowing and supporting rural communities to become more sustainable and resilient. Allowing housing development in Lanchester would firmly align with this objective.
140. It is accepted that there would be an element of harm caused to the adjacent Scheduled Ancient Monument, however it is an established position that the level of harm would be “less than substantial” with paragraph 202 of the NPPF advising that such harm should be weighed against the public benefits of the proposal. In this case the public benefits arising from the proposed development would be significant and would comprise of the following:
- Boosting housing supply in a village that has seen very little in the way of housing growth for more than three decades thus widening housing choice for the local community.
  - Provision of 20% affordable housing which is much needed in the village.
  - Ability to provide significant biodiversity net gains over and above those required by policy.
  - Ability to enhance understanding of the Scheduled Ancient Monument through financial contributions towards new and improved interpretation boards etc.
  - Creation of new jobs during the construction phase and the securing of longer term expenditure in the village by future residents to the benefit of local businesses.
141. The social, economic and environmental benefits that would result in this case, which in combination would amount to a substantial package of public benefits, would significantly outweigh the less than substantial harm that would result from a heritage perspective and the Council is therefore respectfully requested to support the proposals by approving the application without delay.

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

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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142. 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, heritage and archaeology, highway safety and access, landscape and visual impact, residential amenity, ecology, flooding and drainage.

### Principle of the Development

#### The Development Plan

143. 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.
144. 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. Policy 6 of the County Plan advises for the principle: 'The development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and'.... a set of detailed criteria.
145. In this instance a settlement boundary has been defined by Policy LNP1 of the Lanchester Neighbourhood Plan which states: 'Land outside the settlement boundary will be treated as open countryside and development proposals will not be supported unless they are specifically allowed for in the NPPF and they accord with the policies of the Development Plan'. The Policy guidance adds further, 'Policy LNP1 confirms the role of the settlement boundary in defining the outer edge of the built-up area of Lanchester, beyond which is classed as open countryside for the purposes of planning control. This means that planning policies relating to development in rural areas will apply outside the boundary, whilst planning policies relating to development in built-up areas will apply inside the boundary'.
146. The applicant's Planning Policy Statement, October 2020 (Updated 2021), seeks to sideline the settlement boundary, contending the element of Policy 6 requiring development be well related to a settlement has primacy over this. Officers consider wording of Policies 6 and LNP1 clear in their intent: development will not be supported where it is outside of a defined in a neighbourhood plan settlement boundary, as it would be in the open countryside and contrary to the aims of the development plan. Whilst there are specific elements of the NPPF in terms of the Historic Environment advice relevant to the proposals, these go against the proposals in detail, rather than allowing for the principle.
147. Led then by the wording of Policy 10 that the site is in open countryside, Policy 10 states that 'Development in the countryside will not be permitted unless allowed for by specific

policies in the Plan (Relevant policies include: housing allocations; employment land allocations; development on unallocated sites; visitor attractions and accommodation; equestrian development; rural exceptions; travellers; green infrastructure; rural workers dwellings; low carbon and renewables, all applicable policies relating to minerals and waste development; and transport routes), relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions', these relating to agricultural enterprise or non-commercial agricultural enterprise. The proposals derive no support from Policy 10.

148. For completeness, Policy 11 - Rural Housing and Employment Exception Sites states that new housing and employment related development that is contrary to Policy 6 (Development on Unallocated Sites) and Policy 10 (Development in the Countryside), will be permitted where the following criteria are met: Where housing is proposed it must be shown that: a. the development is well-related to a settlement; b. there is an identified local need for affordable or specialist housing sufficient to justify the scale and nature of the development; c. any market housing is only included where it can be robustly demonstrated that this is essential to support the viable delivery of affordable housing. Only the minimum necessary should be included; and d. the affordable housing is made available to the local community identified as being in need, with priority given to occupation by households with a local connection. No case is made in regard to Policy 11 that these development proposals are relevant and that the proposals do not benefit from any element of it.
149. The principle of development is concluded clearly contrary to the requirements of Policies 6, LNP1 and 10 of the Development Plan.

#### Heritage Assets

150. The Heritage Assets involved in considering this proposal are the Scheduled Ancient Monument of the Roman fort and it's protected surroundings as a designated asset, the archaeology on the proposed site as a non-designated asset directly related to the designated SAM and the Conservation Area as a designated asset.
151. In 2016 the Local Planning Authority refused an application on this site for Residential Development of 52 Dwellings with new access and associated works for the following reason:
- 'The local planning authority considers that substantial harm will be caused to the significance of a designated heritage asset of the highest significance, namely the Scheduled Monument of Longovicium Roman Fort by reason of adverse impacts upon its setting including the destruction of archaeological remains of the extended vicus complex that are themselves non-designated heritage assets. The proposal fails to demonstrate that substantial public benefits would arise, or that the harm to the designated asset is necessary in order to achieve any such benefits. The proposal does not constitute sustainable development and is contrary to policy EN19 of the Derwentside District Local Plan 1997 and to paragraphs 133 and 135 of Part 12 of the National Planning Policy Framework'.*
152. A Planning Inspector thereafter dismissed an appeal against the refusal on the basis that, *'As set out in paragraph 134 of the Framework, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm shall be weighed against the public benefits of the proposal, including securing its optimum viable use'. 'I have found that the proposal would result in less than substantial harm to the SAM, as a result of harm to its setting and thereby significance for the reasons set out. In addition the proposal would result in the loss of archaeological remains which are a non-designated heritage*

*asset that contribute positively to the understanding of the SAM. The Framework is clear that great weight should be given to a designated heritage asset's conservation. The more important the asset, the greater the weight should be. The SAM is of national importance such that the harm the proposal would cause to it carries substantial weight. In addition there would be limited harm to the character and appearance of the countryside'.*

153. The current application simplistically argues a lesser physical effect on the Non-Designated Heritage Asset (NDHA) of the archaeology on the site through the reduced quantum of physical development, proposed over a reduced area. The applicant has resubmitted the report prepared for Barratt Homes in support of the application refused in 2016. This states, '*A programme of archaeological works is recommended in order to mitigate the impact of the development on the archaeological resource. It is envisaged that any such works would be undertaken post-determination*'. A Heritage Impact Assessment (HIA) prepared in December 2020, resubmitted from the withdrawn application contends, '*the proposed development will have a neutral impact on the setting of surrounding heritage assets, including the scheduled Roman fort of Longivicium and the Lanchester Conservation Area*'. This is on the basis that the reduced development area of the site is contended to avoid the area of the site contended most likely to contain archaeology. Where groundworks associated with the proposed development will still have some adverse impact on the archaeological resource the applicant considers that this impact can be mitigated through agreement of a post-permission scheme of archaeological works.
154. The HIA makes erroneous reference to the replaced Policies in the Derwentside District Local Plan 1997 but makes no reference to the assessment and conclusions of the Planning Inspector in refusing the appeal in 2017.
155. It further considers the potential effects on the Conservation Area as a designated Heritage Asset (HA) '*minor to negligible adverse*' with the effect constrained to '*the view and experience moving out of the town into the open countryside at the top of the hill*'.
156. The applicant contends, '*a number of design and landscaping strategies have been deployed in recognition of the proximity of the site to the adjacent Scheduled Ancient Monument (SAM) and its sensitive edge of settlement location. These have included the creation of a meaningful physical separation between the SAM area and the new development through the provision of a 43m wide buffer zone running the full length of the western site boundary which would be free from housing and would benefit from enhanced landscaping measures through the planting of small copses of trees*'. This is contended to fundamentally address the concerns of the Council in relation to the SAM and improve the edge of village and relationship to the Conservation Area.
157. The submitted Planning Policy Statement, October 2020 (Updated 2021) sets out arguments on principle and housing land supply but makes no reference to Policy 44 – Historic Environment, nor part 16 of the NPPF which were the significant Policy aspects of the last scheme determined.
158. The advice of Historic England and the County Archaeologist is set out at length, above. Read with the overlapping advice of the County Landscape Officer with its implications for the role landscape plays on the siting and setting of the SAM in immediate and long-distance views is detailed and convincing. Likewise, the detailed assessment against the updated Planning Policy context given by Policy 44 and part 16 of the NPPF, with the weight also given to Neighbourhood Plan Policy LNP3 that seeks to avoid substantial harm to, or loss of, the significance of specified and listed HAs.

159. Historic England objects to the application on heritage grounds. This outline proposal would be harmful to the setting of the scheduled Roman fort and settlement at Lanchester, as well as to non-designated heritage assets associated with it which may be demonstrably of equivalent significance to, and clearly are a continuation of, the adjacent scheduled civilian settlement. The outline proposal would markedly erode the rural setting of the wider monument by urbanising its north-eastern boundary. The effect of development on this site will be to curtail some of the site-specific commanding views of, and from, the Fort. This would cause harm to its setting as noted in the Planning Inspector's report in 2017 which upheld the previous refusal of planning permission. The application fails to meet the requirements of the policies set out in Section 16 of the NPPF as it neither sustains nor enhances the significance of the highly significant heritage assets. Neither does it present the necessary clear and convincing justification for the harm to the heritage assets.
160. With an added detail to the consideration of these consultees' advice on the effect on the Conservation Area, being the spur in the extent of this designation that not only, '*illustrates the village's historic links with its rural landscape*'..... '*in a visually appealing way that includes stone walls, mature planting and the gradual thinning out of historic buildings*', but extends to and terminates at West Grange, the former Vicarage and its glebe land, a property that has always represented the extremity of built development, attached to the village since the 1960s. The proposal now extends the built form past this point – the implications to the Conservation Area as a HA are concluded unacceptable considered against part 16 of the NPPF, Policy 44 of the County Plan and Policy LNP3 of the Neighbourhood Plan – with overlapping implications in Policy 39 of the County Plan as discussed below.

## Landscape

161. The site lies in an area identified in the County Durham Plan as an Area of Higher Landscape Value (AHLV) and in the Lanchester Neighbourhood Plan as Lanchester Parish Landscape of High Value. A number of trees within the site are covered by a Tree Preservation Order (TPO) (DER-009 Alderdene Estate 2012). The County Durham Landscape Value Assessment (2019) assessed the larger unit the site forms part of (8c xii Lanchester West) as having elevated values for condition, representativeness, historic and recreational value. This informed the inclusion of the areas close to the village (the older farmland and areas underlain by the Roman vicus and crossed by Dere Street) in the AHLV as part of the County Durham Plan Local Landscape Designations Review (2019). The site lies within an area identified in the County Durham Landscape Strategy (2008) as a Landscape Conservation Priority Area with a strategy of conserve and restore. This covers the older enclosures of the farmland close to the village. The more open farmland to the west lies in a Landscape Improvement Priority Area with strategies of restore or enhance (parliamentary enclosures) or enhance (restored opencast land).
162. The site occupies sloping ground in an elevated position and is open to view from a range of public vantage points on the higher ground of the opposing slopes of the Browney Valley to the east and the northwards to Iveston. It is visible from the adjacent section of the B6296 but less visible from the road further west due to intervening topography. The northern part of the site rolling over into the Alderdene valley is visible from vantage points to the north including parts of Newbiggin Lane and the Margery Flatts allotments. It is visible at close quarters from adjacent housing on the edge of the village. The development would entail an incursion of built form into attractive open countryside. The effects on the site itself would be transformative and harmful, its character as attractive open farmland would be fundamentally changed.

163. Some localised tree planting is shown on the layout plan. This could have some softening effect on the appearance of the site in the long term although this is modest in scale, limited in its scope by the way-leave and archaeological sensitivities in the west, and largely confined to the curtilages of private properties which makes longevity difficult to guarantee. It would be unlikely to have any notable effect on the roofscape in views from the north in the medium term (>10 years) which is the area most in need of mitigation.
164. The area affected is an AHLV that if developed, would detract from some of the special qualities of the AHLV landscape and in particular the condition / representativeness of the old field systems west of the village and the experience of the roman remains which contribute to the historic interest and time depth of the landscape. This latter clearly overlaps with the issue of the setting of the SAM – in respect of its openness, visual envelope, separation from the village and tranquillity: these also contribute to the experience of the landscape taken in the round and contributed to its designation as AHLV. Those effects have been reduced relative to the application considered at appeal by not having properties close to the western edge. It is noted that that the effect on the site and its relationship with the fort in longer range views including from land to the north-west, (Newbiggin Lane, Margery Flatts community allotments and orchard) referred to by Inspector Ashworth would remain very similar.
165. The proposals would potentially conflict with the requirements of policy 6 in respect of criterion c which seeks to avoid the loss of open land that contributes to the character of the locality and criterion d which permits development that is appropriate in terms of scale, design, layout and location to the character, function and form and the setting of the settlement.
166. The proposals would cause some harm to the character, quality, and distinctiveness of the local landscape. Whether that level of harm would be unacceptable depends on the wider planning balance. Given the sensitivity and value of the landscape here Landscape Officers note they would expect that harm to carry some weight. Ultimately it is concluded that the development would not conserve or enhance the special qualities of the landscape of the AHLV contrary to the requirements of Policy 39 of the County Plan and Policy LNP4e of the Neighbourhood plan, both informed by part 15 of the NPPF.

#### Highway Safety

167. Highways Officers have assessed the proposals in detail: *'In terms of effects on the surrounding highways network, the peak hour traffic trip rates generated from the site would be under the 30 two-way movements threshold on nearby junctions and would not be seen to cause a material impact on the surrounding highway network'*. This is considered to show that the proposals meet the requirements of Policy 21c. The NPPF advises that, *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
168. *'The illustrative master plan site plan shows steep land gradients, it is advised at this stage that it is sufficient that the applicant is aware that all internal roads would need to be to DCC Residential Adoption Standards with no steeper than 1:15 gradients with suitable horizontal alignments which would impact on some of the proposed plots at the back of the site'*. In principle therefore, and subject to meeting the required adoptable standards, there is reasonable expectation of an acceptable internal road layout in the scheme.
169. *'The proposed site access position this sits just out of the current 30 mph speed limit zone where the 85th percentile speeds are recorded at 42.9 mph. The applicant needs to achieve site visibility splays for the proposed access at 2.4m x 120 metres in both*

*directions. The site access needs to be 5.5 metres wide with 10 metre entry junction radii with 1.8 metre footways'. Whilst Highways Officers note an indicative layout has been provided and request an accurate site access plan should be provided, as all matters are 'reserved' in this application, and this issue has been accepted in the past, this aspect of the current proposals is considered one that can be accepted in Outline form, notwithstanding the concerns for this issue raised in the consultation exercise.*

170. The Highways Officer raises concerns at the proposed housing density of these proposals given the indicative plans show no on street visitor parking space indicated on the internal highways layout which is required to be conveniently located, evenly distributed and accessible. This is a requirement that has the potential to significantly affect a layout and therefore, the density. The Council requires 2 spaces for a 4-bedroom dwelling and 1 space per dwelling for a 2 and 3 bed unit and 25% off curtilage space for non-allocated space (visitor space). This would mean 6 visitor spaces in the form of adoptable parking laybys should be provided at the development. The research suggest that it is better to have non allocated space that to have over provision in curtilage. There are concerns in other topic areas that the indicative layout does not show that the proposed density of development can be achieved on the site that must be considered cumulatively with this highways concern.
171. Consideration of Policy 21 and part 9 of the NPPF also involves ensuring developments provide access to sustainable means of transport and transport nodes, proportionate to the nature of the location. The applicant points out that this issue was accepted in 2015/2016 in the determination, refusal and appeal of the Barratts scheme and it is assumed that this is still the case. In the absence of any pre-application discussions the reasons for this have not been discussed. The Barratts application was assessed against the proportionate weight given to the saved Policies in the Derwentside District Local Plan, 1997, the age of which significantly constrained the LPA in arguing it's Policies were up-to-date. The adoption of the County Plan, now supported in this area any the Lanchester Neighbourhood Plan gives a comprehensive suite of up-to-date Policies which require an up-to-date assessment of new proposals.
172. Whilst the site access is around 500m from the village centre, it's facilities and the bus stops; this is still considered acceptable in a rural location, where expectations of immediate access to such is proportionate to the nature of the settlement, even taking into account the topography and available footpath widths, the elongated site gives another 300m of separation from the village centre and 10m of vertical separation. The scheme relies on a single point of access outside the existing envelope of the Village, and despite sharing an eastern boundary of around 275m in length with the existing settlement, achieves no permeability. This is considered inconsistent with the requirements of Policy 21 of the County Plan, Policy LNP2c of the Neighbourhood Plan and part 9 of the NPPF.

## Layout and Design

173. Policy 29 of the County Plan, read in conjunction with both Policy LNP2 of the Neighbourhood Plan, the Durham County Residential Amenity Standards SPD 2020 and part 12 of the NPPF sets a high bar for design quality and sustainability. Whilst the outline nature of the proposals precludes a detailed assessment, the Council have a Design Review panel that considers new development proposals against the Building for a Healthy Life assessment that replaced the Building for Life 12 toolkit. Policy 29n. states that 'schemes with one or more red will not be acceptable and will be refused planning permission unless there are significant overriding reasons'. The six stages of the assessment attributed the scheme 5 'reds' and one 'amber' thus:

174. For the principle of the use: the scheme was noted to lie within the open countryside and within an Area of High Landscape Value, it concluded that the development does not conserve and enhance the character of the site, that the site lies within the setting of the Scheduled Monument and development of the site has previously been classified as resulting in less than substantial harm to the designated heritage asset, the site was acknowledged as reasonably sustainable in relation to the village centre, but it was noted that the development of the site is contrary to local policy including the County Durham Plan and the neighbourhood plan. Concluded Red.
175. For the site's connections to surroundings, it was concluded that the development is not suitably connected to the surroundings as the potential connection through the adjacent site has not been proposed and there is a single vehicular and pedestrian connection. Concluded Red.
176. Considering whether the site has good access to existing facilities and services, it was considered that whilst the site entrance is within 500m of the village centre the topography is challenging, and pedestrian connections have not been maximised. Existing facilities and services are within walking distance however access is challenging due to topography. Concluded Amber.
177. Assessing whether the site has good access to existing public transport links to help reduce car dependency, the Panel noted the site entrance lies beyond 600m from the nearest bus stops within the village however the topography is challenging, and pedestrian connections have not been maximised. The debate also noted that the distance from the end of the site to the entrance added to the length further reducing the likelihood of this use. Concluded Red.
178. The fifth part of the assessment asked, Does the scheme create a place with locally inspired or otherwise distinctive character? It was considered that there was less than substantial harm previously established in relation to the principle of development and impact on the scheduled monument. Further, that the existing landscape character of the site is not appropriately integrated within the development. That the applicant has proposed barn-like development but there is no specific detail on this other than the concept images within the design and access statement - in addition, this relates only to the appearance of the dwellings. Finally, the plan form of the majority of the site is very suburban and does not reflect the edge of settlement location. Concluded Red.
179. Policy LNP2 has five criteria that are complimentary to this part of the assessment, and for which similar conclusions can be met.
180. Finally for part 6 of the assessment, which considers creating well defined streets and spaces, the question: Does the submitted information suggest appropriate consideration has been given to the creation of well-defined streets and spaces which are usable for all, the Panel concluded the layout does not respond to the topography and therefore there are concerns regarding the impact on the quality of the street-scene and residential privacy and amenity: Appropriate consideration has not been given to the creation of well-defined streets and spaces. Concluded Red.
181. Policy 29 also requires development to achieve reductions in CO2 emissions of 10% below the Dwelling Emissions Rate against the Target Emissions Rate based on current Building Regulations. The applicant has submitted a very basic Sustainability Statement demonstrating knowledge of this requirement. This could be conditioned for an Outline consent for the required Reserved Matters application to provide the necessary detail to demonstrate compliance.

182. A similar approach to requirements to ensure compliance with Nationally Described Space Standards (NDSS), another requirement of Policy 29 is achievable.
183. The submitted Design and Access Statement notes the need for new development to 'maintain amenity separation' from the existing dwellings in Briardene. The indicative layout shows that requirements for separation distances and garden lengths set out in the Residential Amenity Standards SPD could potentially be achieved – although there is no assessment of the implications for levels provided – a significant concern for some neighbours whose dwellings are significantly lower. The SPD requires additional separation in such circumstances to maintain privacy and amenity.
184. A particularly disappointing element of the indicative layout is the obvious concentration of affordable units – a high quality layout should be tenure blind. These units are small, have substandard gardens to the detriment of their occupants and neighbours, have a parking arrangement that appears substandard and do not make obvious provision for servicing. This high-density element of the scheme on an indicative layout that seeks to demonstrate the quantum of development proposed brings this issue into question.
185. While some omissions and requirements of the scheme can be addressed by condition, overwhelming concerns remain of the indicative scheme and its ability to be able to deliver the proposed number of dwellings in a well-designed, connected and inclusive manner, contrary to Policy 29 of the County Plan, Policy LNP2 of the Neighbourhood Plan and part 12 of the NPPF.

#### Housing Supply and Affordable Housing

186. It is the applicant's case that the contribution that the development will make to 'significantly' boosting housing supply, particularly from a housing windfall opportunity for which there is an allowance of 100 dwelling per annum in the County Durham Plan, in a village where development opportunities have been highly restricted outweighs any harm it might bring. The full text of the justifications is available for inspection in the submitted documentation, in particular in the Planning Policy Statement, and is summarised in the Applicant's Statement, above.
187. The County Council have a 5.9-year supply of housing land available. There is no justification to approve a 'windfall site' if proposals are contrary in principle to up-to-date Development Plan policies.
188. Policy 15 of the County Plan sets out a number of thresholds to be achieved within the scheme : 20% affordable housing requirement (10% ownership and 10% rent), 66% accessible M4(2), at least 10% of units would also be level-access bungalows, flats, or, designed to meet the needs of a multi-generational family (these dwellings must also be built to M4(2) Building Regulations standard), all of which appear capable of being achieved by appropriate use of conditions to ensure delivery in a Reserved Matters application.
189. Whilst there are issues with how the developer has approached affordable housing provision within the indicative layout described elsewhere in this report, it is accepted that the required numbers and tenures of affordable housing can be achieved by agreement through an appropriate legal agreement.

#### Flooding and Drainage

190. For surface water drainage and the requirements of Policy 35 of the County Plan, the developer has submitted a Flood Risk Assessment and Drainage Strategy dated January 2021. The Council's Drainage Team advises that to achieve what is required for treatment of surface water we look for an approach and management train which should take into account the following stages of design: Prevention, Source Control, Site Control and Regional Control. They consider, *'The proposed layout does not appear to show areas for the landscape, ecology and SuDs combination running through the site; we therefore recommend the layout is amended'*.
191. This type of drainage scheme is heavily influenced by topography, density of development, existing site features, proposed landscaping and biodiversity and on this site, the archaeology. Acknowledging the proposal is in Outline form and plans provided are indicative it is of concern that this issue has not been addressed to a level that allows it to be accepted in principle, impacting upon adherence to Policy 35 of the County Plan.
192. The Neighbourhood Plan describes in text and pictures the effects of uncontrolled floodwater on the Village centre and surrounding land. Objectors note this issue in general terms and neighbours adjacent Alderdene Burn have illustrated existing issues with flooding. Any application needs to give surety that the potential for surface water flooding can be fully addressed. At present this surety is not provided by the submitted information.
193. For foul drainage, Northumbrian Water confirms no issues provided the application is approved and carried out within strict accordance with the submitted document entitled "Flood Risk Assessment & Drainage Strategy". This can be conditioned to ensure compliance with Policy 36 of the County Plan. They further note, *'a strategic water main crosses the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to our apparatus. We will work with the developer to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of the development'*.

## Education

194. The County Education Department writes that Lanchester EP Primary School has no spare accommodation and is not capable of being expanded due to highways issues and traffic congestion: The Education Service would therefore not support this development proceeding. A shortfall of 14 pupils has been identified however and will be required to be accommodated by the Local Education Authority.
195. NPPF paragraph 95 states, *'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education'*. Whilst there were no pre-submission discussions for this proposal offered by the applicants, this issue was raised for the application submitted in 2020 and withdrawn in 2021, and therefore should have been in the applicant's purview for this resubmission. The applicant's Planning Policy Statement notes the availability of schools as a benefit of the scheme, but makes no provision for mitigating demands not met by local capacity. A shortfall of 14 pupils is considered significant. This would usually be resolved through an appropriate payment via a planning obligation to allow expansion of local schools to extend capacity.

## Ecology

196. The County Ecologist considers that there is insufficient information provided within the application for the LPA to access the development against the requirements of the NPPF and Local Plan. The Preliminary Ecological Assessment by E3 Ecology and dated March 2020 states that further surveys are required in order to fully understand the site and before the report can be used to support a planning application.
197. The previous survey work and reports are now out of date and require updating. Ideally net gains should be delivered on site, should net gains not be met on site then the applicant will need to provide a suitable off-site location for compensatory works at application stage. An outline of a management and monitoring plan for habitats delivering for biodiversity will be required at the outline application stage and production of a full management and monitoring plan and its delivery will be secured via a s106 agreement or s39 agreement. At outline stage the details within the outline management and monitoring plan should give the LPA confidence that the management / creation of habitats is appropriate and deliverable.
198. The site layout has been developed without up-to-date ecological information but does have some positive features with regards to biodiversity. However, the SUDs are limited to two areas on site and the use of conveyance features, e.g. swales throughout the site would provide green connectivity through the development. SUDs should prioritise the use of retention features rather than detention basins, creation of wetland habitats will help in delivering net gains for biodiversity.
199. Policy 41 of the County Plan requires, *'proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks. Measures should be appropriate, consistent with the biodiversity of the site and contribute to the resilience and coherence of local ecological networks'*. Without the essential baseline of up-to date surveys and reports it cannot be established whether the development achieves the required net-biodiversity gain required through Policies 26, 35, 41 and 43 of the County Plan, Policy LNP4D of the Neighbourhood Plan and paragraph 180, part 15 of the NPPF.

## Planning Obligations

200. 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. The s106 agreement which would secure the following all of which are considered to meet the required tests;
201. Policy 25 of the County Plan sets out 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'*.
202. The Local NHS Trust has identified a shortfall in provision for the demand that the new development would place on its available services. The pressure on existing healthcare services from the existing community is an issue raised by many objectors. A sum of £22,218 is requested by the consultee to mitigate the additional demand that would be created on the two GP practices. This, if secured through legal agreement is considered

to meet the tests set out in the CIL Regulations and meet the requirements of Policy 25 and part 8 of the NPPF in promoting healthy and safe communities.

203. The Spatial Policy Team have advised that schemes of this size would normally include amenity/natural green space on site (roughly 1,500+m2 in area terms). Financial contributions towards existing/off site open space would run to somewhere in the region of £1542 per dwelling or £1073 per older persons unit. The exact requirements would need to be established with the consideration of a detailed scheme by a Reserved Matters application. The requirement does need to be embedded in any Outline approval. Again, the need for this identified mitigation is considered to meet the requirements of the CIL Regulations and to be required to make the proposals acceptable in this regard for compliance with Policy 26.
204. Furthermore, the impacts of increased school place requirements from the development would require mitigation. This would result in 14 Primary School age pupils and 6 Secondary School age pupils generated by the development. No capacity currently exists at the primary school level and as such a contribution of £205,842 is required to offset the impacts of the development. The need for this identified mitigation is considered to meet the requirements of the CIL Regulations and to be required to make the proposals acceptable in this regard for compliance with Policy 25.

#### Other Considerations

205. Environmental Health (Contamination) Officers confirm that for their topic area a standard approach through conditions to ensure the ground conditions are appropriate for residential development is achievable. This would be through standard conditions and would meet the requirements of Policy 32 of the County Plan and the relevant elements of part 15 of the NPPF.
206. Environmental Health (Air Quality) Officers note that there are elements of the assessment methodology for the construction phase of development missing that are unclear or missing and there is no reference to how the proposed development will meet its energy demand, which may entail further assessments. Overall, the assessment demonstrates that the proposed development does not have a significant effect on local air quality. Whilst there remains some doubt as to the robustness of the construction phase assessment in particular, it is considered that any further work would still maintain the same conclusions. To ensure that these elements are addressed to meet the requirements of Policy 31 of the County Plan, conditions would be needed to be attached to any approval.
207. Environmental Health (Nuisance) Officers confirm the proposal complies with the thresholds stated within the Council's TANS), indicating that the development will not lead to either an adverse impact or a Statutory Nuisance on neighbours, therefore in compliance for this aspect with the requirements of Policy 31.
208. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Conditions are suggested to be applied to any consent. This would ensure the relevant requirements of Policies 32 of the County Plan and part 15 of the NPPF are met.
209. The site lies within a Mineral Safeguarding Area. Policy 56 of the County Plan sets out requirements to ensure mineral resources will not be sterilised. The applicant has

submitted an assessment of the potential value of the site in relation to this, the findings of which appear reasonable.

210. The proposal has the potential to be designed to meet the requirements of the Police's Designing Out Crime initiative. This would be assessed at Reserved Matters Stage.
211. Potential material benefits of the development including the economic activity engendered by the development process and thereafter by residents of the development in its operational stage have been attributed material weight in the planning balance in principle but is not quantified in the submission to allow for more detailed consideration.
212. The application has been considered for conflicts with Human Rights and Equality and Diversity legislation but found to have no issues.

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## **CONCLUSION**

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213. 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. There are elements of the proposals that are considered contrary to the Policies in both tiers of the Development Plan and the advice set out in the NPPF. These areas of concern are as follows.

### Heritage

214. Whilst the paragraph numbers in the NPPF have changed, the required Heritage assessment remains consistent, as described in detail in the Heritage England advice:
215. The proposals result in the loss of heritage assets which are an irreplaceable resource to be conserved so that they can be enjoyed for their contribution to the quality of life of existing and future generations, contrary to paragraph 189 of the NPPF. The fort as a SAM derives significance from its clear separation from the settlement, set in countryside in prominent watchful isolation guarding the valley and rivers below. This significance is reflected in the extended landscape designations. There is a clear community value reflected in the consultation response and all the local amenity groups who have written from the residents of Lanchester for the fort, the SAM and the wider NDHAs including the site and the Roman road.
216. The proposals, once again, propose direct harm to the non-designated heritage assets on the site. The NPPF advises that non-designated archaeological assets which are evidently of equal significance to scheduled monument should be considered as if they were designated. This means that they should be considered subject to the same policies as designated assets. Scrutinised as required against paragraph 202 of the Framework, the direct and indirect effects on assets of exceptionally high level of value and the Conservation Area as described by Heritage England and the County Archaeologist is considered to outweigh the applicant's arguments for counter-weight to be given to additional housing land supply, both in isolation – considered against the Heritage Policies alone, and also then giving weight to the overlapping implications of development of designated open countryside and extension of the settlement outside its defined boundary. The proposed mitigations do not sufficiently address the harm development will entail.
217. This assessment takes into account the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to

the desirability of preserving or enhancing the character or appearance of conservation areas, as well as section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

218. A directly comparable approach is set out in Policy 44 of the County Plan: A balanced judgement will be applied where development impacts upon the significance and setting of non-designated heritage assets. In determining applications which would affect a known or suspected non-designated heritage asset with an archaeological interest, particular regard will be given to the following: i. ensuring that archaeological features are generally preserved in situ; and j. in cases where the balanced judgement concludes preservation in situ should not be pursued, it will be a requirement that they are appropriately excavated and recorded with the results fully analysed and made publicly available. Likewise, the Neighbourhood Plan requires: all proposals should seek to ensure the long-term conservation of the asset and avoid substantial harm to, or loss of, its significance.
219. The NPPF advises that substantial harm to or loss of: scheduled monuments should be wholly exceptional, and further, that non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets. The nature of the remains on the site and its intrinsic relationship with the adjacent SAM is such that Officers, consistent with previous decisions by the Council and the Planning Inspectorate, conclude the proposals clearly unacceptable.
220. The site is described as a 'visual prelude' to the Conservation Area by Heritage England. Extending development beyond the traditional extent of built development associated with the settlement – the former Vicarage – the proposal is considered to have a detrimental effect on the setting of the designated area. The effect is considered against paragraph 202 of the NPPF as less than substantial harm, however in the absence of public benefits that outweigh the harm, justifies a refusal reason in its own right.

#### Density

221. The application sets an upper number of units proposed developed on this site to be read in conjunction with the request for approval of the principle of development, with all detail matters reserved for future approval. It is incumbent on the applicants to show that this number can be achieved through provision of an 'indicative' plan. The submitted indicative plan is not considered to achieve this. The developable area of the site is set out as constrained by the Northumbrian Water apparatus and the proposed landscape approach, intended to soften the settlement edge and reduce the physical impacts on the non-designated archaeology associated with the SAM. The indicative layout does not include on-street parking and one area of the site in particular that significantly fails the standards required by the Residential Amenity Standards SPD 2020 – where the affordable housing courtyard is apparent. This part of the development is unlikely to meet requirements the Police set out for Designing Out Crime – not a Policy requirement, but of material weight in achieving safe design as an inherent within part 8 of the NPPF.

#### Landscape

222. The detailed landscape assessment concludes harm to the AHLV and the policies set out to protect this in the County Plan and Neighbourhood plans that together form the Development Plan. The County Plan Policy was informed by the County Durham Landscape Value Assessment (2019) which, as it elevates values for historic and

recreational value accrues weight from the indivisible relationships between the landscape, the Roam fort, its setting and the modern settlement. Intruding into these relationships in an unacceptable manner, the result on the designated landscape is concluded unacceptable.

### Sustainable Design

223. Design quality and sustainability is a critical element of the planning assessment, significantly raised in importance over recent years. The Council's Sustainable Design Policy 29, reinforced in this area by Policy LNP4 of the Neighbourhood Plan is led when assessing major development proposals by an assessment using the Building for Life 12 / Building for a Healthy Life tool, as recommended by paragraph 133 of the NPPF. Policy 29 of the County Plan states that, '*schemes with one or more red will not be acceptable and will be refused planning permission unless there are significant overriding reasons*'. The applicant's arguments for housing supply are not accepted as 'significant overriding reasons'.

### Sustainable Transport

224. With an up-to-date two tier Development Plan consistent with the requirements of the NPPF, some issues accepted on previous applications in the context of a weak and out of date Planning Policy backdrop must be reviewed. The distance of the extremities of the site to the services and facilities in the village centre and the sustainable transport opportunities within it are a case in point. With a single access point proposed and no permeability into adjacent housing development, this element of the site's sustainability credentials must be brought into question.

### Surface Water Drainage

225. Policy 35 of the County Plan, reflecting the advice in part 14 of the NPPF 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, with the management of water must be an intrinsic part of the overall development. With multi-faceted implications for other elements of the scheme including archaeology, density, biodiversity and landscaping, in a settlement susceptible to flooding, this issue has not been satisfactorily addressed.

### Education

226. Part 8, paragraph 95 of the NPPF sets out the importance of ensuring a sufficient choice of school places is available to meet the needs of existing and new communities. A demand of 14 pupils is likely to be generated by the development as described. The usual convention of providing monies to expand available capacity is advised in this case. This element of the proposals is unacceptable.

### Net-Biodiversity Gain

227. The absence of up-to-date survey work means that the proposal cannot demonstrate the essential net biodiversity gain required of all new development, contrary to both tiers of

## The Planning Balance

228. The applicant has submitted a case that *'boosting housing supply in a village that has seen very little in the way of housing growth for more than three decades thus widening housing choice for the local community' .....* *'is a strong justification for approving the application in the interests of significantly boosting housing supply, particularly from a housing windfall opportunity for which there is an allowance of 100 dwelling per annum in the County Durham Plan'*. This is not considered to outweigh the harm to the heritage assets, nor the other policy conflicts outlined above.
229. The application is recommended refused.

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## RECOMMENDATION

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

1. Notwithstanding that this application seeks to reserve all matters for later approval, the applicant has not demonstrated that the developable area of the site critical to their arguments on Heritage Assets and landscaping at the settlement edge can accommodate the 46 residential units proposed once requirements for highways, residential amenity, drainage, ecology and open space have been included, contrary to Policies 31, 35, 41, 26 and the Residential Amenity Standards SPD 2020 of the County Durham Plan 2020, Policies LNP2 and LNP4 of the Lanchester Neighbourhood Plan 2021 and parts 8, 9, 12, 14 and 15 of the National Planning Policy Framework.
2. The local planning authority considers that the proposed development will cause harm to the significance of a designated heritage asset of the highest significance, namely the Scheduled Monument (SAM) of Longovicium Roman Fort, by reason of adverse impacts upon its setting and the destruction of archaeological remains of the extended vicus complex that are themselves non-designated heritage assets that contribute positively to the understanding of the SAM, but which accrue weight proportionate to the status of the associated designated asset. The proposal fails to demonstrate that substantial public benefits would arise, or that the harm to the designated and non-designated asset is necessary in order to achieve any such benefits. The proposal is contrary to the Development Plan: Policy 44 of the County Durham Plan 2020 and Policy LNP3 of the Lanchester Neighbourhood Plan 2021, and to paragraphs 197, 199, 200, 202, 203 of Part 16 of the National Planning Policy Framework.
3. In extending the village beyond the traditional extent of built development – the former Vicarage – the proposal is considered to have a less than substantial harm on the Conservation Area however the Local Planning Authority do not consider the applicant's case of public benefits that outweigh that harm, contrary to Policies 44 of the County Durham Plan, and paragraph 202 of part 16 of the National Planning Policy Framework.
4. The development, in affecting the Area of Higher Landscape Value defined in Policy 39 of the County Durham Plan and within Policy LNP4 of the Neighbourhood plan, taking into account the value methodology used in the County Durham Landscape Value Assessment (2019), fails to conserve the special qualities of the landscape, with

the stated benefits set out in the application not considered to clearly outweigh the harm.

5. Assessed against the Building for Life Supplementary Planning Document, the proposed scheme was concluded to have five out of six 'red' resulting in poor sustainable design, failing the requirements of Policy 29n of the County Durham Plan 2020 and paragraph 133, part 12 of the National Planning Policy Framework.
6. The proposed development fails to provide appropriate, well designed, permeable and direct routes for and to walking, cycling and public transport. This limits the development proposals ability to clearly link to existing services and facilities together with existing routes for the convenience of all users, to deliver accessible and well-connected environments that meet the needs of the development users. The proposals are therefore contrary to the requirements of Policy 21 of the County Plan, Policy LNP2c of the Neighbourhood Plan and part 9 of the National Planning Policy Framework.
7. The proposals fail to demonstrate a scheme for the management of surface water and flood risk that is an intrinsic part of the overall development, that would meet the requirements of Policy 35 of the Durham County Plan 2020 and part 14 of the NPPF can be achieved. The application is concluded contrary to Policy 35 of the Durham County Plan and part 14 of the National Planning Policy Framework.
8. The application does not demonstrate that net-biodiversity gain can be achieved, therefore failing the requirements of Policies 26, 35, 41 and 43 of the Durham County Plan 2020, Policy LNP4D of the Lanchester Neighbourhood Plan 2021 and paragraph 180, part 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.

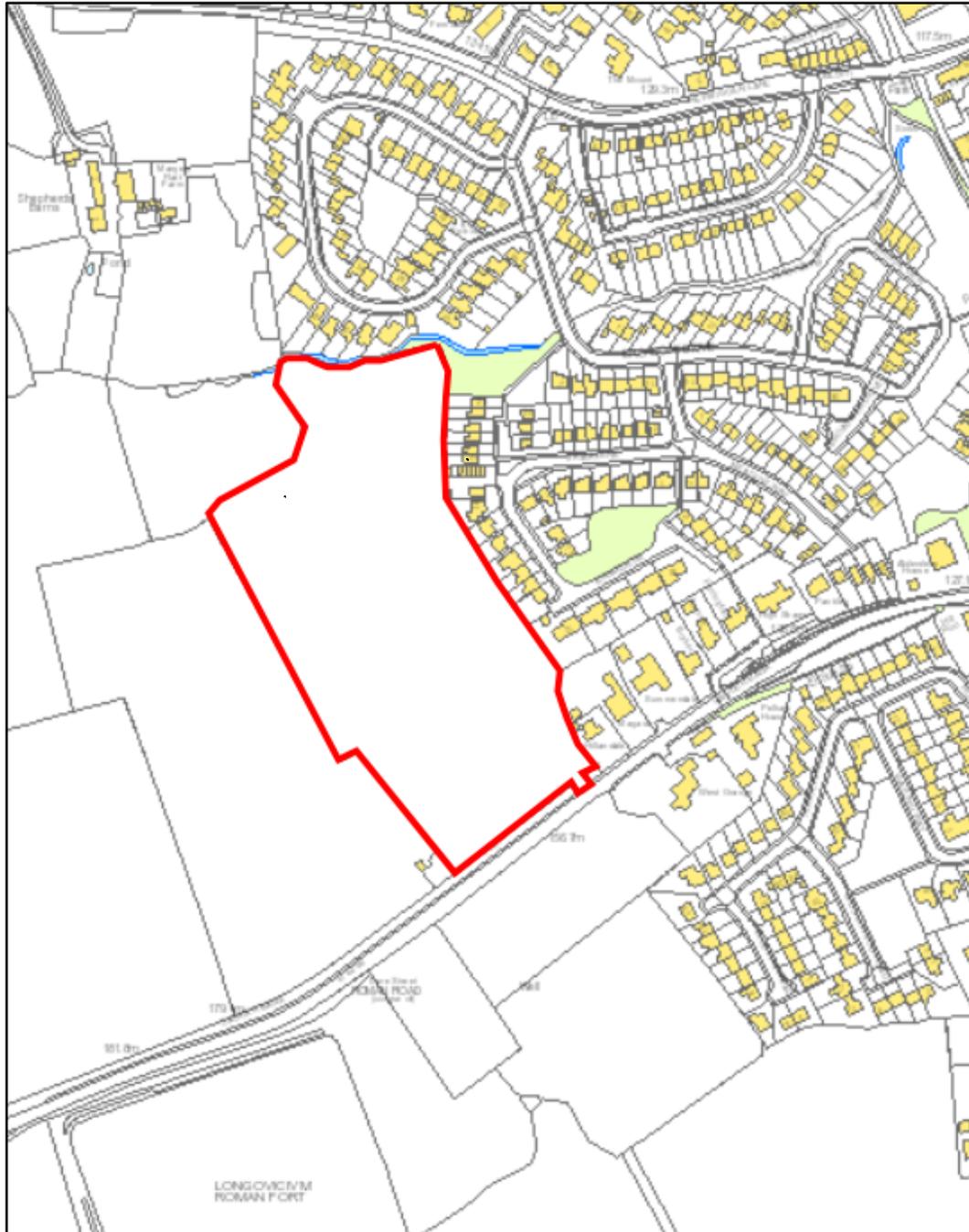
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## **BACKGROUND PAPERS**

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- 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 2020
- Lanchester Neighbourhood Plan 2021
- County Durham Strategic Housing Land Assessment (2019)
- Open Space Needs Assessment (2018)
- Residential Amenity Standards SPD (2020)
- County Durham Building for Life SPD (2019)
- Planning (Listed Buildings and Conservation Areas) Act 1990

- Human Rights Act 1998
- Equality Act 2010



<p><b>Planning Services</b></p>	<p>DM/22/00184/OUT Residential development of up to 46 dwellings with new access from Cadger Bank and associated works</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><b>Date</b> 24<sup>th</sup> March 2022</p>	<p><b>Scale</b> NTS</p>

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	DM/22/00135/VOC
FULL APPLICATION DESCRIPTION:	Application to remove condition 13 (highway improvements) pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) for 105 dwellings (outline - all matters reserved except access)
NAME OF APPLICANT:	Gleeson Regeneration Ltd
ADDRESS:	Land East of Castledene Road, Delves Lane, DH8 7HQ
ELECTORAL DIVISION:	Delves Lane Laura Eden
CASE OFFICER:	Senior Planning Officer 03000 263980 <a href="mailto:laura.eden@durham.gov.uk">laura.eden@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is located off Gloucester Road on land between Sixth Street and Castledene Road which is in the south eastern part of Consett. The site is roughly rectangular in shape and comprises 3.34ha of grassland used informally as open space. With regards to topography, the site slopes away from the north west to the south east and there is around 19m between the site's highest and lowest points. Trees and hedgerows are restricted to the site's boundaries.
2. Residential properties within Castledene Road and West Ellimore View bound the site to the south/south-west and partially lie along its northern border. To the west lies Gloucester Road with a commercial development and garage court located beyond. A public right of way (Footpath No.38 (Consett)) runs alongside but outside the site's eastern boundary with agricultural fields beyond and to the north east. Immediately to the north lies Sixth Street containing terraced bungalows and an agricultural field. Further to the north east lies a park and recreation ground comprising of junior and youth play facilities and football pitch.
3. The site is located 1.7km to the north east of Knitsley and High House Wood Local Wildlife Site and 3.2km from Allensford Woods Local Nature Reserve. Iveston Conservation Area lies 1.6km to the east and contains a Grade II listed War Memorial, cottage and outbuilding. There are no landscape designations within or adjacent to the site. The application site contains no watercourses, with the site lying entirely within Flood Zone 1.

## The Proposal

4. On 1st October 2020, outline planning permission was granted on appeal for the erection of up to 105 dwellings with all matters reserved except access. A subsequent reserved matters application was granted approval, relating to the appearance, landscaping, layout and scale as well as a number of conditions associated with the outline consent.
5. The purpose of the application is to remove condition 13 pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT). The condition secures offsite highway improvement works to the roundabout at the Gloucester Rd/Delves Lane junction that are required to be implemented prior to the occupation of the 50th dwelling.
6. The application is being reported to the Northern Area Planning Committee at the request of local members, Cllrs Sterling and Walton.

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## PLANNING HISTORY

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7. Outline planning permission was granted upon appeal (APP/X1355/W/20/325169) for the erection of up to 105 dwellings with all matters reserved except access in October 2020. The application (our ref. DM/17/02333/OUT) was originally refused by the Northern Area Committee in October 2019 against officer recommendation. The approval was granted subject to conditions and a S106 legal agreement.
8. An application for reserved matters (appearance, landscaping, layout and scale (DM/20/02983/RM), in addition to discharging a number of conditions associated with the outline approval, was granted in February 2021. There have also been a couple of subsequent non-material amendment applications to revise the brick choices (DM/21/03462/NMA) and allow amendments to the layout around plots 55-59 following the omission of the electricity substation (DM/21/03462/NMA).

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## PLANNING POLICY

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### NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2021. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *NPPF Part 2 - Achieving Sustainable Development*. The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable

development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

12. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 5 - Delivering a Sufficient Supply of Homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
14. *NPPF Part 6 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 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.
17. *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.
18. *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.
19. *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.

20. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
21. *NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
22. *NPPF Part 17 - Facilitating the Sustainable Use of Minerals* - It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

23. 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 stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; viability; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

## **LOCAL PLAN POLICY:**

### The County Durham Plan

24. *Policy 6 - Development of Unallocated Sites*. States the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to the character of 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; encourages the use of previously developed land and reflects priorities for urban regeneration.

25. *Policy 10 – Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.
26. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources.* Development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits.
27. *Policy 15 - Addressing Housing Need.* Establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
28. *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.
29. *Policy 21 - Delivering Sustainable Transport.* Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
30. *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.
31. *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.
32. *Policy 27 – Utilities, Telecommunications and Other Broadcast Infrastructure.* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.

33. *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).
34. *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.
35. *Policy 32 - Despoiled, Degraded, Derelict, Contaminated and Unstable Land.* Requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
36. *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.
37. *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.
38. *Policy 39 – Landscape.* Proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
39. *Policy 40 - Trees, Woodlands and Hedges.* Proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be

expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

40. *Policy 41 - Biodiversity and Geodiversity.* Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
41. *Policy 43 - Protected Species and Nationally and Locally Protected Sites.* Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
42. *Policy 44 - Historic Environment.* Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
43. *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.

#### **NEIGHBOURHOOD PLAN:**

44. There is no Neighbourhood Plan for this area.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

45. *Highway Authority* – The proposal seeks to remove a condition which was imposed in order provide mitigation in the form of a mini roundabout improvement scheme on the Delves Lane main highway. The number of units on the site has reduced from when the original transport assessment application was assessed by the Highway Authority (120 units down to 105 units). In the report provided there has been a justification of a net reduction in regard to the vehicle trip rates generated onto the mini roundabout in question. The measure of how effectively the junction is operating, the Ratio to Flow Capacity (RFC) in peak hour scenarios does not flag up any significant capacity issues in regard to the development flows predicted therefore the condition imposed can be removed. No objection is raised.

#### **PUBLIC RESPONSES:**

46. The application has been advertised by way of a press and site notice and individual notification letters to neighbouring residents.
47. 10 no. letters of objection have been received. The main concerns and queries raised by the objectors can be summarised as follows:
- The condition was imposed by the Planning Inspectorate having regard to highway safety and to ensure improvements are made to the Delves Lane/Gloucester Road mini roundabout to mitigate the impacts of additional traffic flows associated with this development.
  - Visibility is a major concern and many drivers fail to stop at the roundabout leading to safety concerns. There have already been injuries and fatalities. It is not considered that the improvement works go far enough to address the current concerns/issue with the junction, let alone to remove the requirement.
  - The survey work undertaken in support of this current application was undertaken on a single day during the Covid restrictions therefore is not representative of traffic levels. Since then both Hymer Caravans and Elddis Transport have expanded significantly and a new care home is due to open. There are several other developments proposed in the surrounding area (e.g. Millers) which will add further traffic to the network. The road is already very busy following the opening of B&M and Lidl.
  - Query the times of the survey and the AM and PM peaks.
  - There is not sufficient infrastructure to cope with the additional traffic, schools, doctors and shopping to accommodate the development.
  - Pollution is a major concern, we are meant to be improving the environment and it could cause issues with the supply of clean water.
48. Cllr Michelle Walton (Delves Lane) formally objects to this condition being removed and requests that the application is heard by the appropriate planning committee. This application was granted on appeal and the Planning Inspector specifically thought this condition was required in order to make the development acceptable. Major concerns were raised by local residents, councillors and the Highway Authority around this particular junction unless mitigation measures were installed. The traffic assessment submitted in support of this application is based on one day, undertaken while some lockdown restrictions were still in place and at a time when electricity works were being undertaken so traffic would have been diverted from the area. Traffic levels have increased since that point and are likely to continue to do so. Visibility at the junction is poor. The application to remove the developer's requirement to undertake the improvement works should be refused.
49. Cllr Angela Sterling (Delves Lane) echoes Cllr Walton's views and objections and would also like to register her formal objection.

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

#### **APPLICANTS STATEMENT:**

50. Gleeson Regeneration have submitted the above application to omit a planning condition applied to the Outline Planning Permission on Land East of Castledene Road, Consett, DH8 7HQ. The outline planning approval ref: APP/X1355/W/325169 was approved on the 1<sup>st</sup> October 2020. This approval was granted at appeal following a refusal for the original application which was submitted in July 2017. As part of the original application in 2017, a transport

assessment was submitted based upon traffic data from surveys undertaken at the time. The outline approval was granted at appeal subject to a number of conditions, one of which being condition 13 which is outlined below.

*‘Prior to the construction of the first dwelling hereby approved full engineering details of the mini roundabout road junction improvement layout at Delves Lane/Gloucester Road shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details prior to occupation of the fiftieth dwelling.’*

51. Given the age of the data used in assessing the original application, survey work was undertaken in September 2021 to understand if traffic flows had changed in the period. This survey has shown a 40% reduction in traffic flows at the Delves Lane/Gloucester Road junction. It is acknowledged within the technical note that home working is still prevalent however, many businesses have altered their way of working permanently and as such traffic flows are expected to remain below 2017 levels. When the original traffic data is interrogated further, it can be seen that even a small reduction in traffic would remove the need for improvement works at this junction. The survey has been discussed with Durham County Council highways and the data confirmed as acceptable therefore there are no objections to the application from any statutory consultees.
52. We trust members will motion to accept the planning officer’s recommendation for approval of the application.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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53. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those the previous permission was subject to or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
54. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
55. Under the original planning permission APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) the main planning issues for consideration were; the principle of the development, locational sustainability of the site, highway safety and access, landscape and visual appraisal, layout and design, residential amenity/pollution, ecology, flooding and drainage, heritage and archaeology infrastructure and public open space, affordable and accessible/adapted housing, planning obligations and other matters.

56. The principle of developing this site has been established through the appeal decision and this matter should not be revisited under this application. The specific proposal under this application to remove condition 13 (off-site highway improvement works) raises no new implications in regard to the majority of key matters discussed under the existing planning permission.
57. Since the grant of planning permission significant changes in the planning policy context have occurred. The Derwentside District Local Plan has been replaced with the County Durham Plan (CDP). The NPPF and Planning Practice Guidance (PPG) have received amendment.
58. The suite of CDP policies that are relevant to the development proposal as a whole are listed in an earlier section of this report. However, the majority of these policies provide advice on a number of planning matters which relate to the planning permission as a whole. The requested variation of condition relates solely to the removal of the current requirement to carry out off-site highway works. The consideration of the proposed variation of condition, therefore, revolves around the implications upon highway safety and the capacity of that particular junction and, therefore, only the planning policies and guidance which relate to those matters are considered relevant to the detailed discussion below.

### Highway Safety and Access

59. Policy 6 (criteria e) of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Policy 21 reiterates the requirement of Policy 6 in addition to expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
60. The original application was accompanied by a Transport Assessment (TA) and a Travel Plan (TP). A Transport Addendum was later submitted which provided an assessment for up to 120 units although consent was eventually only granted for 105. Collectively the submitted documentation considered the potential impacts of the development and the adequacy of the site for the development with respect to a range of highways and transport related issues.
61. The applicant has applied to remove condition 13 pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT). The condition secures offsite highway improvement works to the roundabout at the Gloucester Rd/Delves Lane junction that are required to be implemented prior to the occupation of the 50th dwelling. It is noted in the objections that comment is made that a Planning Inspector specifically imposed this planning condition. Though the Inspector did impose and consider the validity of conditions applied to the planning permission this was very much based upon the evidence supplied at the time (explained further below) and informed by a recommended suite of conditions supplied to them. Furthermore, it should be noted that with no highways related reason for refusal, highway network capacity was not a matter considered in detail through the appeal and the Inspector's assessment focused primarily upon the effects of the development upon the character and appearance of the local area.

62. The applicant's rationale for seeking removal of the condition, is that the original assessment was based on the development of 120 dwellings, however the quantum of development was later reduced to 105. More recent survey work was undertaken in September 2021 and shows a net reduction in regard to vehicle trips generated on the mini roundabout in question. The validity of the 2021 survey has been questioned due to Covid restrictions and nearby road works. However, the original 2017 Transport Assessment information also remains valid, and so has been considered by the Highway Authority when making their recommendation.
63. The original assessment forecast that a single arm of the Delves Lane/Gloucester Road junction would be approaching its theoretical capacity within the PM peak hour and therefore the applicant's assert that it was questionable that mitigation was needed to make the development acceptable, and for the condition to be applied in the first instance. As such, the reduction in base line flows due to the reduction in development quantum of 15 units, would remove the need for intervention at this junction, hence the application submission. The reduction in the number of units from 120 to 105 would result in a 12% reduction in vehicle movements on the arm of the junction which would have previously been marginally over capacity and would therefore bring that arm back within design capacity and render the proposed improvement unnecessary.
64. The Highway Authority have considered the information from both the original submission, and the 2021 surveys, and do not offer any objection to the removal of condition 13 as there are not considered to be any significant capacity issues at the Delves Lane/Gloucester Road junction as a result of traffic generated by the development. In order to refuse the application, there would need to be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would need to be severe and in turn justify that the condition is necessary to make the development acceptable. Neither scenario is considered to apply therefore the proposal to remove the condition would not conflict with Policies 6 (e), 21 and 29 of the CDP or Paragraph 111 of the NPPF.
65. This application has no bearing on any other highways related issues. Conditions will continue to be imposed to secure a travel plan, the previously approved access details and relocated public transport infrastructure will be secured prior to the occupation of the first dwelling and internal highways layout and timescales for delivery are listed within the approved plans condition.
66. Whilst some concerns have been raised in relation to the proposed removal of condition 13, overall, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 6, 21 and 29 of the CDP as well as Part 9 of the NPPF.

#### Other Considerations

67. As the granting of this application would in effect provide a new permission consideration needs to be given to the need and status of conditions on the original approval.
68. Conditions relating to DM/17/02333/OUT
  - 1 – Time limit (reserved matters submission – Condition no longer required as reserved matters submission was made within 3 years.
  - 2 – Time limit (commencement of development) – Required to be reimposed.

- 3 – Approval of reserved matters - Condition no longer required as reserved matters (appearance, landscaping, layout and scale) submission was made.
- 4 – Unit number limit – Condition no longer required as approved plans show scheme is for 105 units.
- 5 - Approved Plans - Condition updated to reflect all relevant plans associated with the outline, reserved matters and discharge of condition approvals.
- 6 – Archaeology (WSI) - The WSI was agreed through DM/20/02983/RM and will be secured through approved plans condition.
- 7 – Archaeology (post-investigation assessment) – Condition required to be re-imposed to ensure the analysis, publication and dissemination of results, and archive deposition.
- 8 – Construction Management Plan - The CMP was agreed through DM/20/02983/RM and condition to be amended to secure adherence to this throughout the construction phase.
- 9 - Full engineering details of the site access - The details were agreed through DM/20/02983/RM and condition to be amended to secure completion of approved scheme prior to the occupation of the first dwelling.
- 10 – Internal highway details - The details were agreed through DM/20/02983/RM and agreed details to be listed in approved plans condition.
- 11 – Foul and surface water drainage - The strategy was agreed through DM/20/02983/RM and condition to be amended to secure adherence to the approved scheme.
- 12 – Tree protection measures – The protection measures were agreed through DM/20/02983/RM and condition to be amended to secure adherence to the approved scheme.
- 13 – Off-site highway mitigation works – The subject of this application, following reassessment, the works are not considered to be justified and the condition would be removed.
- 14 – Site levels, finished floor levels and means of enclosure - The details were agreed through DM/20/02983/RM and agreed details to be listed in approved plans condition.
- 15 – Open space maintenance - This condition has not been discharged therefore it is required to be re-imposed.
- 16 - Travel Plan - This condition has not been discharged therefore it is required to be re-imposed.
- 17 – Quantum of open space – Condition no longer required as reserved matters application secured minimum quantum of open space.
- 18 - Ecological mitigation - Still required to ensure that protected species are adequately protected throughout the construction works.
- 19 - Hours of construction - Still required to ensure compliance to agreed hours of construction throughout the build process and in the interests of protecting residential amenity.

69. Conditions relating to DM/20/02983/RM

1. Approved plans - Condition updated to reflect all relevant plans associated with the outline, reserved matters and discharge of condition approvals.
2. Landscaping scheme implementation and timing - The condition is still required to be imposed to secure the delivery of landscaping.

70. The proposal has generated some public interest, with ten letters of objection having been received from local residents in addition to the comments received from Local Members. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate. Issues which have not previously been addressed are considered below.

71. The outline planning permission considered the locational sustainability of the site and deemed that the site had access to an array of services and facilities and these were accessible by a range of public transport modes.
72. As part of the original consent, the applicant entered into a S106 agreement to secure financial contributions to improve access to healthcare provision, towards providing additional teaching accommodation and biodiversity enhancements in addition to 10% affordable housing on the site. The legal agreement would need to be amended through a Deed of Variation to ensure that these obligations are continued to be secured.
73. Issues regarding land contamination, drainage requirements and air quality were also fully resolved as part of earlier applications with no concerns raised.

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## **CONCLUSION**

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74. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In light of the recent adoption of the CDP, the Council now has an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
75. Paragraph 12 of the NPPF advises that where a planning application conflicts with an up to date development plan permission should not usually be granted. However, local planning authorities may make decisions that depart from a development plan where material considerations in a particular case indicate that the plan should not be followed.
76. In the determination of variation of condition applications (Section 73), the LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted (or that it should be granted unconditionally). If the variation sought is considered unacceptable then the application should be refused and the wording of the conditions on the previous planning permission would continue to subsist/apply to the development.
77. Though the planning policy context now applicable to the development has changed since the previous grant of planning permission, the principle of development has been established with works anticipated to commence later this month and this matter should not be revisited under this application. The focus of the consideration of the application should be on the impacts of the amendments to the planning permission proposed and this in the light of the relevant up to date planning policy position.
78. The acceptability of the application revolves around highway safety and junction capacity issues. The application has been assessed against the relevant policies of the CDP and NPPF. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe and neither scenario would apply. Officers therefore accept that the existing condition 13 is unnecessary and can be removed. No objections to the development are raised on any other grounds material to the applications and approval is therefore recommended.

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## RECOMMENDATION

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That the applications be **APPROVED** subject to the following conditions and subject to a Section 106 Deed of Variation to secure the planning obligations contained within the Section 106 pursuant to the original planning permission DM/17/02333/OUT:

1. The development shall be begun no later than 25<sup>th</sup> August 2023.

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

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

Site Location Plan received 12/07/2017

Drg. no. 1641.04.01 Rev N Housing Layout received 07/01/2022

Drg. no. 1641.07.01 Rev. J Landscaping Layout received 30/07/2021

Drg. no. 3694/1 Rev. C Buffer Planting to Site Boundary received 30/07/2021

Drg. no. 21-201-U-0002 Rev. P01 201 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-301-U-0002 Rev. P02 301 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-303-U-0002 Rev. P01 303 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-304-U-0002 Rev. P01 304 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-307-U-0002 Rev. P01 307 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-310-U-0002 Rev. P01 310 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-313-U-0002 Rev. P01 313 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-314-U-0002 Rev. P01 314 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-315-U-0002 Rev. P01 315 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-401-U-0002 Rev. P01 401 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-405-U-0002 Rev. P01 405 House Type Urban - Alternative received 24/06/2021

Drg. no. SD301 Rev. F Window Cill Detail received 24/06/2021

Drg. no. SD302 Rev. F Window Head Detail received 24/06/2021

Drg. no. SD700 Rev. C Detached Single Garage Details received 14/10/2020

Drg. no. SD701 Rev. D Detached Double Garage Details received 14/10/2020

Drg. no. SD703 Rev. D Terraced Double Garage Details received 14/10/2020

Drg. no. 1100\_GH\_MP\_001 Management Plan received 28/05/2021

Construction Management Plan, Rev. B dated 16/07/2021 received 30/07/2021

Arboricultural Impact Assessment by All About Trees issued 19th May 2017

Arboricultural Impact Assessment (TPP) AIA TPP received 16/07/2021

Drg. no. D700 Rev. 3 Proposed Highway Construction Detail received 25/08/2021

Drg. no. D800 Rev. 6 S38/278 Plan received 25/08/2021

Drg. no. 1100\_GH\_Cond10 Highway Network Timetable and Maintenance received 26/08/2021

Drg. no. 1641.06.01 Rev K Boundary Treatments received 14/03/2022  
Drg. no. SD-100 Rev. F 1800mm High Close Boarded Timber Fence received 14/10/2020  
Drg. no. SD103 Rev. C 600mm high post and wire fence received 14/10/2020  
Drg. no. NSD122 450 High Knee Rail Fence received 26/08/2021  
Drg. no. NSD105 Rev. C 120mm High Timber Fence received 26/08/2021  
Drg. no. D001 Rev. 4 Overall Engineering Layout received 26/08/2021  
Written Scheme of Investigation received 14/05/2021

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 10, 15, 19, 21, 26, 29, 31, 32, 35, 36, 41, 43 and 44 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.*

3. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the details contained within the Arboricultural Impact Assessment by All About Trees issued 19th May 2017 and the Arboricultural Impact Assessment (TPP) AIA TPP received 16/07/2021. Protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

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

4. No dwelling shall be occupied until the access and relocated public transport infrastructure have been completed in accordance with the details contained on drg. no. D800 Rev. 6.

*Reason: In the interests of highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

5. No dwelling shall be occupied until a post-investigation archaeological assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority within a timeframe to be agreed by the parties.

*Reason: To comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.*

6. Prior to the occupation of the first dwelling, a scheme for the ongoing maintenance of any areas of public open space, including any on-site biodiversity mitigation within the development hereby approved shall 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 Policy 26 and 29 of the County Durham Plan and Parts 12 and 15 of the NPPF.*

7. The detailed landscaping scheme, as approved by plans ref: 1641.07.01 Rev. K and 3694/1 Rev. C shall be implemented and completed in accordance with the approved details in the first planting season following the substantial completion of the development.

Any trees or plants which die, fail to flourish or are removed within 5 years of 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 and character of the area and to comply with Policies 26, 29, 39 and 40 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

8. Within a period of six months of the first occupation of any part of the development, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and adhered to thereafter in accordance with the approved timescales.

*Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

9. The development shall be carried out and thereafter maintained in accordance with the drainage scheme detailed in the following documents and plans;

- Drainage Strategy Report ref. no. AE/DS/19049.1 Version 2 by RWO dated 28/01/2021
- SUDs Maintenance Plan ref. no. 19049/AE/SuDS Version 5 by RWO dated 19/08/2021
- Drg. no. D205 Rev. 4 Basin Sections received 05/08/2021

*Reason: In the interest of the adequate disposal of foul and surface water in accordance with Policies 35 and 36 of the County Durham Plan and Part 14 of the NPPF.*

10. The Construction Management Plan outlined within the Construction Management Plan, Rev. B dated 16/07/2021 received 30/07/2021 shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

*Reason: To protect the residential amenity of existing residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

11. The development shall be carried out in accordance with the recommendations outlined within Section H of the Preliminary Ecological Appraisal R02 by E3 Ecology Ltd dated June 2017.

*Reason: In the interests of ecology and ensuring no protected species are affected by the development in accordance with Policies 41 and 44 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

12. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

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

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

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

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policies 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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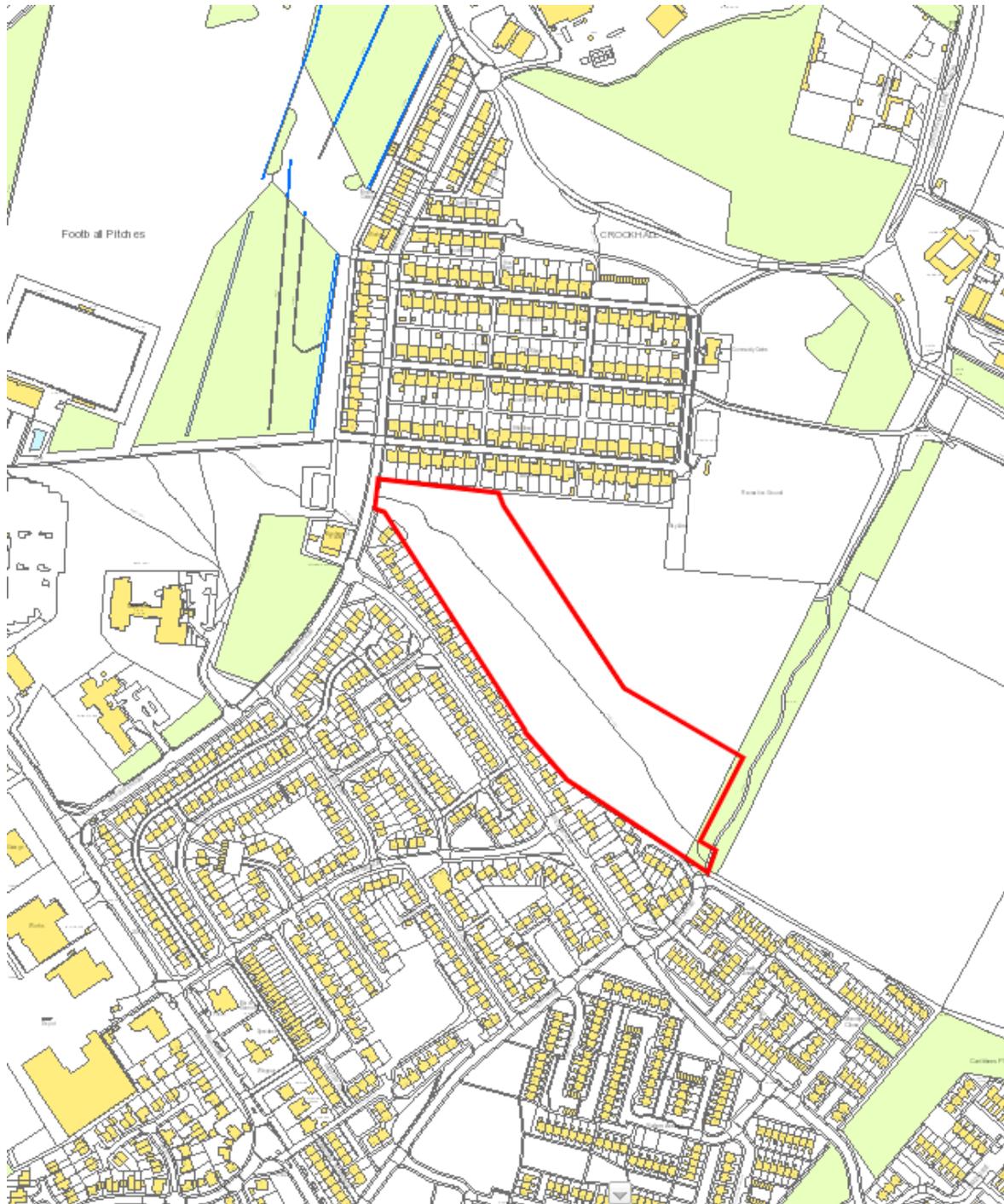
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant 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.

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes
- County Durham Plan
- Statutory, internal and public consultation response



**Planning Services**

Application to remove condition 13 (highway improvements) pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) for 105 dwellings (outline - all matters reserved except access) Land East of Castledene Road, Delves Lane, DH8 7HQ  
 Ref: DM/22/00135/VOC

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**Comments**

**Date** 24<sup>th</sup> March 2022

**Scale** Not to Scale

# COMMITTEE REPORT

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## AGENDA ITEM 5 b – APPEALS UPDATE

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### APPEALS DETERMINED

1. **Appeal against approval of reserved matters (appearance, landscaping, layout and scale) relating to planning permission DM/16/00871/OUT for a single dwelling at Plot 14 (No.15) The Pastures, Lanchester, Durham, DH7 0BT (Ref: DM/21/02516/RM).**

2. Planning permission was refused by the Area Planning Committee (North) on 29<sup>th</sup> September 2021 on the following grounds: -

*The proposed dwelling would have an adverse effect on the area's character in terms of design, layout and appearance, exhibiting an inappropriate scale and density, and would also have an unacceptable impact on the amenity and privacy of the occupants of the adjacent dwelling at 8 The Paddock, 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.*

3. The appeal was dealt with by way of written representations and an unaccompanied site visit.
4. The Inspector considered the main issue to be (i) the character and appearance of the area with particular regard to scale and density and (ii) the living conditions of the occupiers of No 8 The Paddock in respect of outlook, light and privacy.

#### **(i) Character and Appearance of the area**

5. The Inspector noted that planning approval had been granted previously for multi-storey development on the wider site and that the overall character and appearance of the immediate locality has changed. They also noted that while covenants may exist to the properties of The Paddock with respect to not increasing the height of those bungalows, there was not evidence of any planning restrictions in place relating to the height of those properties.
6. The Inspector did not consider that Plot 14 (No.15) The Pastures could only reasonably accommodate a single storey dwelling. Noting in this case that while it could not be said that the proposed dwelling would be small, or indeed low in height, its overall scale and massing would be acceptable in the context of other nearby consented development on the wider appeal site. They considered therefore that the proposal would accord with policy LNP2 of the Lanchester Neighbourhood Plan 2019-2034 (NP) in so far that it would take its reference from other nearby consented development, and its scale and density would not depart significantly from approved development in close proximity to the appeal site.
7. Furthermore, the Inspector considered that the proposed dwelling, set in from side boundaries and with proportionate amount of outside garden/amenity space would be in

accordance with the Council's required standards. The Inspector was satisfied that the resultant dwelling would not appear squeezed within its plot or be seen as a significant wide mass of development. There would be consistency of design across the wider site, particularly in use of materials.

8. Density of development was noted by the Inspector as being at the higher end of the scale compared to other approved development, however this would not be dissimilar to plot 12 and the Inspector had powers open to them to remove specified permitted development rights from the new dwelling by condition. Subject to this condition, the Inspector did not share the Council's view that the proposed new dwelling would be unacceptable from a density point of view. In reaching this view, the Inspector had due regard to representations from Interested parties who commented that when outline planning permission was approved it was on the basis that the footprint of each dwelling would not exceed more than 25% of the plot. However, no such restriction was imposed in respect of the outline planning permission and the previous Inspector did not raise this matter in their decision.
9. In conclusion, the Inspector considered that the dwelling would assimilate well into the immediate residential environment and would not look out of place or incongruous in the context of the recently approved and built development. Other properties on the development would not be identical in terms of scale, design and massing, however that in itself would not be harmful. The scheme was found to be in accordance with design, character and appearance requirements of policy 29 of the County Durham Plan 2020, policy LNP2 of the Lanchester Neighbourhood Plan and Chapter 12 of the NPPF.

## **(ii) Living Conditions – 8 The Paddock**

10. The Inspector reviewed the impact of the proposed dwelling upon the nearest existing residential property, 8 The Paddock. In doing so they noted the level differences between the two sites at ground floor level in that the proposed dwelling would sit about 2 meters below that of the neighbouring bungalow. The Inspector noted that the multi-storey element of the rear of the appeal dwelling would be positioned just over about 9.0 metres from the shared boundary with 8 The Paddock. Taking these matters into account, coupled with the softening impact afforded by the existing boundary vegetation, and the angled orientation of the bungalow, the Inspector did not find that the proposal would have a dominating or enclosing impact when viewed from No 8 The Paddock. It was accepted that the appeal property would be visible from No 8 The Paddock, but that does not automatically mean that it would lead to unacceptable outlook.
11. The Inspector continued noting that the first floor rear windows in the appeal property would be approximately 30.5 metres from the rear windows of No 8 The Paddock, and the nearest single storey part of the dwelling would be about 27.7 metres from the neighbouring bungalow. The separation distances exceed the minimum 21 metre separation distance standard in the Council's Residential Amenity Standards SPD 2020. They recognised that No 8 The Paddock is not currently overlooked at all. However, taking into account the aforementioned separation distances, the Inspector was satisfied that the extent of any overlooking would not be significantly adverse or give rise to a material loss of privacy.
12. Furthermore, the distance of the proposed dwelling from the shared boundary, the reduction in light penetration already experienced by No 8 The Paddock as a result of the existing boundary trees, the Inspector considered the proposals would not lead to material loss of light to the garden area or windows of No 8 The Paddock. As a result, the Inspector deemed the proposals to accord with the amenity requirements of policies 29 and 31 of the County Durham Plan and paragraph 130(f) of the NPPF.

13. In meeting the Council's Residential Amenity Standards SPD 2020 to the nearest property, the Inspector was also satisfied that the dwelling would not cause material harm to the living conditions of the occupiers of any other existing property in respect of light, outlook or privacy.
14. Other matters of impacts upon the protected trees, impacts upon Human Rights, drainage, off-street parking were considered by the Inspector and the proposed development was not found to cause material in regard to these matters.
15. The appeal was allowed, subject to conditions. No costs against the Council were sought by the appellant.

Report prepared by Graham Blakey (Principal Planning Officer).

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