



Area Planning Committee (Central and East)

Date Tuesday 14 December 2021
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 9 November 2021 and Special meeting held 25 November 2021 (Pages 3 - 48)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/21/02215/FPA - Land East of 1 to 25, Shinwell Drive, Peterlee, SR8 5AB (Pages 49 - 76)
Residential Development for the erection of 59 no. dwellings (C3) with associated infrastructure, landscaping and drainage.
 - b) DM/21/01278/FPA - Tiana Lane, Pittington Road, Rainton Gate, Houghton-le-Spring, DH5 9RG (Pages 77 - 96)
Resubmission of previously refused application ref: DM/20/02163/FPA - Erection of a single storey dwelling.
 - c) DM/21/03430/FPA - 67 Kepier Crescent, Gilesgate Moor, Durham, DH1 1PQ (Pages 97 - 108)
Change of Use from C3 to C4.
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
6 December 2021

To: **The Members of the Area Planning Committee (Central and East)**

Councillor D Freeman (Chair)
Councillor S Deinali (Vice-Chair)

Councillors D Brown, J Cosslett, J Elmer, L A Holmes, C Hood,
N Jones, C Kay, D McKenna, R Manchester, C Marshall,
E Mavin, K Shaw and A Surtees

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 9 November 2021** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors S Deinali (Vice-Chair), D Brown, J Cosslett, J Elmer, C Hood, C Hunt (substitute for LA Holmes), N Jones, R Manchester, E Mavin, K Shaw and A Surtees

1 Apologies for Absence

Apologies for absence were received from Councillors C Kay, D McKenna and C Marshall

2 Substitute Members

Councillor C Hunt substituted for Councillor LA Holmes.

Councillor N Jones entered the meeting at 9.32am

3 Minutes

The minutes of the meeting held on 12 October 2021 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

The Chair, Councillor D Freeman noted in respect of Item 5b, DM/21/02774/VOC – 57 Claypath, Durham that he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application.

He noted he was also a Member of the City of Durham Trust, however he was not a Trustee and had not been party to their submission in objection to the application.

5 Applications to be determined by the Area Planning Committee (Central and East)

a DM/21/00624/FPA - Land to south west of 39, Salvin Street, Croxdale

The Senior Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for a proposed house and detached garage and was recommended for approval, subject to conditions.

The Chair asked Parish Councillor M Ord, representing Croxdale and Hett Parish Council, to speak in relation to the application.

Parish Councillor M Ord explained as regards the historical and geographical nature of the site, adding it was a small valley, with a culvert from the 1960s and that in the 1980s properties at Wayside had been demolished by the City of Durham Council, with the rubble spread over the application site area creating the current levels. He added that in terms of flooding, the Environment Agency had stated a one in one hundred year risk of flooding, however, he noted a number of near misses, with one only a few days ago. He noted that in terms of the access there was a risk, especially in winter with ice creating a 'sheet of glass', with the corner having an adverse camber and the road falling away. He noted the originally planned access would have been preferable, and for that reason, and those outlined within their submission, the Parish Council objected to the application.

The Chair thanked Parish Councillor M Ord and asked Mr Trevor Elsdon, the Applicant, to speak in support of his application.

Mr T Elsdon explained he purchased the site around 15 years ago to allow for a pony to be kept for his daughter. He noted that at that time the site was not fenced and had become a dumping ground, including having a number of scrap vehicles across the site. He noted work with the Environmental Health Officers from the Council at that time in terms of removing the vehicles and securing the site, with some local people being in objection as they had mistakenly believed the site was public. He noted site had not had full-time grazing and added that in moving to retirement he had looked at the possibility of building a home on the site.

Mr T Elsdon explained that the scheme included disabled access in order to accommodate his mother-in-law and he had worked with the Planning Department to look at the best way to move forward. He added that included sourcing local materials to match with the area and to agree a planting scheme to increase diversity of habitat and the blend the property with its surroundings. In respect of the access, he had worked with the Council as regards the arrangements, with the original proposed access at Chair Lane and the new access being that suggested by Highways. He noted the new access would have use as driveway and also be able to be used for vehicles as a 'pull-in' for safety and gave good visibility. He concluded by noting that once his family was on-site, they would be able to contribute to village life, with his wife working in the local community.

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

Councillor J Elmer asked if the applicant could speak in terms of flooding, having grazed animals at the site over a number of years. Mr T Elsdon noted the site had not flooded over the last 15 years and added the application included a flood plan, with a soakaway and reiterated the Environment Agency comment of flooding being a one in one hundred year event.

The Senior Planning Officer noted that in terms of the rubble being used to level the site in the past, Contaminated Land Officers had noted no objections or issue, though asked for an informative be added in terms of contamination. She explained that Flood Risk Assessment had been submitted which contained a number of recommendations, and noted the Environment Agency had not commented, though the site was not within a flood zone. She added that the Council's Drainage Team had noted no objections, however advised flood resilient measures should be built into the development. It was noted that the application had been closely assessed by the Principal Highways Engineer and, as the access was set back, there was good visibility.

Councillor J Elmer noted the application appeared, in general, to be a good application, with the applicant noting planting to achieve a biodiversity net gain. He noted with a development such as the one proposed there was the opportunity for technology such as a ground-source heat pump, high-quality insulation and electric vehicle charging points to be included. He noted the issues raised in respect of potential flooding and explained as regards some criticism levelled at the method used by Environment Agency in coming up with predictions such as 'one in one hundred years'. He therefore asked if there could be conditions associated in terms of such a flood risk. The Senior Planning Officer explained that the previous use as grazing land had limited biodiversity, with the inclusion of a bat box and the Ecology Section added that the boundary scheme would result in a net gain.

She added that the bat box and landscaping scheme were both secured by condition. She explained that Condition 10 referred to the submission of a Flood Risk Assessment to be undertaken before any dwelling would be occupied, with information on issues such as site levels, directing water away from the building, and measures for keeping water on the site to be set out.

The Principal Planning Officer, Paul Hopper explained that the application did not remove permitted development rights in terms of installation of a heat pump and noted County Durham Plan (CDP) Policy 29 referenced the need to minimise greenhouse gases, and therefore there was policy that would support the precise detail of requirements, if Members were so minded. The Chair asked if that condition would be for a negotiation between the Applicant and the Council as regards measures, rather than specific requirements, such as a heat pump or electric vehicle charge points. The Principal Planning Officer noted it would be for the submission and agreement of specific details with Officers, such as heat pump, solar panel or electric vehicle charge points.

Councillor K Shaw noted, upon initially reading the report, he had concerns as regards flooding and highways, however, having listened to the Officers in their presentation he would move that the application be approved, with the additional condition as suggested. Councillor J Elmer seconded the proposal.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report, with an additional condition in respect of a carbon reduction scheme to be submitted and agreed by Officers.

b DM/21/02774/VOC - 57 Claypath, Durham

The Senior Planning Officer, Leigh Dalby, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was a S.73 application for the removal of Condition No.3 (Outside seating) to permit outside seating within the rear garden on a permanent basis pursuant to DM/19/01789/VOC and was recommended for approval, subject to conditions. The Senior Planning Officer noted the previous trial period had not been for the full 12 months, due to the pandemic, however, Officers were satisfied in terms of the test in respect of noise nuisance.

The Chair asked Councillor R Ormerod, Local Member to speak as regards the application.

Councillor R Ormerod noted his belief in the freedom for people to be able to run a business, and also the freedom for people to enjoy their properties without noise nuisance. He noted he was small business friendly and added the business did add value to the local area. He added it was a residential area and noted there had not been a full 12 month period to assess the impact of noise and therefore it would be for the Committee to consider in coming to a full and balanced decision on the application.

The Chair thanked Councillor R Ormerod and asked Mr F Newton, local resident to speak in relation to the application.

M F Newton explained his family had lived adjacent to the application site for 23 years and added that he refuted the implication within the applicant's statement he was a serial objector, explaining he only objected when there were serious adverse implications for his family. He noted his objections to the application were limited to two issues, the application for the deli in 2010 and the subsequent application as regards outside seating. He explained in 2021 he had objected as he had concern as regards what might have potentially developed from that application. He noted that at that time the applicant had stated that the garden would only be used for the cultivation of produce for the deli. Mr F Newton noted that, as the current application was regards outdoor seating, his concerns had not been without foundation. He explained the Planning Officer's report had failed to identify three key aspects in respect of the application. He noted the close proximity of the seating area to his property, eight metres, with his living room and bedroom being only 12 metres away. He added that the proposed maximum number of customers was up to 25, a number that could clearly generate a large noise and that had not been experienced over the trial period. Mr F Newton noted the seating area was bounded on all sides by buildings, except the side facing his garden and home. He explained that sound generated from the seating area would rebound from the masonry walls towards his and neighbours' gardens. He added that an acoustic specialist would advise that the transmission of sound could only be reduced by physical barriers and noted that a tree belt could only be effective if dense and of considerable depth. He explained that as most of the shrubs and trees between the properties were deciduous, the existing planting barrier would be absent for a large part of the year. Mr F Newton noted the temporary, one-year use for the outdoor seating area was given on the basis that the noise management plan would be adhered to. He noted he would contend that the applicant had failed to adhere to two key parts of the plan, including communication with neighbours.

He noted it was stipulated that residents would be provided with 'phone number and designated contact in the event of excessive disturbance' and explained that he felt the applicant's assertion that he had been unable to fulfil this due to the pandemic was not credible. He noted he and his neighbours had been receiving post throughout the pandemic without issue. Mr F Newton added the applicant implied that if residents wished to complain they could look up his details in the phone book or on the internet, adding that was not within the letter or spirit of the noise management plan.

Mr F Newton noted the applicant had stated that the boundary fence for the seating area would be a 1.8 metre high close-boarded fence for the purpose of 'extra privacy and noise reduction'. He added that the photographs submitted showed this applied to the site boundary to the east and not to the side of the seating area which faced his property. Mr F Newton noted the applicant had stated that, due to the pandemic, large numbers had been using the external seating area, however, the applicant had not explained how, with limited seating capacity, this would have been possible. He noted that while the area was only a short distance from the city centre, it was a quiet residential area, with the deli being the only commercial property with a rear garden on that side of upper Claypath. Mr F Newton noted the applicant had failed to demonstrate that the proposal offered a facility to the community that was not available within a five minute walk. He added the nearest facility with outdoor seating was Millennium Square, three or four minutes away, which boasted numerous food outlets which had outdoor seating in situations that did not affect residents.

Mr F Newton noted his garden was very small and noted he had the right to enjoy it in accordance with the Council's policy on amenity and the Human Rights Act. He noted the application would affect his use of his garden for up to eight to ten hours a day, seven days a week. He reiterated that even within the conditional period the applicant had failed to comply with the noise management plan and added that did not bode well for the future. He concluded by noting there was no justification for the application and asked that Members refused the application.

The Chair thanked Mr F Newton and asked Mr Rory Handy, the applicant, to speak in support of his application.

Mr R Handy noted, in response to Mr F Newton, that there was ample space for 25 people to sit in the rear garden and added that there had been so on a number of occasions. He explained that the garden was a peaceful place, the business was not a pub, it did not serve alcohol and the space was a place for local residents to meet over a tea or coffee, or to read a book. He noted there had been no noise complaints whatsoever and added that the original application for the seating area had received a few more objections, however, the majority had not objected to this application.

He noted those objecting were Mr F Newton and another neighbour who objected stating the area overlooked his property. M R Handy explained he did not know what he needed to do in order to reassure Mr F Newton and added that the deli was a community place, that he was community minded person who lived locally and concluded by noting that if the business was ran by different people then there would be a completely different outlook for the business.

The Chair thanked Mr R Handy and asked the Committee for their comments and questions.

Councillor J Elmer asked for clarification in respect of the trial period as it appeared to largely overlap with the pandemic restrictions. The Senior Planning Officer noted the period ran from September 2020 to September 2021, with pandemic restrictions being in place from November 2020. He added that had meant it had not been possible to operate over that winter period, November 2020 to April 2021.

Councillor C Hunt asked if the seating area had helped the business, Mr R Handy noted it had helped as people felt safe meeting outdoors. The Chair noted that the issue was not a planning matter.

The Senior Planning Officer referred Members to the photograph showing the extent of the close-boarded fencing around the seating area and noted it did not extend beyond the seating area as the use and mitigation were for the seating area. He further explained that, in respect of the trial period, the site had operated for 259 days out of the year and there had been no reported complaints as regards noise or disturbance to the business or the Council.

The Solicitor – Planning and Development, Neil Carter noted that the objector had referred to the Human Rights Act and he explained that Article 8 was the right to respect for private and family life, home and correspondence and therefore it was a right that would be engaged as regards this particular situation. He added that, however, it was not an absolute right, it was a qualified right which meant that it could be interfered with insofar as in accordance with the law (normal planning law and principles) and where it was proportionate to do so. He noted that if Members were minded to approve the application, his advice would be that, in accordance with normal planning principles, it would not be something that infringed Article 8 of the Human Rights Act.

The Chair noted five letters of support for the application, though noted he was not aware if any of those were neighbours to the property, though the objectors were neighbours.

He noted that those using the facility would be deli customers, speaking at normal levels, however noted that up to 25 people speaking a normal level could be quite loud.

Councillor D Brown asked, through the Chair, if the objector could quantify the noise issues, noting he had stated eight to ten hours when addressing the Committee. The Chair asked Mr F Newton if he could respond. Mr F Newton noted that some supporters would no doubt be considerate and noted some people may be louder than others. He noted the proximity to his property with no barrier to block the intrusive noise, and reiterated as regards the surrounding buildings, effectively a canyon, amplifying the noise. He noted on occasion he had been able to make out conversation from the seating area. He reiterated his concerns was if 25 people were all speaking together that this would compound the issue. He reiterated he had not been provided with a number to complain to and added he did not feel his relationship with the applicant was such that he could go round to the deli and Environmental Health had been unavailable.

Councillor J Elmer noted that he felt surely a solution could be put in place to allow both activities to continue. He suggested that perhaps the application was too soon given the evaluation period had not been the full 12 months. He noted that there was a threshold in terms of noise level to cause a nuisance and that such require monitoring of levels to establish whether that was the case. He asked if any actual measurements had been taken, as that would be important for Members to be then able to decide whether any additional measures, such as acoustic fencing may be required. The Senior Planning Officer noted that in respect of the 2019 application for the 12 month temporary use, the Environmental Health Officer assessed that application and had noted while there was set guidance in relation to some cases, such as pubs, there was not in terms of a café. He added that therefore the advice from Environmental Health at that time was for temporary use, to draw out any issues or complaints. The Chair noted that was not the same as an assessment. The Principal Planning Officer noted the principle of the development had been established through previous permissions and that there would have been an amount of work undertaken in terms of whether the principle of development was acceptable. He added that the application was granted, with a 12 month period in which to establish whether or not those mitigation measures were found to be adequate. He noted that the question was had there been sufficient time, given the pandemic, to be able to clearly demonstrate any issues in terms of noise nuisance. He added that clearly the objector did not believe so and also had mentioned the area not being at capacity. The Principal Planning Officer noted that the applicant stated the area had operated at capacity.

He noted the question for Committee was whether they considered that the premises had been operating sufficiently robustly within the 12 month period to be able to say that there would be no further impact in terms of residential amenity, qualifying that impact in terms of reasonableness, with one person's tolerance being different to another's. The Principal Planning Officer added that, in relation to assessment of noise, there was no requirement set out within the conditions, and also the noise management plan did not require such an assessment. In terms of compliance with the noise management plan, the objector had believed it had not been complied with, with the applicant having given an explanation in that regard.

Councillor J Elmer noted he felt the Committee could not make a decision as they did not have details of a measurable level in terms of noise and therefore, he would be minded to move against the application and ask for further assessment in terms of noise.

The Senior Planning Officer noted that at the time of the original application the Environmental Health Officer had noted that they were sceptical as regards the ability of a noise assessment to be undertaken as it would be difficult to control the noise level and external noises and there were issues in terms of whether equipment would be able to adequately assess the noise levels. He added this had led to the suggestion as regards a temporary period, initially put forward as a six month period, which was increased to 12 months to encompass the summer months. Councillor J Elmer added he felt it would be possible to conduct an assessment and that acoustic engineers would disagree with that advice from Environmental Health.

Councillor K Shaw asked it would be possible to clarify whether the business was open for use by patrons from April 2021 through to September 2021. The Chair noted the applicant may answer, Mr R Handy noted the premises was open as soon as it had been able to do so, in line with Government legislation.

Councillor K Shaw noted he had listened to the comments from all and proposed that the application be approved as per the recommendation. He was seconded by Councillor A Surtees.

Upon a vote being taken it was:

RESOLVED

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

c DM/21/02896/FPA - Fernhill, Newcastle Road, Crossgate Moor, Durham

The Planning Officer, George Spurgeon, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the redevelopment of stables to provide 1 no 4 bed dwelling and was recommended for approval, subject to conditions.

The Planning Officer noted that an application for four dwellings at the site had been refused by Committee at its meeting in January 2021 and the current application had been called to Committee at the request of the City of Durham Parish Council. The Planning Officer noted that the National Planning Policy Framework (NPPF) set out at Paragraph 149(g) that development in the Green Belt should be regarded as inappropriate unless the redevelopment of previously developed land did not have a greater impact on the openness of the Green Belt than the existing development. He added that the proposed development was comparable to the existing stables and also noted there were no objections from the internal consultees. He concluded by noting that it was felt the application was in accord with the relevant policies within the NPPF, CDP and Durham City Neighbourhood Plan (DCNP) and therefore the application was recommended for approval, subject to conditions as set out within the report.

The Chair asked Parish Councillor Grenville Holland, representing the City of Durham Parish Council, to speak in objection to the application.

Parish Councillor G Holland noted the proposed development at Fernhill brought with it potential damage to our precious Green Belt and to the area of great landscape value. He added the Parish Council strongly objected to the proposal and urged Members to refuse the application. He noted that furthermore, the Committee's decision would measure both the strength and the integrity of three important planning documents: the 2021 NPPF, the 2020 CDP and the 2021 DCNP.

Parish Councillor G Holland explained that Fernhill's position within the city was clearly identified by the CDP Inspector in 2019, adding that he had recognised that Fernhill was an extension of Flass Vale and was therefore entrenched within the Durham City western Green Belt forming an integral part of the city. He added that Fernhill had been in the Green Belt since 2004 under the Durham City Plan, with the definitive map still in place today in the DCNP and carried weight.

Parish Councillor G Holland explained that the Government attached great importance to Green Belts, noting that fundamentally you did not build houses in a Green Belt unless there were exceptional circumstances. He added that the NPPF, Paragraph 149, stated that the local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, however it offered seven exceptions:

1. Buildings for agriculture and forestry - Fernhill does not qualify.
2. Provision of sports facilities - Fernhill does not qualify.
3. The extension or alteration of a building but not above the size of the original building - at Fernhill, the proposed building was new and was higher than and larger than the present stables, saying it was going to be well made does not meet the exception.
4. The replacement of a new building providing that it was for the same use and not materially larger - the application was not for a stable.
5. Limited infilling in villages - this was not relevant to Fernhill.
6. Limited affordable housing for local community needs - Annex 2 of the NPPF made it clear that this was not a relevant exclusion for Fernhill.
7. Limited infilling on previously developed land to meet an “identifiable affordable housing need” that will not harm the openness of the Green Belt - by definition, the proposed four bedroom house in that location was not an affordable housing need and therefore did not qualify as an exception.

Parish Councillor G Holland noted that, put simply, Fernhill did not qualify for any one of those exceptions, and must be refused planning permission because there were no very special circumstances as demanded by the NPPF, Paragraph 147. He added that Fernhill was also within an area of great landscape value and that placed an additional constraint, not only in reference to the 2020 CDPP but also the 2021 DCNP. He noted such areas warranted special protection and the construction of a four bedroom house, because of its size and mass, however nicely made, would intrude into the lovely landscape setting whose compass covers many miles to the west of Neville’s Cross. Parish Councillor G Holland explained those essential protective measures were found in NPPF Paragraphs 148, 149 and 174, which in turn underpinned CDP Policies 20 and 39 and DCNP Policies H3 and G4. He asked that, faced with a clearly defined set of policies that are now in place, how could the application for a four bedroom house at Fernhill merit planning permission? He noted the report clearly sought to find a way through the very obvious fact that the application failed to meet a raft of NPPF, CDP, and DCNP policies. He added that indeed, perhaps to alarm Members into agreeing approval, the Officer’s submission even included, at Paragraph 69, reference to a legal challenge in 2017 against Dartford Borough Council.

Parish Councillor G Holland noted, however, that legal challenge did not entail the infringement of a Green Belt but was linked to a gypsy encampment and rested on an interpretation of the words “previously developed land”. He added that, in the context of Fernhill, those three words were contained in the sentence, NPPF paragraph 149 (g), which read: “where the development would re-use *previously developed land and contribute to meeting an identified affordable housing need*”. He reiterated that was Fernhill, not Dartford.

Parish Councillor G Holland explained that, while having some sympathy with the applicants, the policies of the planning guidance offered by the NPPF, the CDP and the DCNP must be respected and be used by Members in making their decision on the application, adding many of those policies had been hard won and must not now be forfeit. He noted that in particular, simply presenting the proposed new building as a rather nice house whose impact would not make that much difference anyway, did not cross the threshold for the very special circumstances described in NPPF Paragraph 147. He noted that therefore the Parish Council asked that Members refuse the application as being contrary to the NPPF Paragraphs 147, 148, 149 and 174, CDP Policies 20 and 39, and DCNP Policies H3 and G4.

Parish Councillor G Holland noted that, in the final analysis, the meeting was about the integrity of the planning policies that now protect our countryside. He added it was about whether the exceptional circumstances that allowed them to be breached had been achieved. He reiterated that the Parish Council believed that they had not and therefore, the application should be refused; and that a failure to do so would undermine the integrity of the very policies upon which, in the last decade, we had devoted so much time and effort in order to protect our environment now and in the future.

The Chair thanked Parish Councillor G Holland and asked Mr Michael Hurlow, representing the City of Durham Trust, to speak in objection to the application.

Mr M Hurlow explained that the Trust had made clear in its objection the value of the area of high landscape value and Green Belt. He added that the area had not been an accidental inclusion in the Green Belt, and explained it was strategically placed in the important greenspace forming the Green Belt as it ran down into Flass Vale and the City. He noted it was very difficult to see how a site occupying over half of the area at the neck of the Flass Vale wedge, as it crosses the A167, could possibly be less than important. Mr M Hurlow noted that the CDP Inspector upheld that, forcefully noting that it was part of the attractive rural area forming the setting of the historic city.

He noted that it was not wholly correct to state that the site had a long history of Officer support for development, Mr M Hurlow explaining that he was an Officer with the City of Durham Council before its closure and, with others, he recognised the value of the site as Green Belt and the harm that development would cause. He noted the principle had more recently been upheld at appeal and by rejection in relation to other proposals. He added that to term the site as 'private garden' sold the area short, not a description that an estate agent would understand. He explained it was more like a small estate complete with its own lodge and grounds, adding that it was certainly not 'urban in character', indeed with the Planning Inspector concluded that it was rural.

Mr M Hurlow noted the size of the proposed house had a larger building footprint by the Planning Officer's calculation, the lower storey being 14m² bigger. He added, however, that calculation failed to consider the footprint of the very large excavation to form the lower storey, car park and access and rear garden with its large retaining walls. He noted that at least doubled the size of the development, adding that excavation of that depth and scale must surely be considered 'development.' Mr M Hurlow noted that removing a garage from the application has still left the application undeniably larger than the existing building. He added it was materially much larger than the existing stable block and disproportionate in size. He noted it cannot be possible to conclude that the development had no greater impact on 'openness' when the proposal took out an open area resulting in the doubling the size of the existing developed area occupied by the stables.

Mr M Hurlow explained that there were no Green Belt exemptions under the NPPF for sites that were less publicly visible, just because the public could not easily see the site did not mean that it could be judged as not having an impact on openness, it was a direct loss of green space to development. He noted a High Court judgement in 2017, not reviewed by the Planning Case Officer, identified that any adverse impact was not acceptable under Green Belt policy, it was inappropriate development. He added another High Court judgment also confirmed that any inappropriate development automatically failed to meet the policy to maintain openness. He explained that, in the case of the application, it did not preserve the setting of the city or safeguard the countryside from encroachment and that should lead to rejection of the application as there were strong grounds for doing so.

Mr M Hurlow explained that the Trust considered that there were other reasons to doubt the proposal, in common with other assessments of tree impact, there was no consideration to be found of the longer term implications of such a large excavation on trees. He added that the screening was not guaranteed to be long lasting.

Mr M Hurlow noted the location was not readily accessible by bus, with services being very limited along that stretch of the A167. He added that facilities were not nearby, and, in reality, the development appeared to be accessible only by car, not fulfilling sustainable transport aims. He added that despite Highways' advice to the contrary, there remained local concern about the safety of introducing more access onto the A167 in that position. He noted that it seemed obvious to the Trust that the development was large, failed to sit well with the existing buildings and surrounds and, most of all, impacted negatively on the Green Belt. Mr M Hurlow noted that it would clearly have a greater impact on openness than the current development, something specifically regarded as inappropriate under the NPPF.

Mr M Hurlow added that to allow the application would be to open up the Green Belt to other developments, digging down to create a large, buried building but retaining a similar ground level footprint to any existing outbuildings. He noted that must be seen as a very worrying precedent, approve a stable block but get a large, detached house instead. He explained that protecting green space should be something that was increasingly needed as Authorities consider their response to the Climate Emergency. He explained the Trust was not making this objection to frustrate any business interests of the applicant, it was doing so because of deep felt concern for the importance of the Green Belt, the setting of the city and safeguarding Durham's future as we face the Climate Emergency. Mr M Hurlow concluded by noting that the Trust therefore respectfully requested that the Committee refused this application and chose instead to support protection of the Green Belt and the city's setting.

The Chair thanked Mr M Hurlow and asked Mr Paul Bracewell, the applicant, and Mr Joe Ridgeon, Agent for the applicant, to speak in support of the application.

Mr P Bracewell thanked the Chair and Members and noted the Committee report set out the long history of applications at the site, adding he was pleased to note the recommendation for approval from Council Officers. He explained that the proposed development had been designed from the outset so that it was compliant with Green Belt policy and they had worked hard with the Council's Officers to ensure that the proposals were both sensitive to the landscape in which it sits and provided a unique design which would not impact on the openness of the Green Belt. He added he had employed notable architects, Jane Darbyshire and David Kendall, to design a scheme which was contemporary, but also reflected the locality and would use local materials. He explained that the design was sensitive to the main house by following a similar footprint and roof profile to the existing stables, with low pitched roofs and overhanging eaves. He noted the design made use of the sloped site to create another level of accommodation, partly set in the hillside and below the level of the stables.

Mr P Bracewell explained that, as set out by the Planning Officer in his report to Committee, the design had been fully assessed and considered to be acceptable. He added that the proposed house would have a similar form, mass and height to the existing stable building and the visual impact would be extremely limited from outside of the site due to the boundary trees being retained and by how the house would sit, being set into the hillside. He noted, as already set out by Officers, the proposed dwelling would not have a greater impact on the openness of the Green Belt than the existing stables and therefore accords with Paragraph 149(g) of the NPPF and Policy 20 of the new CDP. He concluded by respectfully asking that Members approve the application.

Mr J Ridgeon thanked the Chair and Members for the opportunity to correct some of the points raised by the objectors. He explained that in relation to the large garden, referring to Paragraph 59 of the Committee report, the paragraph set out the Planning Inspector's own assessment of the site when looking at the CDP and stated, '*Fernhill is a detached house standing within a large garden surrounded by mature vegetation*'. He added that assessment of the site related to Paragraph 149 of the NPPF and noted he would confirm, and that Members may also wish to confirm with their Officers, that what had been set out in terms of how that Paragraph should be read had been set out incorrectly. He noted it read: '*...complete redevelopment of previously developed land... (of which the garden site was), ...whether redundant or in continuing use... (of which it was in this case), ...which would: – not have a greater impact on the openness of the Green Belt than the existing development*'. Mr J Ridgeon noted that was the test Members would need to assess the application against.

In reference to the point of sustainability raised earlier in the meeting, Mr J Ridgeon explained the building had been designed and orientated with solar gain in mind, and with overhanging eaves that provided solar shading in the summer, very much a sustainable design for the building. He added that it was proposed to use locally sourced materials, including stone, to ensure that the building sat nicely in relation to Fernhill itself, which as Officers had noted was a non-designated heritage asset. Mr J Ridgeon noted that CDP Policy 20 required compliance with national policy which in the case of the application was Paragraph 149(g) of the NPPF, and he reiterated that was the test the Members should be assessing the application against. He added that they had worked hard to ensure that Council Officers, including Landscape Officers, Design and Conservation Officers and the Planning Policy Officers were all content that the scheme complied with policy. He concluded by thanking Members and noting he was happy to answer any questions they may have.

The Chair thanked Mr P Bracewell and Mr J Ridgeon and asked the Planning Officer if he wished to comment on the points raised by the speakers.

The Planning Officer noted that NPPF Paragraph 149(g) read: *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development'* would be an exception to the construction of new buildings as inappropriate development, as set out by that paragraph. He added that the case law referred to within the Committee report was around the definition of previously developed land. He noted that the NPPF defined previously developed land and it noted that garden land within the built up area was excluded, however, it did not refer to garden land outside of the built up area. The Planning Officer noted that the case referenced demonstrated that a residential garden, outside of the built up area would be considered as previously developed land. He noted that was a key consideration for the application as the site would have to be considered as previously developed land for the exception as set out at NPPF Paragraph 149(g).

The Planning Officer noted concerns had been raised in respect of the Area of High Landscape Value (AHLV) and added that Landscape Officers had looked at the proposals and had provided comments noting that the site was well screened from the landscape, the development would not be readily visible from outside of the application site and there was a row of mature trees that would provide effective screening, and the surrounding topography also screened the dwelling. The Planning Officer explained that therefore the impact on the AHLV was not considered to be adverse. He noted the issue of the site not being readily accessible by public transport had been raised and explained that the site was within 1.6 kilometres from the defined city of Durham, considered to be a reasonable walking distance. He added there was a bus stop approximately 560 metres from the application site at Fieldhouse Lane.

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

Councillor J Elmer noted the application site was within the Green Belt and was classified as an AHLV. He noted that residents within the city had battled long and hard to preserve the Green Belt and the current boundaries were settled as part of the adoption of the current CDP, at the Examination in Public in 2019. He noted that the CDP deferred to the NPPF in relation to policy on Green Belt. He quoted Paragraph 147 of the NPPF: *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*. He added he felt very special circumstances had not been demonstrated in this situation.

He continued by quoting NPPF Paragraph 148 *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'*. Councillor J Elmer explained he felt the application was 'not hitting' that paragraph and noted that it meant that even if it could be argued that benefits outweighed harm, the applicant still needed to demonstrate that there were very special circumstances. He reiterated that he felt there were no very special circumstances and therefore he felt it classified as inappropriate development, with the default position being to refuse planning approval.

Councillor J Elmer noted the NPPF continued at Paragraph 149 setting out: *'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

- a) *buildings for agriculture and forestry;*
- b) *the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*
- c) *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- d) *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- e) *limited infilling in villages;*
- f) *limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*
- g) *limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*
 - not have a greater impact on the openness of the Green Belt than the existing development; or*
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.'*

Councillor J Elmer noted: exceptions a) and b) did not apply; in terms of c) the building was getting bigger; in terms of d) it was for a different use, not a stable, and was getting larger; e) did not apply; and f) did not apply as it would likely be an expensive property.

Councillor J Elmer noted that exemption g) was the most significant and noted that, as the proposed development was larger, there would be a greater impact on the openness of the Green Belt than the existing development. He noted it was not about looking into the site from the outside, it was also about the densification, the growth of buildings on the site. He noted in making those assessments there were two components, one being the effect on views looking in from outside, the other being the actual change on site, within the grounds themselves. He added that he felt the application failed in that aspect.

Councillor J Elmer reiterated that the second point in exception g) noted: '*not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority*'. He noted the word 'and' between '*...re-use previously developed land*' and '*contribute to meeting an identified affordable housing need...*' and noted the application was not contributing towards affordable housing need. Councillor J Elmer noted he felt that it was not one without the other, both were needed due to the word 'and'. He noted the Officers argued that the application would not affect the openness of the Green Belt, though that was questioned by the Parish Council and City of Durham Trust.

Councillor J Elmer noted that whether the application should be approved was dependent upon whether it could be considered exempt from normal Green Belt restrictions as it would re-use previously developed land and contribute to meeting affordable housing needs. He noted the applicant makes the case that it should be classified as previously developed land, citing case law of *Dartford v Secretary of State*, however, he felt it was not a relevant parallel situation as that application was not within a Green Belt, where development needs to meet its own specific tests and with a much higher bar to be applied. He added that he saw the argument in that case as being that gardens in the countryside should also be regarded as previously developed land. He noted that he felt the application site could not be considered garden land as it comprised of stables and grazing land as a component of a large, landscaped area. He noted, if one was to follow that line of logic, the conclusion was that countryside estates, throughout the landscape, might be classified as gardens, therefore previously developed land, and therefore developable. Councillor J Elmer noted that would set a precedent for the development of gardens and small estates across our Green Belt and beyond. He added that even if one was to consider the site previously developed land, he felt it would need to meet the affordable housing test, which it did not. Councillor J Elmer explained that Green Belt policies within the CDP attempted to draw a line, with the goal being to protect the heritage and environmental assets of Durham for perpetuity. He added that approval of the application would set a precedent and make it more difficult to defend the Green Belt from future development.

He noted he felt the application failed to cohere with Part 13, Paragraph 149 of the NPPF and Policy 20 of the CDP, both relating to the conservation of Green Belt and therefore he moved that the Officer's recommendation of approval be rejected. Councillor E Mavin seconded refusal of the application.

Councillor K Shaw moved that the application be approved as per the Officer's report, he was seconded by Councillor A Surtees.

The Chair noted the two motions, with the motion for refusal having been put first and asked the Solicitor – Planning and Development to advise.

The Solicitor – Planning and Development noted that first he wished to make sure Members of the Committee were fully conversant with the relevant part of the Green Belt policy. He noted that the very special circumstances test in Paragraph 148 of the NPPF only applied where the proposal was inappropriate development in the Green Belt and was a test of weighing benefits against harm. He noted that Officers were saying that did not apply here as there was an exception which would make the proposals not inappropriate development in the Green Belt. He explained that came down to an interpretation of NPPF Paragraph 149(g) which stated that redevelopment of previously developed land, where it would not have a greater impact on the openness of the Green Belt than the existing development, would not be inappropriate. The Solicitor – Planning and Development noted there was no requirement for the proposal to include an element of affordable housing, adding that was a separate limb of Paragraph 149(g), being an either/or test and not a test requiring both criteria to be met.

In respect of previously developed land, the Solicitor – Planning and Development noted the reference to Dartford v Secretary of State case and explained that related to whether garden land, outside of the built up area could be regarded as previously developed land, with the Court in that case saying that it could. He noted that while it was not a Green Belt case, that did not matter as the case was about the definition of previously developed land. He explained to Committee that the nub of the policy test was did Members regard the development as having a greater impact on the openness of the Green Belt than the existing development on site. He added that the Planning Officer had set out quite comprehensively in his report the reasons why there was not a greater impact on openness and if Members accepted that then it would be for the application to be approved, and if Members took a different view then it would likely be for refusal on the basis that very special circumstances had not been demonstrated. The Solicitor – Planning and Development noted the motion for refusal had been moved first and asked to hear more from Councillor J Elmer in terms of his reasons for refusal.

Councillor J Elmer referred to NPPF Paragraph 149(g) and noted he disagreed as regards the either/or interpretation, adding to him it was clear it was worded: '*not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need...*'. He added that even if the criteria did say 'or' rather than 'and' he felt that it was pretty clear that there would be impact on the openness of the site as the building was going to be bigger than the existing footprint, and not just the building but associated access structures, tarmac and so on. He noted the mass of the building would be bigger, and the associated structures, would incur on the openness of the site and therefore he felt there was a policy justification for refusal. Councillor J Elmer reiterated his concerns as regards setting a precedence for development in the Green Belt, adding it would be used by other applicants across the Green Belt to argue their estates could be classified as garden and therefore developable. He added the pathway to obtaining residential development would be clear, first build stables, then convert to house. He noted those were his major concerns in defending the line in terms of protecting the Council's Green Belt.

The Solicitor – Planning and Development asked Planning Officers to display NPPF Paragraph 149(g) on screen for the Committee. He referred Members to the two bullet points as set out under Paragraph 149(g), namely:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority*

The Solicitor – Planning and Development noted the word 'or' in between the two bullet pointed limbs of Paragraph 149(g) and explained this meant the second limb to the exception was in the alternative. He added it was the first limb that was in play, noting if the scheme had been for affordable housing then the second limb may well have been in play, however, it was not on this occasion. The Solicitor – Planning and Development noted what he understood from Councillor J Elmer was that, in reference to the first bullet point of NPPF Paragraph 149(g), Councillor J Elmer took the view that the proposal had a greater impact on the openness of the Green Belt than the existing development and for that reason it took it outside of the exception to inappropriate development and in those circumstances there would have to be a demonstration of very special circumstances sufficient to outweigh the harm by way of inappropriateness and any other identified harm, and Councillor Elmer did not feel there were any such very special circumstances.

The Solicitor – Planning and Development noted that was the reason associated with the motion for refusal by Councillor J Elmer, with the rival motion for approval being that the proposals did not have a greater impact upon the openness of the Green Belt than the existing development and therefore availed itself of the exception set out at NPPF Paragraph 149(g) and therefore there was no need to demonstrate very special circumstances, as set out in the Officer’s report. In reference to precedent, the Solicitor – Planning and Development concluded by reminding Members that they must determine the application that was before them and not think about what may or may not happen at some unspecified time in the future.

Councillor J Elmer noted the Solicitor – Planning and Development summary of his position was accurate and added that concern as regards the classification of the site as previously developed land. He noted he felt it was a very tenuous argument to make and noted Members could only go down that thread if they were to accept that definition of previously developed land based on case law that did not seem to come from a parallel situation. The Solicitor – Planning and Development reiterated his views in terms of the case law, in that it did not matter whether it was from a Green Belt case or otherwise.

Upon a vote being taken it was:

RESOLVED

That the application be **REFUSED** as the proposed dwelling would have a greater impact on the openness of the Green Belt than the existing stable building and so amounts to inappropriate development within the Green Belt for which there are no very special circumstances, contrary to Policy 20 of the County Durham Plan and Paragraphs 147 - 149 of the National Planning Policy Framework.

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DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Special Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Thursday 25 November 2021** at **1.30 pm**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Brown, J Elmer, L A Holmes, C Hood, N Jones, P Jopling (substitute for J Cosslett), C Kay, D McKenna, R Manchester, C Marshall, E Mavin, K Shaw and A Surtees

Also Present:

Councillors J Chaplow, M Wilkes and M Wilson

1 Apologies for Absence

Apologies for absence were received from Councillors J Cosslett and S Deinali.

2 Substitute Members

Councillor P Jopling substituted for Councillor J Cosslett.

3 Declarations of Interest.

The Chair, Councillor D Freeman noted in respect of Item 4b, DM/21/02227/FPA – 12 Silver Street, Durham, that he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application. He noted he was also a Member of the City of Durham Trust, however he was not a Trustee and had not been party to their submission in objection to the application.

Councillor A Surtees noted, in respect of Item 4e, DM/21/02693/FPA - 37 Seaside Lane, Easington Colliery, she was a Local Member for the area and would wish to speak in respect of the application and then withdraw from the Chamber while a decision was made thereon.

4 Applications to be determined by the Area Planning Committee (Central and East)

a DM/21/02127/FPA - Land At Rowen Court And The Oaks, Esh Winning

The Senior Planning Officer, Leigh Dalby, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the development of 89 no dwellings including hard and soft landscaping, public open space, highways and associated works and was recommended for approval, subject to conditions.

The Senior Planning Officer noted corrections to the report, in connection to highway and pedestrian safety the report stated 105 parking spaces, with the correct number being 124 spaces. He added that, in reference to landscaping and trees, the report set out the applicant was installing 39 trees, the correct number was 40 trees.

The Senior Planning Officer noted that, on balance, Officers felt the benefits of the scheme outweighed the disbenefits and recommended approval, subject to conditions as set out within the report. He noted that since the publication of the report, further discussions with the applicant had taken place in relation to comments from the Police in terms of a requirement for two metre fencing and also inner fencing to some of the properties. He explained those would be secured by an additional condition should Members be minded to approved the application. The Senior Planning Officer added that Condition 20 would be removed, to be replaced by a Section 106 Agreement to ensure all units were build-to-rent units.

The Chair asked Councillor J Chaplow, Local Member to speak in relation to the application.

Councillor J Chaplow thanked the Chair and Committee and explained that the bungalows within the proposal were greatly needed in the area, citing examples of residents that could potentially benefit from the development. She noted oak trees would be retained, added that the houses proposed were brilliant family homes, and noted the scheme would mean the area would be maintained and looked after. Councillor J Chaplow noted she wanted the 54 bungalows for her area and explained that there was easy access to the village centre and services, with bus services.

She concluded by emphasising how important it was to secure bungalows for her local area and that she would not wish the land to be 'banked', rather for development to begin as soon as possible and urged the Committee to approve the development.

The Chair thanked Councillor J Chaplow and asked Councillor M Wilson, Local Member, to speak in relation to the application.

Councillor M Wilson thanked the Committee and reiterated that bungalows were much needed in the Deerness division. She added that the 54 bungalows included in the scheme would help free up many family homes within the village and the development of a brownfield site would help clear up the eyesore which had remained since the demolition of the previous housing. She concluded by noting that the development would help support the local economy and schools, was a fantastic opportunity for Esh Winning, and reiterated her support for the application.

The Chair thanked Councillor M Wilson and asked Mr James Litherland, representing the applicant, and Mr Craig Van Bedaf, Architect for the applicant, to speak in support of the application.

Mr J Litherland thanked the Chair and Committee and explained that the proposals represented around two years work, working with Council Officers and Local Members to produce a scheme which brought forward the largest number of bungalows in a generation. He noted that Place First, the applicant, was an award winning build-to-rent provider and regeneration specialist with a strong track record of place making and building sustainable communities, managing around 1,400 properties in the UK. He explained Place First believed those residents relying on the private rented sector in Durham deserved a better deal, with high quality energy efficient homes where they could thrive. Mr J Litherland noted that the scheme would deliver 54 bungalows and 35 homes on a brownfield site which had been derelict and vacant for over a decade. He added that other housebuilders had dismissed the site and noted that planning permission granted in 2013 had never been implemented due to the significant physical and viability constraints of the site. He explained Place First saw the opportunity of the site, with an investment for the long-term of over £12 million for a multi-generational neighbourhood, professional managed and maintained. He reiterated that Place First created places, not just homes, and explained that their unique approach to public realm, landscape and communal areas allowed their neighbourhoods to address issues of social isolation and loneliness, which had become increasingly prevalent during the COVID-19 pandemic.

Mr J Litherland noted that Place First would remain ingrained in the Esh Winning community via their dedicated Residential Development Managers who would, on top of day-to-day estate management, would keep residents up-to-date on local events, campaigns and charity fundraisers. He concluded by noting that, with the support of the Committee, Place First would look forward to starting work in Spring 2022, with final completion aimed for 2024.

Mr C Van Bedaf thanked the Committee for the opportunity to speak in support of the application. He noted, as architect and designer of the scheme, he was extremely passionate as regards the scheme in front of Members. He explained that the scheme was a bespoke design response, led by Place First's desire to encourage community engagement and interaction within the development, to a diverse range of ages and residents. Mr C Van Bedaf added that, as an architect with over 20 years' experience in the area, and with a large proportion of his work being for large housebuilders, it was a 'breath of fresh air' to work with a developer who was committed to outstanding community architecture and with a long-term investment in the area. He explained that he, and Place First, felt there was a lack of high quality bungalows in Durham, with residents demands not being listened to when it came to new developments in the region. Mr C Van Bedaf added that it was exciting to work on the delivery of such a large number of bungalows, unprecedented in the region. He explained that there had been a number of technical constraints to overcome and incorporate to be successful and added that all issues in relation to topography, landscape retention and existing services on-site had been incorporated within the scheme. He noted that by retaining high quality oak trees within the scheme, and working with the site's existing levels, it had been possible to frame the houses with imaginative landscaped areas that would promote health and wellbeing. He noted that the inclusion of open space areas not only provided true landscape character, they also provided clear focal points for the development, promoting community interaction for potential future residents of the scheme. He concluded by noting the lengthy gestation of the application was reflective of the detailed and careful consideration given to every aspect of the development and would respectfully request that the scheme before Members be approved.

The Chair thanked the speakers and asked the Senior Planning Officer if there were any further points of clarification.

The Senior Planning Officer noted that the development would result in three trees, which were requested to remain, being removed from the site.

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

Councillor D Brown noted that while report noted no objections from Northumbrian Water Limited (NWL), Paragraph 47 of the Committee Report stated that no drainage or foul water documentation had been submitted. He noted that issues of sewage being pumped into inland waterways and the sea were national news, noting large fines for such water companies. He asked if there had been consultation to ensure there was sufficient capacity. He added that the report did not mention electric vehicle (EV) charging points.

Councillor J Elmer noted he had a few concerns, though he noted he would caveat those by noting that he was in favour of the principle of development at the location and for bungalows. He continued by citing the issues as listed by the Senior Planning Officer in terms of the Highways Section having concerns relating to parking and a lack of EV charging points. He noted that all Members had seen the impact that a lack of sufficient parking could have on an area and stressed that was an element that was important to get right. He noted Landscape Officer had expressed concern as regards the loss of trees and while the Ecology Officer had stated no concerns, they noted the applicant had not used the Department for the Environment, Farming and Rural Affairs (DEFRA) Metric 3 in terms of the policy requirement for net gain in terms of biodiversity, adding he felt that adding bat and bird boxes was not sufficient to support a net gain, with there being currently numerous nesting opportunities. Councillor J Elmer noted other points raised in the report relating to: the application not complying with M4(2) requirements; no contribution towards the NHS in terms GP capacity; some areas not meeting national interior space standards, failure to protect against crime, as per statements from the Police.

Councillor J Elmer noted that the scheme did not include EV charging points and was not building for life. He added there was nothing mentioned in relation to containing carbon emissions or in respect of technology such as heat pumps or solar panels. He noted it was the duty of the Planning Committee to protect the policies within the County Durham Plan (CDP) and the application appeared to breach many of those policies. Councillor J Elmer noted that Planners had stated that the gains were greater than the issues, however, he felt that the gains were only in terms of the number of properties, adding that he felt that gave the wrong message to developers and that the line should be held in terms of CDP policies. He explained he felt the application could be refused and, as there were sound reasons for refusal, any subsequent appeal against refusal would also be refused and the applicant may then come back with an amended scheme. Councillor J Elmer moved that the application be rejected, he was seconded by Councillor E Mavin.

The Principal Planning Officer, Paul Hopper noted that both NWL and the Council's Drainage Section had offered no objections, subject to conditions which would require precise details, noting existing capacity as the area had been previously developed. In respect of the points raised by Councillor J Elmer, where the application was in conflict with policy it was reflected within the Committee Report, with the reasons why and the suggested weight in terms of the conflict with policy. In respect to trees, he noted there had been a number of amendments and trees had been retained where possible, though it had not been possible in all cases. He reiterated the Council and the applicant had worked hard to deliver the scheme and referred to Paragraph 101 of the Committee Report where the Council's Ecologist noted a net gain in biodiversity.

The Senior Planning Officer explained there were no proposals for EV changing points, however, Condition 18 referred to parking management strategy, including means of EV charging, to be submitted and approved by the Local Planning Authority prior to first occupation of the properties. He noted that at the time the issues relating to crime had raised by the Police, however, as provided by way of update, the issue had been addressed via the suggested additional condition.

Councillor LA Holmes explained he would like to support the application, however, he had two concerns. He noted firstly the issues in terms of parking, citing developments in his area where vehicles parked on the side of roads was leaving so small a gap that an ambulance could not fit through. He noted the second issue related to the developer refusing to agree to an NHS contribution, with GP surgeries struggling with demand in County Durham, an issue he was particularly aware of being a member of the Adults, Wellbeing and Health Overview and Scrutiny Committee. He added that 89 new properties would mean more pressure on such services, and noted in response to the application the NHS had stated '*an increase to patient numbers may require adjustments to existing premises/access methods... we would be unable to guarantee to provide sustainable health services in these areas in future, should contributions not be upheld...*'. Councillor LA Holmes noted he personally could not support an application that would worsen the ongoing demand issues with GP surgeries as, in an area that was to have bungalows, there was a need to have certainty that GPs could look after those residents and ambulances could get to residents when required.

Councillor C Marshall commended the work of the Local Members and the community in Esh Winning in terms of fighting for new development and bungalows for their areas over a number of years.

He thanked the developer, Place First, for their offer, including bungalows, which seemed very different to the majority of the offer in County Durham from the private rented sector, noting the Council was still awaiting the outcome in terms of regulation of the private landlords around the county. He noted the application allowed for the diversification of that sector.

Councillor C Marshall noted he had spent a lot of time in ex-mining communities, Esh Winning being one such community, and added that it was not the centre of Durham City, was not Sedgefield or Lanchester. He noted Esh Winning was a community struggling to sustain its services and was a community that had lacked investment over generations adding that unfortunately the investment would not come from the public sector. He noted the proposals represented an investment of £12 million to bring the benefits as described in the report, with a large amount of bungalows within the development and a number of family homes to allow people to stay within the community of Esh Winning. He noted the development had many benefits and, as with decisions made on other schemes by the Committee and other Committees, there was a fine balance in terms of the viability of such scheme for the majority of communities across the county due to land values. He noted there was a need to acknowledge that each community was different and asked why Esh Winning should not be entitled to bungalows and a more diverse mix of housing if that was what the community wanted. Councillor C Marshall noted Place First had worked with the Council over a number of years in terms of the proposals and added that the issue for the Council over the coming months would be in terms of saying whether County Durham was open for business or not. He noted the Officer's recommendation was arrived at on balance and was for approval, and that if the application was not approved it could say to potential investors that County Durham was closed for business. He reiterated that Officers had provided their advice, Local Members had championed the scheme and noted that he felt that an investment of £12 million should not be turned down given the need as described. He concluded by noting he supported that the application be approved.

Councillor P Jopling explained no one was saying that they did not want the site to be developed or for bungalows to be built for the residents of Esh Winning. She noted she did not understand why such issues became political. She noted the issue was in terms of quality of life, noting the issues that came with parking problems and the size of the properties. She explained she lived in a bungalow and that it had taken a long time to find a property with enough room where one could feel comfortable. Councillor P Jopling added that people deserved a property they could be comfortable in, not be harassed with parking issues, noting all Members would know from their own areas of the problems in respect of parking disputes. She reiterated that no one was saying not to build, rather saying that it be looked at in a different way.

Councillor K Shaw explained that the application was trying to meet an identified outstanding need, one which was mirrored across County Durham, with there being a deficiency of energy efficient homes that met the needs of the elderly. He added that there were local people trapped in homes that no longer met their needs. He noted the scheme would deliver significant investment, supporting the local community and economy, create jobs and reuse a brownfield site. Councillor K Shaw noted the scheme would provide 54 bungalows that were desperately needed adding he felt there was a need to balance the needs of the ecology and those of the elderly, noting he felt the needs of the elderly must come first. He added that in County Durham there was a deficit of homes to meet the needs of the elderly, with 3,500 people registered on the social housing register alone. He noted that while 54 bungalows might be 'a mere drop in the ocean', it was a significant amount for the village and noted therefore he must support the Officer's recommendation.

Councillor C Kay noted that Councillor P Jopling had stated that she was not saying the people of Esh Winning could not have their bungalows, however, he felt that was exactly what she was saying. He noted that the report had come before Members with a recommendation for approval, an excellent application. He added he recalled the previous application, and approval, for development at the site which had not been taken forward as the scheme did not stack up, with land value not being sufficient to make a return on the investment. He noted the proposal before Members did stack up and noted he would wish for such investment in his area, Coundon.

Councillor C Hood noted there had been reference to the former residential development on the site which had been cleared and asked how many dwellings had previously occupied the site. The Senior Planning Officer noted there had been 61 dwellings on the site previously. He referred to the points raised by Councillor LA Holmes and noted that parking was an issue that the Council had been looking at and the level of parking had been agreed following a local demographic survey undertaken by Place First. He explained that Place First would be managing the full site and require all residents to sign up to a charter which would include parking and the general use of the site. He noted therefore the Authority was comfortable with the level of parking and that it would not cause an issue. The Senior Planning Officer noted reference had been made to the applicant refusing to pay an NHS contribution and explained that was incorrect, rather due to the constraints of the site and viability of the site the applicant was unable to make the payment while making the site viable.

The Principal Development Management Engineer, David Smith noted the debate as regards parking and explained that in-curtilage parking was ideally preferred, however, it was a delicate balance given the constraints of the site.

He noted the previous Highways Development Manager had agreed the applicant could provide a census study which gave information as regards car ownership level, the percentages of households in the area that owned no vehicles, one vehicle, two vehicles and so on. He added that the parking was not at the standard as set out within the Council's Parking and Accessibility Standards 2019. The Principal DM Engineer explained that the overall parking on the scheme was unallocated parking, with a one metre hard strip along Ridding Road, as agreed by the Highways Development Manager, for a 'half-on half-off' arrangement alongside the proposed terraced bungalows, which allowed for a 4.8 metre running lane across Ridding Road. He noted that while not perfect it was not a significant highways risk, given parking was already occurring on Ridding Road. He reiterated that Highways had no objections to the scheme and noted the Senior Planning Officer had referred to the condition relating to EV charge points, noting the issues when looking to provide EV charging points and the level constraints in connection with the site.

Councillor LA Holmes noted he agreed with Councillor C Marshall that the additional strain on the NHS, who had worked hard through the pandemic, was dangerous and added that agreeing to a development, which may result in the NHS being unable to guarantee the healthcare of residents, was also dangerous. He added that he would wish to see the site developed and would wish for £12 million of investment to go to Esh Winning. He noted the amount of investment the Administration had received, working with local MPs, Dehenna Davison, Richard Holden and Paul Howell and noted he wished for that to continue. He reiterated he was not against developing the site, he was not against investment into Esh Winning, however, he was against putting more pressure on to fantastic NHS staff who were already overwhelmed.

The Chair reminded Members not to bring in political issues outside of the development in question. He asked Councillor J Elmer for reasons for refusal in connection with his motion.

Councillor J Elmer reiterated there was a list in the report of the areas where the application lacked compliance with policy, including: failure to meet the financial contributions the Council would have expected, including in terms of the NHS; failure to meet space standards; failure to meet external distance standards, a number of highways issues and potential issues and conflict; impact upon trees and landscape, and failure in terms of policies relating to minimising carbon emissions.

The Chair noted he would allow the applicant to clarify as regards some of issues raised by Members.

Mr J Litherland explained that the constraints of the site were the reason it had remained undeveloped for so long. He explained as regards mining history in the area and noted that the Brockwell Seam ran under the site, the seam had been worked and following site investigations it was noted there would be significant works required in terms of remediation and retainment on the site, with £1 million required to be 'put under the ground'. He added that he hoped that put into context the couple of hundred thousand pounds in Section 106 contributions, with a need to put that money into stabilising the site. Mr J Litherland added that the previous housing on the site was demolished partly as a result of the stability issues. He noted Place First saw the long-term potential of investing in the site, building properties for rent, not short-term build-to-sell. In respect of parking, he noted 124 spaces represented two spaces per three-bed property and one space per bungalow and that the Residential Services Manager on site would monitor issues, alongside the Residents' Charter. He reiterated as regards biodiversity net-gain, with an important tree belt on the periphery of the site which would be retained, which also formed part of the Esh Winning settlement boundary. Mr J Litherland noted issues that had been raised in terms of the calculator within the Environment Act, which was on its third edition, and explained that sites that lay dormant for a long period of time, such as at Esh Winning, built up credits for the fact they have habitat, albeit a habitat not as valuable as that in the proposed scheme. He noted that the current habitat was poor, with the Ecologist employed by Place First, Dr Rachel Hacking having made submission to the Council in that regard, with the Council's Ecologist having agreed the biodiversity point on that basis. He noted in respect of M4(2) non-compliance, it related only to minor points concerning downstairs bathrooms and reduced bedroom circulation space, with all the details set out within the Officer's report. Mr J Litherland noted that the changes required, albeit small would impact upon the total number of units and therefore the viability of the scheme. He noted the work undertaken with the Council in terms of looking at the nationally described space standards, adding the proposals originally were for smaller dwellings and added that larger dwelling would lead to only 78 units, again being unviable. Mr J Litherland concluded by noting he hoped the opportunity for Esh Winning would not be lost and that he had addressed the points raised by the Committee.

The Solicitor – Planning and Development, Neil Carter noted the motion for refusal as proposed by Councillor J Elmer and seconded by Councillor E Mavin. Councillor J Elmer noted that on the basis of the further information received he would withdraw his motion for refusal. The Solicitor – Planning and Development noted Councillor C Marshall proposed the application be approved and was seconded by Councillor K Shaw.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report, with an additional condition in respect of secure fencing and a Section 106 Legal Agreement in relation to build-to-rent units, replacing Condition 20.

Councillor C Marshall left the meeting at 2.40pm

b DM/21/02227/FPA - 12 Silver Street, Durham

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was change of use of upper floors to a 5 bed HMO (use class C4), retail to remain at ground floor and installation of new access door in existing shop front and was recommended for approval, subject to conditions. Members were asked to note the property was a Grade II Listed Building, however, the associated Listed Building consent was not being considered at the current time. Councillors noted the City of Durham Trust had initially objected and subsequently withdrawn their objections, however, they noted a remaining issue in terms of requesting a handrail being installed to the rear access staircase. The Committee were referred to photographs highlighting improvement works that had begun to the rear staircase.

The Chair thanked the Planning Officer and noted there were no registered speakers and asked Members for their questions and comments.

Councillor J Elmer asked, given that the issues raised related to the rear entry and staircase, whether it would be possible to condition for a handrail to be included, as suggested by the City of Durham Trust. The Principal Planning Officer noted it was an element that could be included in Condition 5 if Members desired. Councillor J Elmer noted that, with such an inclusion, he would propose that the application be approved. Councillor P Jopling seconded the proposal.

Councillor C Kay noted that conditions should only be applied if the application was deemed unacceptable without the inclusion of such a condition and asked how that applied to the current situation.

The Principal Planning Officer noted that conditions needed to pass a number of tests, however, as there was already a condition which referenced improvement works, the handrail element could be added to that list of improvement works.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report, with an addition at Condition 5 relating to the installation of a handrail for the rear access staircase.

c DM/21/02109/FPA - New College Durham, Framwellgate Moor, Durham

The Senior Planning Officer, Leigh Dalby, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the erection of a 4.5m high FA standard football pitch boundary fence and was recommended for approval, subject to conditions.

The Chair asked Councillor M Wilkes, Local Member to speak in relation to the application.

Councillor M Wilkes thanked the Chair and Committee and noted he had been asked to refer the application to Committee for determination by the Parish Council, his fellow Ward Councillors and local residents, due to the visual harm the application would cause to the area. He explained that there was the impact to residential amenity as well as impact in terms of the openness of that green area. He explained that Policy 26 of the CDP outlined that developments should maintain and respect green infrastructure and added that the construction of a 4.5 metre high fence, approximately 400 metres in length and containing an area of almost two acres of green open space, would have a significant impact. Councillor M Wilkes noted that it was CDP Policy 31 in relation to visual harm to resident and residential amenity which had created more significant concern. He added that Policy 31 was clear and stated: *'Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated...'*

Councillor M Wilkes noted there were no measures which could mitigate the visual impact and visual dominance of the proposals and therefore the application could be refused under CDP Policy 21.

Councillor M Wilkes asked Members to note the correspondence between the Council and the applicant, New College Durham (NCD), in respect of the application, where Councillor Officers had worked hard to seek a proposal that would have a lower impact. He added that NCD had suggested a three metre high fence would be suitable, with the original reason for the request of the fencing being to prevent dog fouling on the football pitch in the open area. He suggested that a three metre fence should be sufficient to prevent dog fouling and suggested the reason that NCD had not put forward proposals for a three metre fence was that they would need to withdraw their current application and resubmit for the reduced height. He added that given residents would have to look at the fence for decades he felt that was unreasonable. Councillor M Wilkes explained that a three metre high fence would not impact visually or in terms of openness as much as the 4.5 metre fence proposed and there were other options, such as having no fence behind residential properties, however, fencing off the sides. He added that should the fence at the goal end closest to North Terrace be 4.5 metres, to reduce the issues associated with stay footballs, he felt most residents would not object to that option.

Councillor M Wilkes explained that due to the way Alexandra Terrace sat at a lower level, the relative height of the fencing would be approximately six metres rather than 4.5 metres and therefore he requested that the Committee deferred the application to consider such issues, if NCD were happy to do so, or if they would not wish for a deferral then to refuse the application noting it was contrary to CDP policy 31, supported by Policy 26, in terms of impact upon amenity and openness.

The Chair thanked Councillor M Wilkes and asked Mr Richard Prisk and Mr Alan Perry, local residents to speak in objection to the application.

Mr R Prisk noted he lived at Alexandra Drive and that he was a former Planning Officer with over 30 years' experience in County Durham. He explained he and residents strongly objected to the application as it would create a strong urbanising development in an important open space area, integral to the college. He added it would introduce a cage like structure 100 metres long, 70 metres wide, and 4.5 metres in height. He noted that the close mesh construction would provide a strong visual barrier across the site and, while accepting that no open space would be lost, its function, openness and visual appearance would be significantly changed by the proposal.

Mr R Prisk explained that the proposal would make the majority of the playing field not an open space, but an enclosed space, and the land outside of the structure would be less usable as public space and would be likely to receive less maintenance lowering its quality compared to that presently found around the peripheral edges of the site. He noted that would further degrade the appearance of the land for residents and users of the adjoining footpaths.

Mr R Prisk added that the scale of the fencing was equally of concern, with the 4.5 metre height and its proximity to residential properties meaning that it would have a significant detrimental effect on amenity in terms of the visual intrusion and being overbearing. He noted the Officer's report stated the rear gardens of Alexandra Close were 1.5 metres below the playing field and, as a result, the structure would be approximately six metres from those gardens, which was more than the height of their roofs eaves, the equivalent of two and a half times the height of goal posts. In addition, he noted that the southern end of the site would only be 15-20 metres away from people's gardens, in very close proximity. He noted while the report suggested that the fencing was not unusual, it was not a norm and added that there were many examples across County Durham where other arrangements designed to protect sports fields were significantly less intrusive. Mr R Prisk asked that the Committee fully recognise the specific site characteristics and area in relation to general policy guidance within the CDP, including the site's suburban and semi-rural setting, the overall design strategy for the college's development which had maintained building development to the west of the public right of way, a principle that would be undermined by the proposal. He noted the role of the series of open spaces to the east of the public right of way played into the setting of the college which helped to integrate the large mass buildings with the adjoining residential areas, especially since the extension of the college in 2019. Mr R Prisk reiterated that the difference in ground levels exacerbated the effect and added that given those facts it was felt that the scheme should be refused as it was contrary to CDP policies as there was adverse impact on the county's green infrastructure network, Policy 26, and there was conflict with certain criteria in Policy 29 in terms of character, adverse impact and failing to address factors in relation to the views to and from the site, together with maintenance and edge of settlement requirements. He noted the impact of the visual intrusion was contrary to Policy 31, however, he explained residents were appreciative of the issues that New College wished to address, and his fellow local resident would speak as regards potential solutions.

Mr A Perry noted he too was a resident of Alexandra Close and had lived there for 40 years, with his property backing on to the playing field. He explained that he supported rejection of the proposals as the sheer height and scale of the fencing would dominate the previously open space between the college and the houses.

He added that residents would want to look at the way in which they might support any actions the college might take in order to protect the land in question. Mr A Perry noted residents has some sympathy for the college's position and wanted them to improve the maintenance of the area and safeguard their fields. He reiterated that there were alternatives and what residents would ask for was that the college would speak to residents as regards what possibilities would exist and therefore in conclusion residents were asking that the Committee reject the application and ask that New College looked seriously into alternative ways to secure the field and to ensure that the open space was maintained.

The Chair thanked the speakers and asked Mr Paul Bradley and Mr Karl Fairley representing New College Durham to speak in support of their application.

Mr P Bradley thanked the Chair and Committee and noted the college was happy with the Officer's presentation and recommendation for approval. He noted New College had a proud tradition of delivering a wide and varied curriculum to their students. He noted the application sought to enhance the sports facilities that the college provided to help its students achieve their academic goals. He added that the application supported its curriculum and would allow the college to invest with confidence in the sports pitch that the fence would surround. Mr P Bradley explained that it would also enhance the community benefits in terms of the use by the community, such as the Little Kickers and Durham County Junior Football Club. He noted that the college understood the objections and recognised the concerns that had been raised by local residents which they hoped were addressed by the conditions put forward in relation to soft planting as set out in the Planning Officer's report and presentation. He noted that residents of North Terrace, to the south-east of the site, had longstanding issues in terms of wayward footballs and it was hoped the proposed fence would mitigate as much as possible while being in line with Football Association (FA) guidelines.

Mr K Fairley noted an additional point in that the proposals before Members represented an application which had been amended through the planning process, the initial application not having the soft planning element and the college welcomed Condition 4 in terms of a schedule relating to the soft planting. He explained that would help not only in terms of sustainability, but also in terms of biodiversity on the site. He noted that it would also help in terms of the concerns raised by residents living at Alexandra Terrace in terms of the outlook on to the trees that were proposed to be planted. He concluded by noting the fencing would help in terms of footballs that entered the back yards of properties at North Terrace.

The Chair thanked the speakers and asked as regards the 4.5 metre height of the fence. Mr K Fairley noted it was based upon FA regulations as set out by the Officer in his report. The Chair asked the Committee for their questions and comments.

Councillor N Jones noted that the 4.5 metre height of the fence together with the 1.5 metre difference in ground level between gardens and the playing fields represented the height of one and a half double-decker busses.

Councillor J Elmer asked if the applicant had submitted a landscape / visual impact assessment in relation to the application. The Principal Planning Officer noted it had not been felt that was necessary in this instance. Councillor J Elmer noted he felt Members needed sufficient information and would recommend that in future it was requested. He added he felt that there was simply a need to compromise in terms of the height of the fence and asked if there was any willingness to do so on behalf of the applicant. The Chair asked if the applicant could respond with Mr K Fairley noted that a height of three metres along the sides of the pitch with 4.5 metre high fencing at each of the goals may help. Mr R Prisk noted residents were looking for compromise in terms of the amenity of residents.

The Solicitor – Planning and Development noted that the application before Members was for a 4.5 metre high fence and should there be a desire to amend the height of the fence then the application could be deferred with an amended application to come back for the future. He noted if the applicant did not wish that then Members should make a determination of the application before Committee.

Councillor A Surtees proposed that the application be deferred to allow for further discussions between the applicant and Planning. She was seconded by Councillor K Shaw. Mr K Fairley noted the college would support a deferment.

Upon a vote being taken it was:

RESOLVED

That the application be **DEFERRED**.

Councillor C Kay left the meeting at 3.18pm

d DM/21/00185/VOC - Evergreen Park, Crimdon

The Senior Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the siting of 16 executive holiday lodges (resubmission) and was recommended for refusal, for the reasons set out within the report.

The Senior Planning Officer noted properties to the south of the application site were granted a Lawful Development Certificate in 2006 for use as permanent residential dwellings. She noted the report set out that application was contrary to the requirements of CDP Policies 6 and 10 and Paragraph 105 of the NPPF, as well as being contrary to the aims of CDP Policy 29, the Council's Residential Amenity Standards Supplementary Planning Document (2020) and Paragraphs 124 and 127 of the NPPF. It was added the application was also in conflict with CDP Policies 15, 25 and 26 in terms of failure to provide off-site affordable housing and open space contribution and therefore was recommended for refusal.

The Chair thanked the Senior Planning Officer and asked the Committee Services Officer to read out a statement on behalf of the former County Councillor Lynn Pounder.

'As a Councillor last year I made comments regarding the change of use and as a resident I would like to fully support the removal of occupancy condition on this application. It would be a huge benefit to the community with a positive impact for the older population. The choice and benefits of smaller housing in a beautiful location in a popular up and coming area of the County. Evergreen Park is a beautiful well maintained site surrounded by coastal views and amenities at nearby Crimdon beach and dene as well as many other amenities. The transport links are good and the bus stops a very short distance from the site, with links to the surrounding areas. Permanent Residential occupation of the units would free up larger family homes in the area which are currently in high demand. This would create a more specific choice of smaller high quality homes of which we have a shortage throughout the County. The boost to the economy from the change of use to this application would have an extremely positive impact on the wider local community'.

The Chair asked Mr Robert Drummond, the applicant, to speak in support of his application.

Mr R Drummond noted he felt the Committee report was a little misleading and noted the report was numbered Paragraphs 1 to 111. He noted Paragraph 2 lead people to believe Evergreen Park was a 'caravan park', as in touring caravan park. He explained he was the owner and operator of Evergreen Residential Park and he had operated for nearly 20 years uninterrupted with no problems whatsoever. He added that his park was not the only residential park in the UK, noting there were several thousand, reiterating that the park was residential and the reference to caravan park was misleading. He noted his park was residential, for the over 50s and with all occupants owning the units individually. He added all were very happy, with one resident over 90 years of age.

Mr R Drummond noted Paragraph 44 of the report set out that there was a need for affordable housing in the area, however, it noted the use of a mobile home was not a suitable product. He noted he would contradict that and say that for several thousand parks around the UK, which operated as he did with Evergreen Residential Park, it seemed to work. He added that Paragraph 44 also stated that '*discussions with estate agents and mortgage brokers indicate that these units would not be suitable for affordable purchase*'. Mr R Drummond noted that 100 percent of the homes sold, whether they were referred to as units or park homes, had all been sold through local estate agents, Keith Pattinson, Downen and so on.

In reference to Paragraph 72 of the report, Mr R Drummond noted it had referred to the density of the properties and to what was suitable for holiday lets. He explained that the point he wished to make was that mobile, residential, park homes operated completely different to traditional housing schemes of say 30, 40, 50, 60 or 70 houses in terms of the distance between each unit, it being six metres, as required by park home law, three metres to boundaries, six metres between units and two metres to the road edge. He added that he had many other points he could raise in terms of the Committee report, though he did not have the time.

Mr R Drummond noted he made the following case for the application to be granted. He noted that permission was granted at appeal, with costs awarded, for the 16 holiday lodge units. He explained that the relevant condition was for holiday use only and noted that the 16 bays had been installed with 10 having been sold under the holiday restriction, with six units currently unsold. Mr R Drummond noted that due to the COVID-19 situation and the repeated requests of holiday lodge owners, it was necessary for the application for full residential use to be granted. He added that the only issue appeared to be Council Officers making unrealistic demands in respect of Section 106 contributions which his professional advisors did not feel were justifiable.

Mr R Drummond noted the contributions requested rendered the matter unviable and Council Officers were demanding Section 106 contributions from all 16 units, adding that his advisors had felt that was unreasonable, maybe unlawful, and certainly a grey area in planning terms.

The Chair thanked Mr R Drummond and asked the Senior Planning Officer to respond to the points raised.

The Senior Planning Officer explained that, in relation to affordable homes and what would be an acceptable form, the Council's Housing Delivery Team noted that park homes would not constitute an acceptable form. She added that Officers did not feel what was being proposed would meet that demand, even if, under a Section 106 agreement, there was a requirement that two of the units be affordable in perpetuity. She noted that therefore, to meet policy requirements, an off-site contribution would be required for another housing site. She noted that the application before Members was for the condition to be removed from all 16 lodges and therefore the Section 106 agreement would have to apply to all in that case. The Senior Planning Officer noted she had explained as regards distance standards within the report and presentation and reiterated, as Members would be aware, that between houses in residential estates the Council would expect a 21 metre separation between habitable windows, which was not being achieved in the case of the application.

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

Councillor J Elmer asked for clarification, if the condition were removed in relation to holiday home status, to all intents and purposes, the properties would be considered as any other residential property in terms of a planning application. The Principal Planning Officer noted that was correct, when the permission was originally granted it was for holiday lets, with full and permanent occupancy as a residential property being a very different type of occupation. He noted that the separation distances that would be considered acceptable for a holiday let were not considered acceptable for permanent accommodation. He added that in terms of affordable housing and Paragraph 44 of the Committee report, affordable housing was based upon whether a Registered Provider would take on a property as affordable housing long-term, and it was clear a Registered Provider would not take on a static caravan as a form of affordable housing.

Councillor P Jopling asked what the period of occupation was under the current permission. The Chair noted he would allow Mr R Drummond to respond.

Mr R Drummond noted it was 12 months, 52 weeks of the year the same as the adjacent residential park, with the difference between the two areas being one fence, with homes being like-for-like, no difference in build quality, and noted six metres apart was standard for residential park homes, not 21 metres. The Principal Planning Officer noted the current restrictions were set out at Paragraph 4 of the Committee report: '*The lodges hereby approved shall be occupied for holiday purposes only, and shall not be occupied as a person's sole, or main place of residence*'. He added the occupancy was qualified in those terms, rather than a restriction for certain months of the year.

Councillor J Elmer noted the need to comply as best one could with the policies of the CDP and noted Policy 10 referred to the need to conserve the countryside, the open aspect of the countryside and avoid permanent residential development in the countryside. He added that decisions were always difficult, however, if Members were to allow approval of the application it would be creating a mechanism through which applicants could develop the countryside, in this case applying for holiday homes then applying for change of use for those holiday homes. He noted that regretfully he would move the Officer's recommendation that the application be rejected. He was seconded by Councillor E Mavin.

Upon a vote being taken it was:

RESOLVED

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

Councillor P Jopling left the meeting at 3.40pm

e DM/21/02693/FPA - 37 Seaside Lane, Easington Colliery

The Planning Officer, George Spurgeon, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for a change of use from betting shop to hot food takeaway and 2 no. flats, to install new front door and roller shutter and flue to rear and was recommended for approval, subject to conditions.

The Planning Officer noted Paragraph 72 of the report made reference to a condition to restrict the occupancy to a member of staff of the ground floor unit only, however, that was no longer being recommended and was not included in the recommended conditions as out within the report.

The Chair thanked the Planning Officer and asked Councillor A Surtees, Local Member, to speak on the application, Councillor A Surtees noted she would leave the meeting after making her representations and take no part in the decision.

Councillor A Surtees noted that she had found the Committee report confusing in terms of setting out the number of hot food takeaways in the front street, Seaside Lane. She noted it had changed from three to four and then to five, adding she had two areas of concern with the application. She explained that the current hot food takeaway 'Pizza Mania' at 38 Seaside Lane would move to 37 Seaside Lane if permission was approved, and while that would not increase the number of hot food takeaways in that street, her concern was that Officers were stating that the application would bring a vacant unit back into use, however, with no firm indication of what would happen with 38 Seaside Lane then the number of units in use would remain the same. She added that as 38 Seaside Lane already had permission for use as a hot food takeaway, she had a concern that property would not need to seek permission for such use.

Councillor A Surtees noted another area of concern was around traffic and she explained she disagreed with some of the highway assessments. She noted that traffic in the area was a longstanding serious problem, associated with the hot food takeaways. She noted the site photographs shown in the presentation did not give a sense of how close the area was to the crossroads, with the majority of the area at the crossroads being double yellow lined. She added that there was a bus stop directly in front of the current betting office and noted Members would be aware of similar issues in their own area in terms of delivery drivers parking directly in front of hot food takeaways. She noted that was often on double yellow lines which would then in turn cause issues with line of sight, blocking the bus stop in this case, and cause problems for other road users and pedestrians crossing the road in that area. Councillor A Surtees noted she did not agree that traffic would not be impacted in the area and added that in terms of the parking for the residential units while there was public parking on the opposite side of the road and also behind, if residents started to use the public parking area that in turn would displace car parking for people wishing to use the shops.

Councillor A Surtees left the meeting at 3.58pm

The Chair asked if the Planning Officer wished to respond to the points raised for the Committee's information.

The Planning Officer clarified there were five hot food takeaways in the vicinity, two to the west and three to the east. He noted that the applicant was looking to move from 38 to 37 Seaside Lane, however, there was no guarantee that move would take place. He confirmed that the unit at 38 Seaside lane had permission for hot food takeaway use and therefore would not need to seek new consent in that respect. He noted that demand for units was an issue, noted the issues in terms of parking at Easington Colliery and confirmed there was bus stop to the front of the property.

The Principal DM Engineer, David Battensby noted that the report set out that there were concerns from the Highways Section in relation to traffic issues associated with hot food takeaways. He noted that Councillor A Surtees was correct in that, across the county, activity did take place in terms of parking on double yellow lines where there were hot food takeaways. He explained that the issue in terms of any recommendation for refusal on those grounds was with sustaining a refusal at appeal where there were restrictions that applied, such as a bus stop, double yellow lines, no waiting at any time, and similar restrictions. The Principal DM Engineer added that aspect was an issue of highway enforcement, an issue an Inspector would look at in terms of any appeal against refusal on such grounds. He noted that Councillor A Surtees had also referred to residential parking taking up existing parking space. He explained that he would be surprised if any of the properties on that terrace had in-curtilage parking and therefore parking was happening on-street currently, with the application being a continuation of that. He added that residential parking would mostly on an evening when people returned from work, freeing up the spaces for use by those visiting the shops during the day. He added that it was another area that an Inspector would likely refer to in any appeal against refusal, with the Inspector being able to cite there was adequate public car parking space. The Principal DM Engineer concluded by noting that, on balance, there were not good grounds on which to object from a Highways perspective to the application.

Councillor E Mavin explained he felt the positive aspects outweighed the negatives in respect of the application and therefore he would move approval of the application as per the Officer's recommendation. He was seconded by Councillor D Brown.

Councillor J Elmer noted that the Officer had been very diligent in covering all of the issues, including those associated with soundproofing. He added that while he appreciated the concerns raised by Councillor A Surtees in respect of inappropriate parking, the Principal DM Engineer had explained that was an issue for enforcement by the Police and not for the Committee.

Upon a vote being taken it was:

RESOLVED

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

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/21/02215/FPA
Full Application Description:	Residential Development for the erection of 59 no. dwellings (C3) with associated infrastructure, landscaping and drainage.
Name of Applicant:	Partner Construction and Believe Housing
Address:	Land East Of 1 To 25 Shinwell Drive, Peterlee
Electoral Division:	Peterlee East
Case Officer:	Leigh Dalby (Senior Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The site comprises approximately 1.88 hectares of previously developed land located on the North Eastern edge of Peterlee. The proposed development is accessed from Stephenson Road to the North of the site, the site forms a broadly rectangular parcel of land and is bounded by Industrial uses to the North and East, residential to the west, and woodland with residential uses beyond.
2. The site benefits from good public transport links, with bus stops on Stephenson Road to the North of the site providing direct access to Peterlee Town centre which lies approximately 0.8mile south of the development site, along with further transport links to the wider County.
3. The site is approximately 0.7km to the nearest Primary school (Acre Rigg), and local amenities on York Road to the West.

The Proposal

4. The proposal seeks full planning permission or the erection of 59no. affordable dwellings with open space provision, landscaping and drainage. The dwellings are to be a mix of two, three and four bed roomed dwellings consisting of:
 - 23no. two bed units,
 - 30no. three bed units, and
 - 6no. four bed units.
5. The proposal will provide a total of 6no. bungalows as part of the development to meet the needs of the local aging community.
6. The application has been brought to the Planning Committee for consideration in accordance with the Council's scheme of delegation due this being a major development.

PLANNING HISTORY

7. DM/16/02536/FPA – Erection of 49no. 2, 3 and 4 bedroom two-storey dwellings with associated works, Shinwell Centre North East Industrial Estate, Stephenson Road, Peterlee SR8 5AY – Approved 9th May 2017 (Gleeson Homes development adjoining to the west of the application site)

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
10. 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.

11. 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.
12. 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.
13. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
16. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. NPPF Part 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.

LOCAL PLAN POLICY:

18. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
19. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
20. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. 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.
22. 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.
23. 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.
24. 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.

25. 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.
26. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
27. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area

Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety

Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

28. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that 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 locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

29. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) 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.
30. Policy 33 – Renewable and Low Carbon Energy – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associate developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
31. 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
32. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
33. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

34. 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.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

35. Policy 56 (Safeguarding Mineral Resources) states 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. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.
36. There is no relevant neighbourhood plan within this area.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY AND INTERNAL RESPONSES:

37. The following comments were received following consultation with Statutory and Internal consultees.
38. **DCC Highways** – No objection subject to conditions.
39. **DCC Design and Conservation** – Raised concerns in relation to the design of the housetypes not being locally inspired to Peterlee or distinctive in character, and the dominance of parking.

Confirmed no impact on any designated heritage assets.

40. **DCC Env. Health Statutory Nuisance** – No objections subject to conditions
41. **DCC Environmental Health (Contaminated Land)** – No objection subject to conditions
42. **DCC Drainage and Coastal Protection** – Highlight that the scheme does not conform to the water management train stage 3, due to a lack of green infrastructure, and have requested further information to be submitted
43. **DCC Landscape** – Highlight that the scheme will not have a significant detrimental impact on the landscape character of the area; although raised concerns in relation to the layout of the scheme and the potential impact on trees.
44. **DCC Trees** – No objections subject to compliance with the tree protection plan
45. **DCC Ecology** – Confirm that there will be an increase in recreational disturbance to the SAC and SPA and that a contribution of £44,639.99 is required towards a beach care and wardening programme

The BNG calculation confirms a slight loss, however provided a condition is imposed requiring the 11no. units along the southern boundary adjacent to the woodland are provided with 1 x bat unit and 1 x breeding bird unit per dwelling within the fabric of the building a biodiversity net gain can be achieved.

46. **DCC Public Rights of Way** - No recorded PROW are affected.
47. **DCC Education** – Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

NON-STATUTORY RESPONSES

48. The following comments were received following consultation with non-statutory consultees:
49. **Northumbrian Water** – No objection subject to a foul and surface water condition.

CONDITION: Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

REASON: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

50. **Durham Constabulary (Architectural Liaison Officer)** – Highlighted that properties which back onto public spaces should be provided with a 2.0m high boundary fence, and the requirement for external lighting. Concerns were raised in relation to the layout in relation to the public access point to the wooded area to the South.
51. **Business Durham** - Whilst the plan makes use of available land for housing, Business Durham trusts that sufficient consideration has taken place by the developer to recognise the needs of both the residents and the businesses with regards to the site layout plans for the noise, traffic and environmental impacts of being situated in close proximity to sizable and continuous industrial operations. The businesses will operate around the clock and will have employees starting and finishing at various times day and night as well as HGVs and potential noise from fork lift trucks. It is hoped that appropriate screening and noise bunds will be accommodated in the layout so that businesses are free to operate their business in the manner of which they need to, without burdening residents with noise or traffic resulting in complaints to the businesses. Business Durham hopes that the design of the highways balances the needs between the employment site and the residential area, for the flow of traffic and the safety of all concerned.
52. **NHS** – Have confirmed that a contribution of **£28,497.00** is required to meet the patient increase created by this development.

PUBLIC RESPONSES

53. The application has been publicised by way of site notice, press advert and notification letters sent to neighbouring properties. In response 2no. letters of objection were received; a summary of the points of objection are as follows:

Objection

- Schools are oversubscribed and this development will create additional pressure
- Detrimental impact on environment and wildlife habitats through re-development of the site
- Additional strain on local resources and infrastructure
- Noise and disturbance from building site

APPLICANTS STATEMENT:

54. Partner Construction is pleased to see that your Officers are recommending approval of this planning application, which will allow for the residential development of the site and the provision of new affordable homes in a sustainable location.
55. Partner Construction has been proactive throughout the application process, working with the Council through the submission of a pre-application enquiry to understand any technical constraints from the outset and to directly inform the final proposals. As a result a scheme of 59 homes including open space and a sustainable drainage scheme has been designed and is the final scheme you see before you.

56. The applicant has also been proactive through the community engagement process, with leaflets delivered to all properties within the vicinity of the area, extending to approximately 200 households. Residents of the households were provided with detail of the proposed affordable housing development at Stephenson Road and directed to a website for further information where consultation responses could also be submitted.
57. As set out within this committee report, the scheme brings with it the opportunity to deliver a number of benefits. These include:
58. Delivery of 59no. new affordable homes including a range of housetypes and sizes comprising a mix of two, three, and four-bedroom properties;
- Redevelopment of a long standing derelict brownfield site within the urban area of Peterlee;
 - Enhance the existing range and choice of dwellings in Peterlee to meet local needs;
 - Provision of on-site public open space which is well related to the orientation of dwellings on-site;
 - Economic benefits including construction jobs, the generation of New Homes Bonus Payments and the opportunity to deliver an uplift in Council Tax revenues payable to Durham County Council; and
 - Seeking to implement a fabric first approach to reduce the carbon footprint of the development, achieving a 10% reduction in energy requirements over the building regulation standard.
59. In the context of national and local planning policy, we respectfully request that the Council grants planning permission of the proposed development.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

60. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 47 of 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, the impact on residential amenity, highway safety, and the character and appearance of the streetscene.

Principle of Development

61. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with uses on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
62. As detailed above policy 6 of the CDP permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal can draw in principle support from this policy given that it is within the built up area, that the site is located within close proximity to compatible residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to the proximity of industrial uses being acceptable which is considered in greater detail below (criteria a), it is within the existing built framework of Peterlee and would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and has easy access to sustainable transport and local facilities (criteria f). The site makes best use of previously development (criteria i). Consideration of criteria d, e, h of policy 6 is considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.
63. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.
64. Policy 15 of the CDP 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.
65. The application proposes to provide 100% affordable housing which would satisfy the requirements of Policy 15. The policy requirement of 10% affordable housing will be secured by way of a s106 agreement with the remaining 90% being provided on a voluntary basis.
66. Policy 15 additional requires that all housing developments provide a minimum of 66% of the units to be Building Regulation M4(2) compliant and 10% suitable for older persons. In this regard the applicant has provided details within the application that 71% of the dwellings are to be built to M4(2) standard. In addition, the scheme proposes 6no. bungalows which is considered would provide over 10% of dwellings suitable for older persons as such would comply with Policy 15. This requirement can be secured by condition.

67. Policy 19 of the County Durham Plan requires that developments 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. In this regard the development has provides a good mix of dwelling types including 2, 3 and 4 bedroomed properties including bungalows. It is therefore considered that the mix of two storey and bungalows proposed is acceptable and in accordance with the provision of Policy 19.

Developer Contributions

68. Policy 25 (Developer Contributions) of the County Durham Plan advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Para 5.253 of the supporting text for policy 25 state “There should be no instances where essential site-specific infrastructure and mitigation cannot be secured because of viability concerns. However, in these situations where the infrastructure is an essential prerequisite to enable the site to be developed, a scheme will be deemed unacceptable in planning terms.” In view of this the following developer contributions were requested in accordance with the Council’s policies

Open space / Green Infrastructure

69. 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.
70. In accordance with Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA) it was considered that the development should provide a minimum **1,902sqm** of amenity/natural green space and **64.9sqm** of play space for children on site, and a financial contribution of **£87,355.40** towards off-site facilities such as allotments, parks, sports and recreation grounds and youth play space
71. The application will provide approximately **1,350sqm** of open space. Whilst it is acknowledged that this is beneath the stated requirement it is acknowledged that due to the constraints of the site, providing further space within the development would not be feasible, as such it is proposed to secure additional off-site contribution of **£8,276.00** for the provision of play equipment and shortfall in the amenity space, in addition to the above financial contribution. The applicant has therefore agreed to provide a total contribution of **£95,631.40** towards the open space and amenity space.

Education provision

72. Paragraph 95 of the NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement. Whilst objections have been received from existing residents that the development would result in additional pressures upon school places, the Councils Education team have confirmed that there is sufficient existing educational provision within the area to the extent no contributions are necessary.

Health Contributions

73. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users. The local NHS Clinical Commissioning Group (CCG) have confirmed that there is insufficient local health service facilities to accommodate future residents of the development and have therefore stated that a financial contribution of **£28,497.00** towards additional healthcare facility space is necessary.
74. This can be secured by way of a s.106 agreement should the application be deemed acceptable.

Developer contribution conclusion

75. As detailed above it is considered that the proposal is in accordance with Policy 25 and 26 of the CDP to mitigate the impact on the development subject to the completion of a s106 agreement to secure the obligations.

Impact upon Residential Amenity

76. Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

77. Policy 29 also require that new major residential development are assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.
78. In addition to the above policies within the CDP, the Local Authority has adopted a residential design SPD which sets out the Councils expectation in relation to privacy distances and private outdoor amenity space (Gardens). In this regard the development would need to achieve a minimum of 21.0m between two storey buildings and 18.0m between bungalows and provide rear garden lengths of at least 9.0m.
79. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
80. It is acknowledged that at the point of submission of the application the requirement for dwellings to be NDSS compliant was not applicable, as this did not become a requirement until October 2021. However, the applicants have confirmed that the decision to not design all dwellings to NDSS standards would have resulted in the loss of units and would have had a detrimental impact on the viability of the scheme.
81. Therefore, whilst the scheme is not wholly compliant with Policy 29 of the CDP by not providing full NDSS compliant properties, paragraph 5.302 of the supporting text to Policy 29 does state that the requirement for NDSS can be waived where the LPA is satisfied that doing so would impact the viability of the scheme. In this regard given the confirmation from the applicants that scheme would not have been viable with fully NDSS compliance, that the scheme is providing 100% affordable home, and that only 8no. units are meaningfully beneath the NDSS standards as detailed above that it is considered in this instance that the scheme is acceptable.
82. In relation to the Residential Design SPD adopted by the Council (as detailed above) the proposed site plan indicates that the majority of dwellings will comply with the minimum privacy distances as set out within the SPD. However, it is acknowledged that there are locations between the new dwellings where the privacy distances are marginally beneath those set out within the SPD. However, paragraph 3.5 of the SPD states that these standards are not intended to be rigidly applied and can be relaxed where it is considered that the relaxation will not impact privacy and outlook. Given that the instances where face-to-face distances do not comply are only approx. 0.5m beneath the SPD requirements, and that the orientation between main elevations to side elevations are staggered and will contain windows to be obscure glazed (controlled by condition) that the privacy and outlook the of the dwellings is acceptable in this instance in accordance with para. 3.5 of the SPD..

83. In addition to the above the SPD also requires private amenity garden space of at least 9.0m in length. The submitted plans show that all units will meet the required private amenity garden space.
84. The Police Architectural Liaison Officer (PALO) for Durham Constabulary has raised concerns in relation to the layout of the development, and the lack of private secure rear gardens as research shows that developments of this nature are more likely to suffer from crime. The PALO requested that 2.0m high boundary fences are provided to the rear gardens of properties which back onto the wooded area to the South of the site.
85. The applicants have agreed to this request and have agreed to a planning condition to provide details of the proposed treatment in this location..
86. Crime, and fear of crime are material planning considerations. Paragraph 92(b) of the NPPF states that planning decision should aim to ensure that developments provide health, inclusive and safe places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this regard it is considered that, given the addition of the fence as recommend by Durham Constabulary that the proposal meets the test of Paragraph 92 of the NPPF and Policy 29(m)(1 and 6) is providing a safe and defensible development.
87. 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.
88. The Council's Env. Health officer has accessed the development and concluded that the proposal has the potential to cause a statutory nuisance in relation to dust and noise during the construction phase for existing nearby residents and potential noise impacts on future occupants by nearby commercial businesses. However, they have confirmed that subject to planning conditions the nuisances can be mitigated. As such it is considered that the proposal is acceptable in relation to the impact on the surrounding residents subject to the requested conditions.
89. Therefore, in conclusion it is considered that the proposal is acceptable in relation to the requirements of Policy 29 and 31 of the County Durham Plan, along with the Residential Design SPD, and sections 8 and 12 of the NPPF.

Highway and Pedestrian Safety

90. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document
91. The Council's Highway Engineers have assessed the proposal and concluded that the proposal is acceptable subject to the submission of further information and details that can be secured through planning conditions
92. In light of the above it is considered that subject to the conditions requested by the Highway Authority it is considered that the proposal complies with Policy 21 of the County Durham Plan, and Part 9 (Paragraph 112) of the NPPF.

Impact on the character and appearance of the streetscene

93. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
94. Policy 29(n) states that developments shall be assessed against the Building for Life SPD and that proposal with one or more red scores within the Building for Life 12 traffic light system will not be acceptable unless there are significant overriding reason. In this regard the application was assessed by design review at pre-application stage, which highlighted 3 areas of red relating to the inward facing nature of the development, additional open space, poor connectivity within the site and to the wider locality and a lack of locally inspired character to the scheme.
95. The revised submission addressed two of the three matters, in providing a more outward looking development with greater open space, and enhanced connectivity through the site. However, the matter of the design of the proposal lacking locally inspired character remained.
96. The Council's Design and Conservation section have echoed the comments of the design review stating that the appearance of the dwellings do not reflect the character of Peterlee, nor do they appear to be inspired by local design. They have highlighted that Peterlee (being a mid 20th Century New Town) is characterised by simple frontages with flat or mono pitched roofs, with a brick, pebbledash or render finish.

97. Whilst it is acknowledged that the site does not reflect the above-mentioned character, it is considered that the site should be considered in context of its immediate vicinity. In this regard it is noted that the site lies within a former industrial estate and directly adjacent to a modern housing estate to the West, which provides the local character for the area. In this regard it is considered that the dwellings are in keeping with the character and appearance of the immediate vicinity, being modern dwellings. Furthermore, it is considered that seeking alterations to the scheme to apply design features and finishes to resemble that of the 1950's / 1960's social housing which characterise large parts of Peterlee would be a retrograde step to the progress in design and modern architectural preferences.
98. It is therefore considered that whilst one red remains on the building for life criteria, given the site reflects the character of the immediate area in providing modern dwellings in keeping with the housing development directly adjacent to the site and voluntarily provides affordable dwellings in excess of the policy requirement that this is a sufficiently significant overriding reason to mitigate the outstanding red.
99. It is acknowledged that there are sections of the site which do have areas of primarily laid to car parking, there is a balance in relation to meeting the car parking standards whilst still providing attractive frontages. In this regard given that the main area where the parking is prominent is located at the end of a cul de sac, it is not considered that this will unduly impact the character and appearance of the site as a whole, to a level to warrant refusal.
100. It is therefore considered that the design and appearance of the housing and open space is acceptable in the context of the surrounding residential areas and maintains an element of openness and linkages to the wooded space to the South. As such the development is considered to accord with policy 29 of the CDP.

Landscaping

101. Policy 39 (Landscape) of the CDP states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
102. The Council's Landscape team have considered the application and confirmed that the development would have a low level of impact on the landscape character of the area, however, they have raised concerns in relation to the layout of the development in regards to the accessibility of the open space and the potential future impact on trees outside of the site.

103. It is acknowledged that the location of the open space is not ideal however the topography of the site is such that the open space and SuDs basin is within in this location, with adequate access from two locations along with access to public space to the South of the site. It is therefore not considered that the location of the open space to the front of the site is sufficient to warrant refusal. Furthermore the scheme is supported by an Arboricultural Impact Assessment and Tree Protection Plan that highlights that the trees will not be impacted by the proposal, and whilst some future maintenance may be required over the lifetime of the trees, this is not considered sufficient to warrant refusal.

Trees

104. Policy 40 (Trees, Woodlands and Hedges) of the CDP states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
105. The Council's Arborist has assessed the proposal and concluded that whilst the loss of 17no. tree loss is regrettable, their loss mitigated through the proposed replacement planting scheme providing 30no. new trees of varying sizes and therefore has no objection.
106. Therefore, in light of the above it is considered that subject to an appropriate condition to ensure the planting scheme is implemented, the proposal is in compliance with Policy 40 of the CDP.

Ecology

107. Policy 41 (Biodiversity and Geodiversity) of the CDP restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
108. In relation to the above a County Ecologist has considered the proposal and following the submission of additional information has confirmed that the scheme will secure a bio-diversity net gain subject to a condition in relation to including bird and bat boxes within the fabric of the building, and that the HRA payment of £44,639.99 is required towards a beach care and wardening programme due to the expected impact upon the heritage coast. The scheme is therefore considered acceptable in relation to Policy 41 of the County Durham Plan.

Drainage

109. 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.
110. Whilst 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.
111. The Council Drainage and Flooding section have assessed the scheme and concluded that the scheme does not fully comply with surface water management train in that it does not include a variety of differing green / blue infrastructure solutions (such as swales, soakaways, basins etc), and have requested information to be submitted prior to commencement which if considered can be secured by way of planning conditions in relation to the SuDs design, and management.
112. Whilst the proposal does not fully meet the water management train to include green infrastructure within the water drainage system. Policy 35(h) states that a SuDs systems is necessary but that green infrastructure only needed where appropriate.
113. It is therefore considered that the scheme is acceptable in relation to Policy 35 and 36 of the CDP subject to appropriate planning conditions.

CONCLUSION

114. In summary it is considered that the principle of the proposed development is acceptable in planning terms as detailed above to meet the needs of the local area, subject to the conditions as set out below.

RECOMMENDATION

That the application be **APPROVED** subject to a s106 agreement to secure 10% affordable rent housing, developer contributions (**£95,631.40** towards the open space and amenity space, and of **£28,497.00** towards addition healthcare facility space) and Ecological mitigation payments of **£44,639.99** towards a beach care and wardening programme and subject to the following conditions;

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

3. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason: To comply with Policy 21 of the County Durham Plan, in order to ensure highway and pedestrian safety.

4. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- 1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.

2. Details of methods and means of noise reduction/suppression.

- 3.Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

- 4.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

5. Designation, layout and design of construction access and egress points.

6. Details for the provision of directional signage (on and off site).

- 7.Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

- 8.Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

10. Routing agreements for construction traffic.

11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

13. Management measures for the control of pest species as a result of demolition and/or construction works.

14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

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

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

6. No development shall commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

7. No development shall commence until details of the proposed sustainable drainage systems including:
 1. An assessment of suitability for infiltration based on soil types and geology, which should account for, the presence of constraints that must be considered prior to planning infiltration SuDS, the drainage potential of the ground, potential for ground instability when water is infiltrated, potential for deterioration in groundwater quality as a result of infiltration; evidence of infiltration tests, particularly at the location of any intended infiltration device, and groundwater level monitoring is also required.
 2. Detailed Plans identifying;
 - a. Location and type of controls and treatment together with all construction details.
 - c. Conveyance and exceedance flow routes.
 - d. The destination of runoff and any runoff rate restrictions.
 3. A Detailed SuDS Design Statement covering:
 - a. Final SuDS to be incorporated and final discharge points where relevant.
 - b. How the drainage design satisfies SuDS techniques in terms of water quality and attenuation and discharge quantity for the lifetime of the development.
 - c. Proposals, where relevant, for integrating the drainage system into the landscape or required publicly accessible open space and providing habitat and social enhancement.
 - d. Hydraulic Calculations showing the peak runoff flow rate for the critical rainfall event. These will also be required in digital format for audit prior to commencement.
 - e. Description of overland flow routes and safeguarding of properties from flooding.
 - f. Preferred point of connection.
 - g. Proposed method of flow control.
 4. A Method Statement detailing how surface water arising during construction will be handled.
 5. Confirmation of land ownership of all land required for drainage and relevant permissions.
 6. A SuDS Management Plan, which provides:
 - a. Details of which body will be responsible for vesting and maintenance for individual aspects of the drainage proposals
 - b. A management statement to outline the management goals for the site and required maintenance
 - c. Description of maintenance schedule
 - d. A site plan including access points, easements and outfalls.

Reason: To ensure a satisfactory development in accordance with Policy 35 and 36 of the County Durham Plan in relation to Sustainable Drainage Systems

8. No development shall commence until full highway engineering, highway drainage, highway structure details, street lighting and constructional details of the streets (including areas of hardened waste bin collection points for each shared private drive and 1m hardened step off strips to the rear of non-allocated visitor parking) proposed for adoption by the local highway authority have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details,

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF.

9. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

10. No development shall commence above damp proof course of any of the dwellings until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

11. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course of any of the dwellings until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

12. Notwithstanding any details relating to boundary treatment, prior to the first occupation the development hereby approved, details of the means of enclosure of plots 29-39 shall be submitted to and approved in writing by the Local Planning Authority, the details of which shall provide a 2.0m high boundary treatment to the southern boundaries adjoining the area of woodland. The enclosures shall be constructed in accordance with the approved details thereafter.

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

13. Prior to the occupation of the dwellings hereby approved all sound attenuation measures as detailed in the noise assessment [Noise Impact Assessment produced by Environmental Noise Solutions Ltd dated 26th March 2021] must be fully implemented and permanently retained thereafter.

Reason: To ensure a satisfactory form of development and to protect the residential amenity of residents in accordance with Policy 29 and 31 of the County Durham Plan.

14. Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby permitted being brought into use. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.

15. Prior to installation of the water proof damp coursing associated with the dwelling hereby approved, details of a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and electric car charging points. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in policy 29c) of the CDP

16. Prior to commencement above damp proof course of any of the dwellings details of 1no. bat and 1no. bird boxes per dwelling within the fabric of the buildings along the Southern Edge of the development (Plots 29 – 39) shall be submitted to and approved in writing by the Local Planning. The agreed scheme shall thereafter be implemented prior to the first occupation of any part of the building and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure a satisfactory form of development in accordance with Policies 41 and 42 of the County Durham Plan and Section 15 of the NPPF (2021).

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

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

18. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

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

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

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

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

19. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

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

Replacements will be subject to the same conditions.

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

20. All trees and hedges, indicated on the approved tree protection plan as to be retained, shall be protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010. Any works within the root protection areas shall be the subject of a detailed construction methodology which shall be submitted to and approved in writing before any such works commence and shall be undertaken thereafter entirely in accordance with the approved construction details.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

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

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed upper floor side windows for plots 8 and 46 shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be maintained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance of Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

22. No dwelling built to the Building Regulations M4(2) standard (as shown on Drawing 003 Rev. G (Proposed Site Plan) shall be occupied until a further verification confirming that said dwelling has been built to Buildings Regulations M4(2) standard, from a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. Said verification shall include sufficient plans and details which demonstrate compliance with the Building Regulations Standard M4(2) requirements.

Reason: In the interests of the residential amenity of future occupiers in accordance of Policies 15, 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

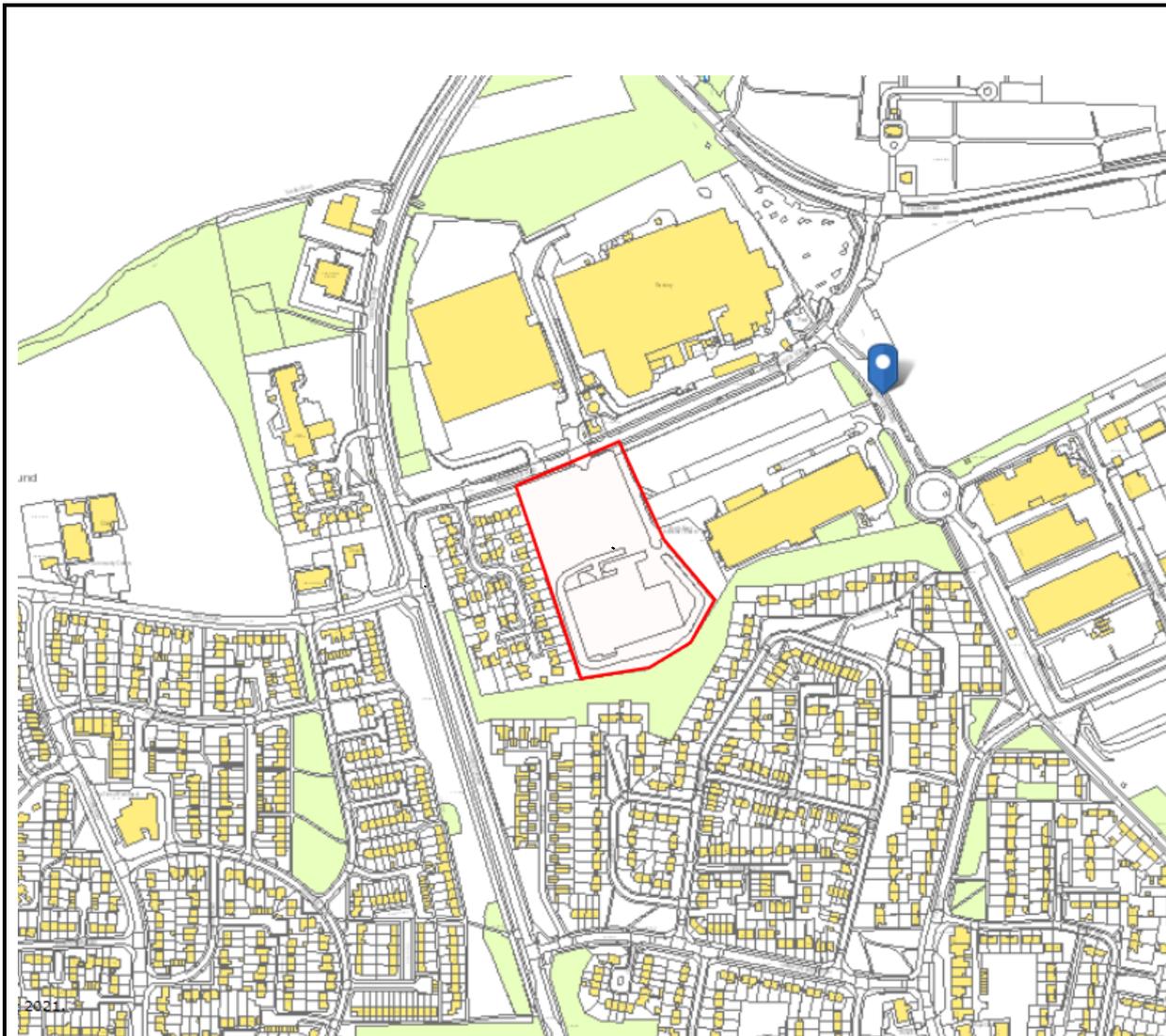
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Residential Development for the erection of 59 no. dwellings (C3) with associated infrastructure, landscaping and drainage.</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>Land East Of 1 To 25 Shinwell Drive, Peterlee</p>	
	<p>Date 30.11.2021</p>	<p>Scale NTS</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/01278/FPA
FULL APPLICATION DESCRIPTION:	Resubmission of previously refused application ref: DM/20/02163/FPA - Erection of a single storey dwelling
NAME OF APPLICANT:	Chantelle Morrison
ADDRESS:	Tiana Lane, Pittington Road, Rainton Gate, Houghton-le-Spring, DH5 9RG
ELECTORAL DIVISION:	Sherburn
CASE OFFICER:	John Russell (Senior Policy Officer) Tel: 03000 263 428 Email: john.russell@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of an area of greenfield land approximately 1,815 square metres located within the green belt off Pittington Road, Rainton Gate, Houghton-le-Spring. The site lies behind, and on the very edge of, a sporadic group of houses fronting Pittington Road. The site in question has detailed planning history including enquiries for various uses and refusal for full planning permission for a detached bungalow which was dismissed at appeal by the Planning Inspectorate in 1997.
2. The application site is considered to be located in the countryside for planning purposes and within the Durham City Green Belt which was originally designated in the County Structure Plan Review (adopted 1999), with boundaries established in 2004 through the Durham City Local Plan (adopted 2004). Its status remained unchanged in the adopted County Durham Plan (2020), with Policy 20 of the Plan setting out the policy restrictions relating to development within the Green Belt.
3. The existing housing development in effect forms ribbon/linear development. The closest property to the application site, The Rowans, was constructed in the late 1960's early 1970's, prior to the establishment of the Green Belt. The application site is not considered to be infill development and furthermore it is not considered that the existing houses constitute a defined settlement.
4. Access to the site is taken via a short length of private track which connects the main body of the site to Pittington Road which has a surface finished in tarmac. It was noted at the time of the site visit that a form of temporary accommodation was situated at the northern edge of the site which does not appear to benefit from any planning permission.

5. This application is a resubmission of application reference DM/20/02163/FPA which was refused by this Committee on 12th November 2020. Subsequently, the applicant chose to appeal that decision with the Planning Inspectorate, whilst also making a resubmission application for the same proposal for determination by the Local Planning Authority. This application represents that resubmission.
6. The Planning Inspectorate dismissed the appeal on 20th May 2021 and in doing so concluded that the proposal would constitute inappropriate development in the Green Belt which would not preserve its openness and that it would conflict with the purpose of assisting in safeguarding the countryside from encroachment.

The Proposal

7. The proposal remains fundamentally unchanged from the application as previously considered by this Committee and for which an appeal has been dismissed by the Planning Inspectorate, in that planning permission is still sought for the erection of a single storey dwelling at the site. The dwelling is proposed to be constructed in red facing brick, interlocking concrete tiles, double glazed UPVC windows, composite doors and gravel finished driveway and would comprise 3 bedrooms, one with en-suite, and a family bathroom.
8. However, the applicant has, within the resubmission, sought to provide additional information/justification for the development and during the course of the application provided comments in response to the appeal decision. This focusses on an assertion that the inspector wrongly concluded that the site could not be considered infill development whilst also providing further information regarding the gypsy traveller status of the applicant themselves, particularly that there is currently no availability on established gypsy and traveller sites across the County that could accommodate their housing needs.
9. The application is reported to Planning Committee at the request of Councillor Hall who wishes for the Central and East Planning Committee to determine the application should officers be minded to refuse the application at delegated level.

PLANNING HISTORY

10. A planning application (4/96/00265/OUT) for the erection of bungalow (outline) was refused 25th June 1996 and a subsequent appeal dismissed by the Planning Inspectorate on the 20th May 1997
11. A planning application (4/03/00798/OUT) for an outline application for residential development comprising one dwelling was refused 30th September 2003.
12. A planning application (DM/14/02682/FPA) was submitted for the erection of stable block and laying of hardstanding to create yard and was subsequently withdrawn on the 4th March 2015.
13. A planning application (DM/15/02099/FPA) was submitted for change of use of land to equestrian and block of stables (2 stables and tack room) (description amended 26/08/2015) which was a resubmission of DM/14/02682/FPA and was refused 1st September 2015.
14. A certificate of lawful existing use (DM/16/01952/CLU) was submitted for equestrian use exceeding 10 year use and was refused 27th February 2017.

15. A planning application (DM/20/02163/FPA) for Erection of a single storey dwelling was refused by the Central and East Planning Committee on the 12th November 2020.
16. A planning appeal with the Planning Inspectorate (APP/X1355/W/20/3264212) for erection of a single storey dwelling refused by the Central and East Planning Committee on the 12th November 2020 was dismissed on 20th May 2021.

PLANNING POLICY

NATIONAL POLICY

17. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
18. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
19. *NPPF Part 6 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
20. *NPPF Part 9 Promoting Sustainable Transport*: Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
21. *NPPF Part 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.
22. *NPPF Part 13 Protecting Green Belt Land*: The Government attaches great importance to Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence
23. *NPPF Part 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

LOCAL PLAN POLICY:

24. The County Durham Plan (CDP) was adopted by Full Council on the 21st October 2020. The following policies of the CDP are considered relevant to the determination of this application.
25. Policy 6 (Development on Unallocated Sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration
26. Policy 10 (Development in the Countryside) will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development and infrastructure development such as: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity. All development to be of design and scale suitable to intended use.
27. Policy 17 (Sites for Travellers) states that proposals for new Traveller and Travelling Showpeople sites or extensions to existing sites will be permitted provided that the site is within an existing settlement or is immediately adjacent to a settlement providing employment, schools, medical facilities, public transport and other local services. In addition, site should be within short and safe walking distance of services and facilities or a public transport route. Furthermore, the policy states that the development is sympathetic to the scale of any adjoining settlement and the scale or location of the development will not detract from the amenity or living conditions of local residents or occupants of the site. Developments should be integrated into the landscape and reflects the character of the surrounding area.
28. Policy 20 (Green Belt) Development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out a number of exceptions: buildings for agriculture and forestry; appropriate facilities for outdoor sport, outdoor recreation and for cemeteries; proportionate extensions or alterations of a building; replacement buildings which are not materially larger; limited infilling and limited affordable housing for community needs and partial or complete redevelopment of previously developed land which do not have a greater impact on openness. The NPPF also sets out other forms of development which may not be inappropriate in the Green Belt including mineral extraction; engineering operations and transport infrastructure.
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 to have regard to Parking and Accessibility Supplementary Planning Document.

30. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
31. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that 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 locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
32. Policy 35 (Water Management) states that all development proposals will be required 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.
33. Policy 36 (Water Infrastructure) requires consideration of development proposals to a hierarchy of drainage options that must be considered and discounted for foul water are (in the following order): connection to the public sewer; package sewage treatment plant (which can be offered to the Sewerage Undertaker for adoption or septic tank (which must drain into an appropriate soak away and not discharge directly into a watercourse). Applications involving the use of non-mains methods of drainage (including Septic Tanks/Cess Pits) will not be permitted in areas where public sewerage exists.
34. Policy 39 (Landscape) advises that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
35. Policy 40 (Trees, Woodlands and Hedges) advises that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

36. 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. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

WRITTEN MINISTERIAL STATEMENT (WMS):

37. Colleagues in Spatial Policy have advised that on 17th December 2015 the Minister of State for Housing and Planning made a Written Ministerial Statement (WMS) to Parliament. The WMS confirms changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt, as set out in the manifesto. It makes clear that most development in the Green Belt is inappropriate and should be approved only in very special circumstances. Consistent with this, this Statement confirms the government's policy that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. Councillor Hall (Local Councillor) supports the proposal and notes that the application is potentially similar to a recent application at Fernhill on the outskirts of Durham which was considered by the Central and East Area Planning Committee in November that related to the erection of a new dwelling in the Green Belt.
39. Councillor Kellett (Local Councillor) has confirmed that he remains opposed to the revised planning application as it seems to be still so similar to the original application.
40. Northumbrian Water Limited have confirmed that at this stage they would have no comments to make.

INTERNAL CONSULTEE RESPONSES:

41. Spatial Policy highlight various national and local policies and written ministerial statement that are relevant to the proposal and provide an update on the progress of the County Durham Plan. The response concludes that in terms of national guidance as set out in the NPPF a dwelling in this Green Belt location would impact on the openness of the Green Belt, it would be inappropriate development and would be by definition harmful to the Green Belt. Such development should not be approved except in very special circumstances. They have also advised of a Written Ministerial Statement issued on the 17th December 2015 concerned with development within the Green Belt.

42. Landscape officer confirms that an Area of Higher Landscape Value (AHLV) lies directly to the west of the site and that the site is also within the Greenbelt. The site is not readily visible from any nearby public vantage points although would be glimpsed from Pittington Road to the east. Mature vegetation along its western boundary and southern tip effectively screen views of the site from the A690. The proposal would be located to the south and west of previous ribbon/linear residential development, which is suburban in character, a residential dwelling on this site would be seen in this context from limited public view point's although would further erode the previous rural character and openness of the greenbelt in this location. The proposal would not have an unacceptable adverse impact upon the landscape quality or appearance of the adjacent AHLV.
43. Highways have confirmed that they would raise no objections to the proposal.
44. Design and Conservation have confirmed that the proposed development has not changed significantly from the previous proposal and therefore comments previously provided are still relevant. Previous comments included that the team was not consulted on the proposal at pre-application stage due to the lack of any detailed plans. It is noted that the applicant was advised that the principle of development would not be supported given its location in the green belt. The additional information submitted does not justify a new dwelling in this location and in relation to design would result in a new dwelling of simple design with little architectural merit.
45. Environmental Health (contaminated land team) have confirmed that the following report in connection with the previous application (DM/20/02163/FPA) Arc Environmental (03/09/2020) Phase 1: Desk Top Study and Coal Mining Risk Assessment Report, Proposed Residential Development, Tiana Lane, Pittington Road, Houghton-le-Spring, DH5 9RG is still relevant for the resubmission. The potential for Made Ground and contamination has been identified associated with the previous site uses. The site is not located in a coalfield high risk development area, however, Arc Environmental recommend drilling to assess the risks for potential workings with the High Main Seam. Ground gas monitoring is required regardless of the findings of the rotary drilling. Should the proposal be recommended for approval a range of conditions relating to no development commencing until Phase 2 and 3 studies are undertaken.
46. Environmental Health (nuisance action team) has confirmed that based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance. However, to protect future occupiers from nearby noise sources, consideration should be given to ensuring the following noise levels are achieved:
 - 35dB LAeq 16hr bedrooms and living room during the daytime (0700 - 2300)
 - 30 dB LAeq 8hr in all bedrooms during the night-time (2300 - 0700)
 - 45 dB LAmax in bedrooms during the night-time
 - 55dB LAeq 16hr in outdoor living areas
47. Tree Officer has confirmed that whilst the proposal appears to retain the trees on site, the submitted Tree Survey is inadequate for the proposed development and does not contain a Tree Protection Plan to ensure that they are adequately protected throughout development. Therefore, should the application be recommended for approval a condition relating to undertaking the necessary tree surveys and the submission of a Tree Protection Plan would be required before the commencement of any development.
48. Ecology have raised no objection to the proposal.

49. Drainage has confirmed that the proposal is not of a classification that requires consultation with the LLFA regarding surface water management.

PUBLIC RESPONSES:

50. The application has been publicised by way of site notice and notification letters sent to neighbouring properties. A single letter has been received which neither supports nor objects to the proposal. The anonymous letter states that the family have been living on the site contrary to the planning statement, with two caravans and lodge type property.

APPLICANTS STATEMENT:

51. Whilst our appeal against the previous refusal for the development was rejected, the Inspector concluded that the site is a suitable location in terms of its accessibility to local services and facilities. It is therefore now an established position that the site is a sustainable location for a single dwelling. The determination of this resubmitted application must therefore turn on a judgement as to whether Refusal Reason 1 of the previous application can be satisfactorily addressed. This is on the basis that all other material planning considerations have been found to be acceptable. Specifically, this judgement rests on whether the proposal would represent inappropriate development in the Green Belt and, if so, whether there are any very special circumstances that would outweigh the harm arising by reason of inappropriateness.
52. Criterion (e) of paragraph 145 (now P149) of the NPPF provides an exception to Green Belt restraint and allows for new housing where this would constitute limited infilling within a village. In this context it is important to highlight that in their appeal decision, the Inspector acknowledged that the proposal would be "limited" in the sense that it would comprise of only a single dwelling and also accepted that the application site forms part of the established village of Rainton Gate. The Inspector further acknowledged that the NPPF does not define what is meant by "limited infilling" and that this is a matter of planning judgement.
53. Our proposed house would undoubtedly form infill development. It would sit within the established building lines of the two properties that are sited immediately adjacent to the site (Melrose and The Rowans) and would also sit within the established boundary lines of other properties in the vicinity thus only ever capable of being viewed against the backdrop of the existing neighbouring dwellings and in the context of the wider village. There are simply no vantage points where the proposed dwelling would appear as anything other than forming a part of Rainton Gate village. For these reasons it is infill development. The exception to Green Belt policy applies and planning permission should be granted.
54. Without prejudice to our position in respect of the above, in the event that Members judge that our proposal would not constitute a form of limited infilling and so would represent inappropriate development in the Green Belt, it is considered that there are very special circumstances in this case that would justify departing from Green Belt policy. The proposed dwelling would provide permanent living accommodation for myself and my husband along with our three children who are aged 1, 3 and 6. Our family descend from gypsy and traveller origins but we have resided in the local area for our entire lives and now require a permanent form of living accommodation to be able to stay in the local area, close to our wider family, and to allow our children to continue attending their same schools and nurseries.

55. We currently live with my husband's mother in a caravan with 13 other members of the family and this is unsustainable in the future. I am a home care worker and my husband is a professional boxer who is now eligible for a world title fight. He also makes a significant contribution to the local community through regular charity work, providing free boxing lessons for up to 50 children at Pittington Hall and teaching autistic children at a local school. It also the intention of the family that my husband's grandmother will reside with us with the bungalow being specially adapted to suit her specific care needs. This is due to a severe lack of specialist housing accommodation for elderly members of the gypsy and travelling community and is a particularly important consideration in the context of paragraphs 59 (60) and 61 (62) of the NPPF which are clear that the needs of groups with specific housing requirements should be addressed including for travellers and those wishing to build their own home.
56. There are currently six permanent GRT sites across County Durham with 126 pitches in total being available. However, the Council's own GRT Housing Team Leader has advised that all of these sites are fully occupied and that there are long waiting lists for all sites. Our attempts to secure pitch availability on existing GRT sites has therefore failed and we have been left with no option but to continue pursuing planning permission for our proposed dwelling at Rainton Gate. In addition, Policy 17 of the new County Durham Plan allows for new private gypsy and traveller sites subject to a number of criteria which are satisfied in this case.
57. The proposal is policy compliant in this respect and Members are therefore respectfully requested to give due weight to our personal circumstances in making a decision on our application. We would also like to reiterate that we are prepared to accept the imposition of a personal occupancy condition should the Committee be minded to grant planning permission.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

58. 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 Paragraph 212 of 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, the impact upon design and visual amenity and the impact of the development upon residential amenity.

Current Use of the Site

59. A planning history search highlights that there have been numerous attempts since 1996 to secure a form of residential development on site and all have been unsuccessful in securing a permission. Indeed, during the site visit it was observed that a caravan and mobile home / lodge type structure was situated on the site. The caravan and mobile home / lodge type structure is likely to constitute development through unauthorised and/or intentional development in the green belt and is subject to a separate enforcement matter which is outside the scope of the current application but is currently being held in abeyance pending determination of this application.

Principle of Development

60. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF and the previous appeal decision represent material planning considerations in this regard. The County Durham Plan 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.
61. The site is a greenfield site located within the Durham City Green Belt behind an existing property which was constructed before the Green Belt boundaries were established and is part of a sporadic group of houses fronting along Pittington Road. The site is accessed by a lane off Pittington Road which appeared to have been recently tarmacaded and boundaries demarcated with a close board fence when the site visit was carried out.
62. The planning statement submitted in support of the applications states that the proposed development would represent the limited infilling of a gap site within an otherwise built-up area and it would not extend beyond the limits of the existing built extent of the village. However, the LPA is of the view that the application site is not considered to be infill development and the proposal would be located adjacent to one dwelling, 'The Rowans'. As already noted, an appeal against the Council's decision to refuse the previous application has been dismissed. In considering that appeal the Planning Inspector considered whether or not the site was infill development, concluding that the proposal *'would not adjoin another dwelling, only the rear garden of 'Melrose', as the house on that plot of land is positioned forward towards the road. With the other boundaries of the site abutting fields, the site does not reasonably constitute a gap between existing built development. With the lack of juxtaposition to other built development apart from on one side, the proposal would not constitute 'infilling.'*
63. Whilst in light of the inspector's decision the applicant has sought to reinforce their position that the site can be considered as 'infill' development for the purposes of P149 of the NPPF, submitted justification focusses again on the presence of dwellings adjacent to east of the site. These points were considered in detail by the Planning Inspectorate and as such it remains that as the site would not adjoin any dwelling other than the Rowans and the rear garden of Melrose, with the other boundaries abutting fields. Noting that the arrangement in this regard remains fundamentally unchanged the Inspector's view that the site cannot be considered as infill development remains wholly valid and whilst this is a matter of judgement, the LPA agrees with the Inspector's view.

Green Belt

64. This site is located within the Green Belt. Policy 20 (Green Belt) states that proposals will be determined in accordance with national planning policy. In this case the NPPF is the starting point and it is clear at paragraph 137 that the Government attaches great importance to Green Belts and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. At paragraph 138 five purposes of Green Belt are listed, and it is considered that this proposal is contrary to 138 (c) which states that the Green Belt will assist in safeguarding the countryside from encroachment.

65. Openness is considered an essential characteristic of the Green Belt. This proposal would alter the area of land on which it would be sited in that it would introduce the built form of a bungalow style structure with elongated footprint that would introduce a permanent building to a site where there is currently none. In spatial terms it would not therefore preserve the openness of the green belt. In terms of the visual dimension of openness, the effect would be more modest due to the physically contained nature of the site with the fencing and the trees on the boundaries, and its proximity to other development along Pittington Road. The single storey form of the proposed dwelling would also contribute to the limited visibility beyond the site boundaries. Whilst the proposal would result in a single dwelling on a fairly small sized parcel of land, it would nevertheless conflict with the Green Belt purpose to assist in safeguarding the countryside from encroachment which was noted by the Planning Inspector in dismissing the recent appeal.
66. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A number of exceptions are specified, including buildings for agriculture or forestry; facilities for outdoor sport, recreation, cemeteries etc.; extension or alteration of a building; replacement of a building; limited infilling in villages; limited affordable housing for identified community needs; and redevelopment of previously developed land. The construction of new a residential dwelling as proposed is considered to be inappropriate development as it does not qualify under any of the stated exemptions. Particularly, it is not a building for agriculture or forestry and is not considered to be limited infill development for the reasons already stated.
67. It should be noted that NPPF paragraph 149 (d) states that the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces would not be inappropriate development. This is in addition to NPPF para 149 (g) which also considers that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) is not inappropriate development. These paragraphs within the NPPF are particularly important as the application references that the site is 'previously developed land' in their supporting statement. In this regard it is considered that the previous coal and rail related uses they have identified (as show on historic mapping) has long since ceased and the site can now be considered as a greenfield site. The NPPF, in defining previously developed land, specifically excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
68. In this regard it is noted that the Planning Inspector considered the extent to which the application site comprised previously developed land in the context of P145 of the NPPF (now P149 of the 2021 version) in determining the previous appeal, stating that *'the structures on the site are of a temporary nature and so therefore are excluded under this exception and the cleared land also does not have the appearance of previously developed land. There is no sign remaining of the historical usage. Hence, this exception also does not apply'*.
69. The Inspector went on to conclude that the proposal would be inappropriate development in the Green Belt and that paragraph 143 (now 137) of the Framework establishes that inappropriate development is by definition harmful to the Green Belt and that for similar reasons, the development would also not comply with Policy 20 of the CDP. It remains therefore that the site cannot be considered to be previously developed. In any event, paragraph 149(g) also contains a requirement that the proposed development should not have any greater impact on the openness of the green belt than the existing development. As there is no permanent existing development on the application site, this element of the paragraph could not be satisfied.

70. In addition, the Minister of State for Housing and Planning made a Written Ministerial Statement (WMS) to Parliament on the 17 December 2015. The WMS confirms changes to national planning policy to make intentional unauthorised development a material consideration, and also to provide stronger protection for the Green Belt, as set out in the manifesto. It makes clear that most development in the Green Belt is inappropriate and should be approved only in very special circumstances. Consistent with this, this Statement confirms the government's policy that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

Very Special Circumstances

71. Noting that the site is inappropriate development, paragraph 147 of the NPPF directs that permission should not be approved unless very special circumstances apply. Paragraph 148 says that Very Special Circumstances will not exist unless the potential harm to the green belt by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations. In this regard the application includes a range of personal circumstances for consideration as Very Special Circumstances, including:
- The proposed dwelling would provide permanent living accommodation for the applicant and their family.
 - The family descend from gypsy and traveller origins but have resided in the local area for their entire lives and require a permanent form of living accommodation to be able to stay in the local area close to their wider family and to allow their children to continue attending their same schools and nurseries.
 - The applicant provides daily care for an elderly relative with significant health issues. Due to the severe lack of specialist housing accommodation for elderly members of the gypsy and travelling community, it is the intention of the family relative would reside with the applicant should planning permission be granted for the proposed development with the bungalow being specially adapted to suit the specific care needs.
72. The applicant also highlights the context of paragraphs 59 (now 60) and 61 (now 62) of the NPPF which state that the needs of groups with specific housing requirements should be addressed and, within this context, the type of housing needed for different groups in the community should be assessed and reflected including for travellers and those wishing to build their own home. Whilst the Applicant acknowledges that personal circumstances are seldom a reason for granting planning permission in their own right, they can be a material consideration weighing in favour of a proposal and in this case, she considers that her personal circumstances in this instance are compelling.
73. The applicant's planning agent asserts that the personal circumstances of the applicant and her family in this case are extreme and contend that, in combination, they would in themselves provide the very special circumstances necessary to justify the proposed dwelling in the Green Belt.
74. Whilst a case for 'Very Special Circumstances' did not form a substantive part of the previous application; it was nevertheless a case put to the Appeal Inspector. In assessing the previous application on Appeal, the Planning Inspector confirmed that 'different groups' includes travellers that do not fall under the definition set out in Annex 1 of the Planning Policy for Traveller Sites (2015). However, it was also confirmed that the weight that can be attached to such a benefit is tempered by limited evidence that the family's needs could not be met by the existing housing stock in the area. This is because the proposal is for a bricks and mortar permanent dwelling.

75. The applicant has provided evidence of waiting lists at existing traveller sites within the County and an assessment of the application against policy 17 of the CDP which relates to development proposing new Traveller and Travelling Showpeople sites. However, as the site relates to a bricks and mortar dwelling this policy is not considered relevant as noted by the Planning Inspector in dismissing the previous appeal. This does not however, affect the weight to be afforded to the applicant's personal circumstances in assessing whether or not these amount to very special circumstances in consideration of the application in the context of policy 20 of the CDP and paragraph 148 of the NPPF.
76. Therefore, the position as considered by the Planning Inspector, remains fundamentally unchanged in this regard and is a matter of planning judgment in balancing harm against benefits.

Greenbelt Policy Test

77. The proposal constitutes inappropriate development in the Green Belt. It would also not preserve the openness of the Green Belt and it would conflict with the green belt purpose of safeguarding the countryside from encroachment. As a result, the proposal falls to be considered against the policy tests of Policy 20 of the CDP and paragraphs 147 & 148 of the NPPF.
78. The Inspector of the recent planning appeal highlighted that paragraph 144 (now 148) of the NPPF states that substantial weight is to be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Against the Green Belt harm, it is necessary to balance the personal and economic circumstances put forward by the applicant, and the related need for a settled base.
79. The application refers to the personal circumstances of the applicant and their family, stating that they are currently living in a caravan and require permanent accommodation. Whilst the personal circumstances raised by the applicant within the Planning Statement (and set out at paragraph 70 of this report) are clearly important to them personally, the Planning Statement also acknowledges that personal circumstances are seldom a reason for granting planning permission in their own right. Whilst these are factors in the balancing of the application, how much weight is to be afforded to them in the context of the balancing test in para 148 of the NPPF is a matter for the decision taker. It is considered that the weight to be afforded to them is reduced by the fact that there is little evidence as to why the applicant's housing needs could not be met by existing housing stock. On balance, these matters are considered insufficient to clearly outweigh the harm due to the inappropriateness of development within the Green Belt and the other identified harm. Consequently, very special circumstances do not exist, and the application must be refused as being contrary to CDP Policy 20 and paragraph 148 of the NPPF.
80. Given that this application is a re-submission of the previous proposal, the Council is mindful of the appeal decision and the conclusions of the Planning Inspector and are of the opinion that nothing has fundamentally changed since that decision.

Impact upon the Character and Appearance of the Surrounding Area

81. Policy 29 (Sustainable Design) is concerned with layout and design of new development and requires that development to make a positive contribution to the area and character. This is considered to be in accordance with the aims of paragraph 127 of the NPPF which states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

82. In the recent appeal decision, the Planning Inspector concluded that the proposal would not have an unacceptable effect on the character and appearance of the area. Officers agree with this position and that as such, the proposal would comply with Policy 10 of the CDP in relation to the general design principles that it sets out, including where new development must not give rise to unacceptable harm to intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, amongst other considerations.
83. In addition, the Inspector concluded that the proposal would also comply with Policy 31 of the CDP as far as it is concerned with character and appearance matters, as regards avoiding unacceptable impacts on the natural environment. Again, officers agree with those conclusions.
84. The Council's Design and Conservation officer has confirmed that design would result in a simple dwelling and given the Inspectors conclusions above the scheme is considered to be in accordance with Policy 29 of the CDP and Para 126 of the NPPF.

Impact upon Residential Amenity

85. As identified above the proposed dwelling would be located behind an existing row of dwellings and given the distances involved (25 metres is achieved between the principal elevation of the proposed dwelling and the rear elevation of the nearest property) it is unlikely to have any unacceptable adverse impact upon the current levels of residential amenity enjoyed by neighbouring properties.
86. The Council's Environmental Health officer has confirmed that the housing development is noise sensitive. The locality maybe regarded as a rural setting with both residential housing and agricultural fields being near the site. The A690 is approximately 100m away from the site and it may be assumed noise from the road will impact on the new development. There is also a farm shop nearby, however the EHO is not aware of any statutory nuisance issues connected with this site or generally in the wider locality. As such, the officer has not raised any objection noting that the information submitted in support of the application demonstrates that the development would comply with the thresholds stated within the Technical Advice Notes.
87. In conclusion on this issue, the proposed dwelling is considered to accord with CDP policy 31.

Sustainability

88. The Inspectors appeal decision for the same proposal on the same site advises that the proposal would be in a suitable location with regard to the accessibility to services. Officers agree with that conclusion and as a result, it would comply with Policy 21 of the CDP which concerns the delivery of sustainable transport, including its order of priority for modes of transport and where it states that development is to clearly link to existing services and facilities together with existing routes for the convenience of users. It would also comply with Policy 29 of the CDP as far as this policy is relevant to accessibility to services as an aspect of sustainable design.

Contaminated Land

89. Paragraph 183 of the NPPF requires planning decisions to ensure that sites are suitable for any new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation.

90. The Council's Contaminated Land Section advises that approval would need to be subject to further a phase 2 site investigation and ground gas monitoring is required regardless of the findings of the rotary drilling. Given the above and due to the fact that this development constitutes a change of use to a more sensitive receptor, conditions stating no development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority would be required, if planning permission is granted.
91. Furthermore, the council's Environmental Health officer has advised that a further condition would be required which states remediation works should be carried out in accordance with an approved remediation strategy and the development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.
92. Subject to these conditions, the proposal is considered to accord with CDP Policy 32 and paragraph 183 of the NPPF.

Parking, Access and Highway Safety

93. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport and to comply with the council's approved Parking and Accessibility Supplementary Planning Document. This approach is considered to display a broad level of accordance with the aims of paragraph 109 of the NPPF which 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
94. The application proposes an access from Pittington Road which appeared to have already been constructed when the site visit was completed. The council's Highways Officer has been consulted on the proposal and has raised no objections. Accordingly, the proposal is considered to comply with CDP policy 21 and paragraph 110 of the NPPF.

Other Matters

Drainage

95. Policies 35 and 36 require new development to include satisfactory arrangements for disposing of foul and surface water discharges. In this regard it is noted that the application proposes the discharge of surface water to existing water course and foul water would be discharged to a septic tank. These are viewed as being compliant with the above policies. In addition, the council's Drainage officer confirmed that the proposal is not of a classification that requires consultation with the LLFA regarding surface water management.
96. Northumbrian Water have also been consulted on the proposal and have advised that they actively promote sustainable surface water management across the region. The developer should develop their surface water drainage solution by working through the following, listed in order of priority:
 - Discharge into ground (infiltration)
 - Discharge to a surface water body
 - Discharge to a surface water sewer, highway drain, or another drainage system
 - As a last resort, discharge to a combined sewer

97. It is therefore considered that the proposal provides adequate provision for the disposal of foul and surface water in accordance with the aims of policies 35 and 36 of the CDP.

Landscape and Ecology

98. The Landscape Officer has stated that whilst the site is located to the south and west of previous ribbon/linear residential development, which is suburban in character, a residential dwelling on this site would encroach into the countryside and as already noted would erode the openness of the Green Belt.
99. An area of Area of High Landscape Value (AHLV) touches the tip of the southern boundary of the development site and it is also worth noting that the County Durham Plan Local Landscape Designations Review (2019) identified the area directly to the west of the site as suitable for inclusion in a proposed Area of Higher Landscape Value (AHerLV) in the CDP.
100. Despite the above, the site is not readily visible from any nearby public vantage points although it would be glimpsed from Pittington Road to the east (with increased visibility from the carpark associated with Homer Hill Farm Shop). Mature vegetation along its western boundary and southern tip effectively screen views of the site from the A690. A dwelling in this location would not be visually intrusive however the proposal would be sited within the countryside, on agricultural land and outside any defined settlement boundary. However, given the site is not located within any existing landscape designation the proposal is not considered to be contrary to Policy 39 of the CDP and the Landscape Officer has confirmed that the proposal would not have an unacceptable adverse impact upon the landscape quality or appearance of the adjacent AHLV / AHerLV.
101. The Council's Ecology officer has not raised any objection to the proposal. Similarly, the Council's Tree Officer has confirmed that providing protective fencing is constructed as described within the Tree Survey report, the trees should be adequately protected throughout development. As a result, the proposal is considered to be compliant with policies 40 and 41 of the CDP.

Greenfield/Brownfield

102. Whilst the applicant considers the site of application to represent the redevelopment of a brownfield site, no evidence has been submitted to support any authorised development having taken place on the site. Therefore, it is concluded that the site does not meet the definition of previously developed land as contained within the NPPF at Annex 2 and can therefore, not be considered as previously developed land. This view is also reinforced by the previous appeal decision relating to the same proposal on the same site.

Human Rights and Public Sector Equality Duty

103. In respect of the previous Appeal the Inspector acknowledged their duties under the Public Sector Equality Duty (PSED) contained within the Equality Act 2010 which sets out to eliminate discrimination, harassment and victimisation, advance equality and foster good relations, and the protected characteristics under the PSED, including for gypsy and traveller groups. They also provided commentary on Article 8 of the Human Rights Act 1998 (Article 8) that bestows the right to private and family life and for the home, and that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Nations Convention on the Rights of the Child.

104. The Inspector concluded that based on the evidence, they were not persuaded that the need for a settled base could not be met by either an existing dwelling or on land that is not in the Green Belt. In addition, they noted that the protection of the Green Belt is a matter of legitimate wider public interest. This is reflected by Policy 20, as well as the NPPF and were satisfied that this objective can only be adequately safeguarded if the proposal does not proceed. Not granting planning permission would therefore be a proportionate response that would not violate the applicant's human rights.
105. It is considered that a planning decision has the potential to engage Article 8 of the 1998 Human Rights Act. Article 8 provides for the right to respect for private and family life and that Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Nations Convention on the Rights of the Child
106. It is noted, however, that rights afforded under Article 8 are not absolute but qualified. Consequently, it is lawful for a local planning authority to refuse a planning application if that refusal is in accordance with the law and necessary and proportionate.
107. Applying those criteria to this case now being determined, the demonstrable planning harm to the green belt is in accordance with planning law and is also considered necessary in the wider public interest and proportionate as the need for a settled base could be met by either an existing dwelling or land that is not in the Green Belt.
108. It is of note that none of the article 8 cases to which the Council's attention has been drawn add anything to the assessment above.
109. The Council also has a duty under Section 149 of the Equality Act 2010 when exercising its functions to have regard to the need to (a) eliminate discrimination, harassment, victimisation and any other condition that is prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include age, disability, sex, race, and religion. Officers have proceeded on the basis that protected characteristics are at play, namely the applicant's gypsy/traveller status and the care needs of the elderly relative.
110. Having considered and balanced all relevant factors in this matter, it is not considered that the application of the public sector equality duty would lead to an outcome other than refusal of this application. All issues have been considered in accordance with national law and other material considerations. The status of the applicant and their family has been taken into account when considering the Council's PSED and the Council is satisfied that there is nothing to suggest that the refusal of Planning Permission would be inappropriate or disproportionate in this instance.

Comparison to recent planning application at Fernhill

111. Cllr Hall has queried potential comparisons between this application and a previous planning application determined by the Committee in November which related to the erection of a replacement building within the curtilage of a large detached property on the outskirts of Durham, located within the Green Belt. However, the specifics of that case are not considered sufficiently similar to the current proposal to the extent that it can be afforded any weight in the determination of this application. Specifically, officers considered that site to benefit from an exception in the NPPF where by the development on previously developed land that does not have a greater impact on the openness of the greenbelt is not by definition inappropriate. In that case the garden at Fernhill met the definition of Previously Developed as set out in the NPPF and the proposed development being limited in scale to effectively replicate the stables which it was replacing. Consequently, officers consider the circumstances to be fundamentally different between the two cases.

CONCLUSION

112. The development constitutes inappropriate development in the Green belt for which Very Special Circumstances are not considered to have been demonstrated. The proposal does not meet the exemption for infill development and demonstration of any very special circumstances which would clearly outweigh the greenbelt harm arising from inappropriateness. As such the proposal conflicts with the County Durham Plan as a whole with the protection that is afforded to the Green Belt and there are no material considerations which clearly outweigh this conflict (CDP Policy 20) and national planning policy (NPPF Section 13 and paragraph 147 and 148).

RECOMMENDATION

That the application be **REFUSED** for the following reason;

1. The proposal constitutes inappropriate development within the Green Belt and there are no very special circumstances which are sufficient to clearly outweigh the harm by reason of inappropriateness and other identified harm namely the failure to preserve openness, contrary to Policy 20 of the County Durham Plan and national planning policy (NPPF paragraphs 137, 147 & 148).

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (Adopted 2020)

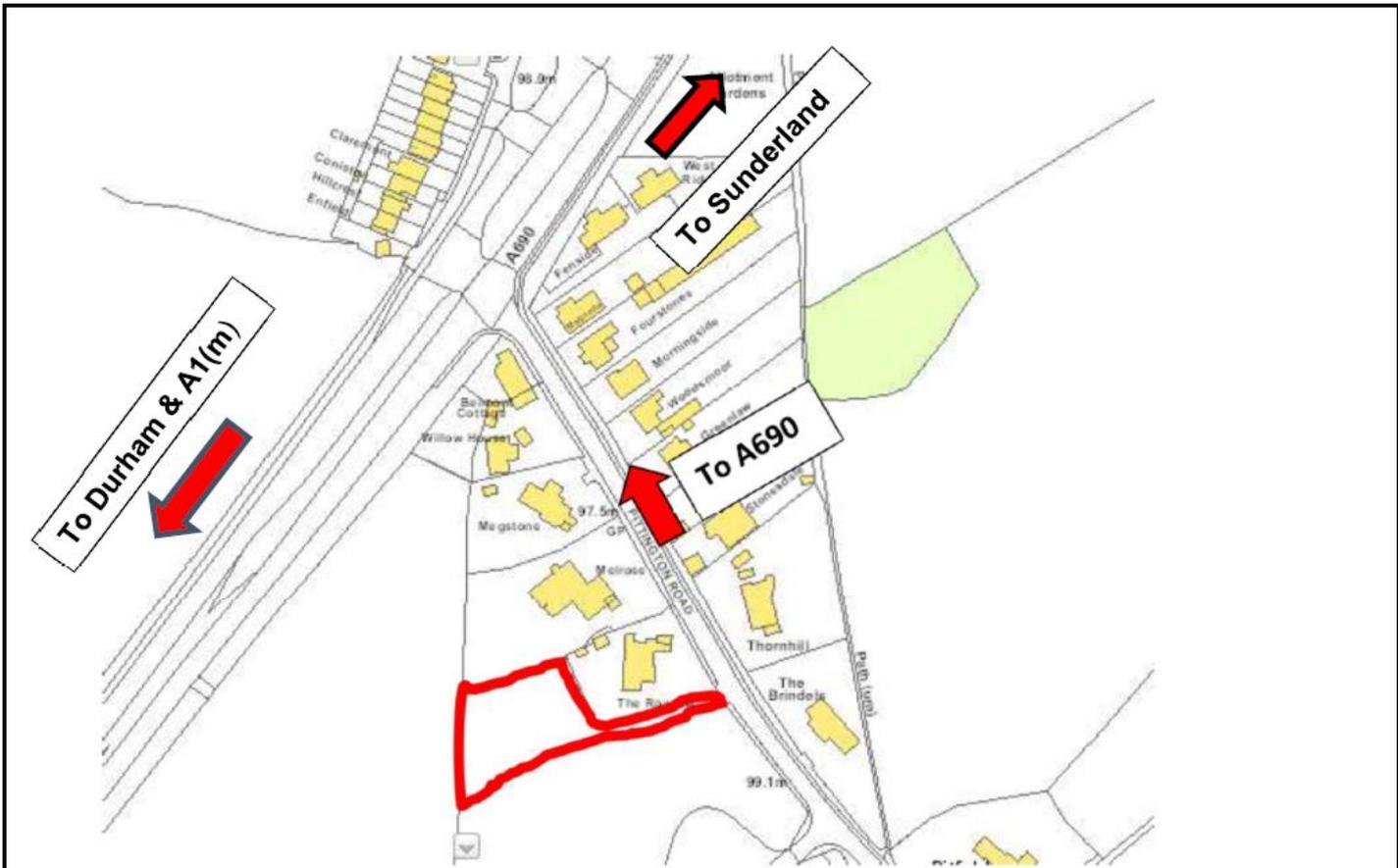
Statutory, internal and public consultation responses

Written Ministerial Statement, Green Belt Protection, 17th December 2015 -

<https://publications.parliament.uk/pa/cm201516/cmhansrd/cm151217/wmstext/151217m0001.htm>

Appeal Decision APP/X1355/W/20/3264212 (20th May 2021), Tiana Lane, Pittington Road, Rainton Gate, Houghton-le-Spring, Durham DH5 9RG -

<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3264212>



Planning Services

Erection of a single storey dwelling at Tiana Lane, Pitlington Road, Rainton Gate, Houghton-le-Spring, DH5 9RG

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Comments

Date
 December 2021

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/03430/FPA
FULL APPLICATION DESCRIPTION:	Change of Use from C3 to C4
NAME OF APPLICANT:	Smriti Franklin
ADDRESS:	67 Kepier Crescent, Gilesgate Moor, Durham, DH1 1PQ
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	John Russell (Senior Policy Officer) Tel: 03000 263 428 Email: john.russell@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a semi-detached property located within the Gilesgate Moor area of Durham City.

The Proposal

2. Planning permission is sought for the change of use of the property from a dwelling (use class C3) to a small HMO (C4).
3. No external alterations are proposed to facilitate the change of use, although some internal alterations are required to create a 4th bedroom on the ground floor which is currently used as a dining room.
4. The application is reported to Planning Committee at the request of Councillors E and L Mavin who request that the application be reported to the Central and East Area Planning Committee for determination should officers be minded to approve the application through Powers Delegated to the Head of Planning. Both councillors raised concerns regarding the rising concentration of student housing among traditional family accommodation as seen in nearby areas, and consider that where this occurs, the character of an area can be drastically changed resulting in an extremely negative impact upon existing communities. The councillors also felt strongly that there is not a need for further HMO properties in this area given the current volume of purpose-built student accommodation in the area and that the development would have an impact in terms of increased noise and disturbance, traffic and parking congestion, and for these reasons consider that the application contravenes relevant planning policies and should be considered by the Committee.

PLANNING HISTORY

5. A planning application (DM/18/02365/FPA) for change of use from Class C3 to Class C4 - HMO was withdrawn on the 30th November 2018.

PLANNING POLICY

NATIONAL POLICY

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.

13. 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.

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

LOCAL PLAN POLICY:

14. The County Durham Plan (CDP) was adopted by Full Council on the 21st October 2020. The following policies of the CDP are considered relevant to the determination of this application.
15. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
16. 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 to have regard to Parking and Accessibility Supplementary Planning Document.
17. Policy 29 - Sustainable Design requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.
18. 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 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 locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

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

<http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. The Highways Authority have raised no objection to the application subject to the applicant providing suitable cycle storage facilities and have confirmed that the property is located within the Controlled Parking Zone where parking is subject to restriction.

20. Belmont Parish Council objects to the application noting that Kepier Crescent is a long-established residential area with a mix of family homes and elderly residents. A sense of community prevails, and the Parish Council notes that it has been approached by a number of residents who have expressed concerns about the area becoming yet another 'HMO quarter' of the City as has been the case in other Durham neighbourhoods. In addition, they note a need for affordable family housing in the area and that conversion from a family home to a HMO would make it more difficult to convert the property back to family occupation at a future date.
21. They do not consider that there is a need for further HMO properties in this area given the volume of purpose-built student accommodation provided by both the university and private developers. Concern is also raised that there is minimal shared social space within the development for proposed residents and that the relatively small bedroom sizes are unacceptable and do not meet minimum space standards set out in 2021. They also consider the prospect of at least four vehicles, excluding visitors, using this shared access could lead to difficulties with neighbours who use the same access and that as the occupancy of HMOs is subject to frequent change this would be disruptive for neighbours.

INTERNAL CONSULTEE RESPONSES:

22. Spatial Policy highlight various national and local policies that are relevant to the proposal, namely policy 16 of the County Durham Plan.
23. HMO officer confirms that the proposed dwelling will form a 4 bed, 2 storey house in multiple occupation but that the property would not be required to be licensed under Part 2 of The Housing Act 2004. However, they have provided advice and guidance to ensure compliance with all relevant amenity and fire safety standards relating to a HMO of this type. These include that a full Fire Risk Assessment must be carried out for the property and a suitable means of escape and other appropriate fire precaution facilities and equipment be provided of a type, number and location to the satisfaction of Durham County Council's and the Fire Authority.
24. HMO Data has confirmed that the application site does not benefit from any Council Tax exemption as being occupied solely by students. In addition, they confirm that within a 100m radius of, and including 67 Kepier Crescent, 3.8% of properties are Class N exempt student properties as defined by Council Tax records. They also note that planning permission exists for change of use from C3 to C4 HMO (reference DM/20/01294/FPA) relating to No. 10 Musgrave Gardens, Gilesgate, Durham, DH1 1PN which has not yet been implemented that would increase the number of HMOs to 5.1% if implemented.
25. Environmental Health (Nuisance Action Team) have stated that it is difficult to quantify the potential for noise impact associated with the proposed development as there is no specific guidance or thresholds associated with developments of this nature. Whilst, the change of use proposed will lead to an intensification of the use of residential property via the introduction of an additional bedroom, this is unlikely to increase the general noise climate and impact on day-to-day amenity providing good practice and guidance is adhered to. Based on the information submitted with the application, they are satisfied that the development is unlikely to cause a statutory nuisance.

PUBLIC RESPONSES:

26. The application has been advertised by means of site notice and notification letter sent to neighbouring residents.
27. To date, twelve letters of objection (including the objection from Belmont Parish Council and Councillor E Mavin and Councillor L Mavin) have been received raising the following concerns:
- Increase of traffic leading to highways safety for the elderly and young
 - Increase in parking problems
 - HMO in this area is unacceptable due to the rotation of tenants
 - Elderly residents living on their own in this area this is of great concern and could attribute to increase in the local crime rate
 - Increased noise and disturbance
 - No requirement for these type of properties in this street
 - Unsocial behaviour late night and early morning
 - HMO properties in this area, which serve no community purpose and nothing other than provide financial gain for the absent owner, who himself will not have to endure the issues caused by this
 - Don't want the spread of multi occupant housing spreading to our area like it has done through the city and surrounding areas causing problems between local residents and casual renters. It is time the council made a stand once and for all NOW

APPLICANTS STATEMENT:

28. Not provided

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

29. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The main considerations in regard to this application are the principle of the use in this location, the impact upon the amenity of residents and highways safety.
30. 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 in this regard. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
31. The Local Plan was adopted in 2020 and is up to date. In addition, the Durham City Neighbourhood Plan was adopted in 2021 and also forms part of the up-to-date Local Plan. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.

32. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs). HMO's are small shared houses occupied by between three and six unrelated individuals as their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction came into effect on 17 September 2016 for the area withdrawing permitted development rights in this regard and as such planning permission is required.
33. Policy 16 of the County Durham Plan is relevant to this application which relates to student accommodation/HMO's and states that in order to promote, create and preserve inclusive, mixed and balanced communities and protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a Class C4 (House in Multiple Occupation), where planning permission is required; or a House in Multiple Occupation in a sui generis use (more than six people sharing) will not be permitted if:
- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area;
- or
- c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
34. The most recent up to date Council Tax information identifies that 3.8% of those properties within 100 metres of the site are currently occupied as student let accommodation and are Class N exempt. Whilst an unimplemented consent has been identified as relating to a property within the 100m area, it is noted that this would increase the percentage of Class N exempt properties to 5.1%.
35. Policy 16 of the CDP state that new changes of use from C3 to C4 would not be permitted in areas where more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption).
36. In the case of the application site the current concentration of 3.8% of properties as council tax exempt is below the 10% threshold stated in the policy. Taking account of the existing planning permission which has yet to be implemented that rate increases to 5.1% which is still below the 10% threshold contained in policy 16, therefore the development is considered to be compliant with Policy 16 in this regard.

37. Criteria c) of Policy 16 states that development will not be permitted in instances where less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation (PBSA) and the town centre or a university campus. There are no PBSA facilities within close proximity to the site and as such the street is not considered to be positioned on a primary access route between any PBSA and the University and accords with the requirements of criteria c of Policy 16.
38. The Council's EHO has been consulted and confirmed that it is difficult to quantify the potential for noise impact associated with the proposed development as there is no specific guidance or thresholds associated with developments of this nature and that the change of use proposed will lead to an intensification of the residential property via the introduction of an additional bedroom. However, they consider the above is unlikely to increase the general noise climate in the area or impact on day-to-day amenity providing good practice and guidance is adhered to. Based on the information submitted with the application, they are therefore satisfied that the development is unlikely to cause a statutory nuisance and raise no objection.
39. Policy 16 also includes a number of other criteria to which new development must comply which includes the provision of sufficient cycle and car parking having regard to the Council's adopted Parking and Accessibility Guidelines, and that acceptable arrangements for bin storage and other shared facilities are provided. The Highway Authority has not raised any objection to the application subject to appropriate cycle parking and bin storage being provided and the agent has confirmed that sufficient space is available within the site for these to be provided. However, specific detail has not been provided and as such if the committee is minded to approve the application a condition should be included which requires the submission, agreement and implementation of precise detail in this regard be provided prior to first occupation of the property for the intended purpose.
40. Objections have been received from existing residents citing concerns that should the current application be approved this would lead to other similar applications which the Council would have difficulty in resisting. Comments identify a need to refuse the current application accordingly and identify a wider requirement to resist such applications generally. Whilst the concerns relating to the wider impacts from the over proliferation of HMO accommodation with the City are noted, the current application must be considered on its own merits and against the County Durham Plan which represents the up-to-date development plan for the area, and all other material planning considerations. In this regard it is noted that the number of properties within the 100 metres of the site is below the threshold contained in policy 16 and should permission be granted for the proposed change of use, that threshold would not be exceeded.
41. In addition, concern has also been raised that the application fails to demonstrate any need for further HMO accommodation in this area. However, it is noted that there is no requirement within policy 16 for the application to identify need, with the requirement in that regard relating to PBSA accommodation only. As such this is not considered to be a material consideration capable of sustaining refusal of the application.
42. Given the above, it is considered that the principle of the development can be supported as the proposal, subject to conditions would accord with the requirements of Policy 16 of the County Durham Plan subject to the consideration of other material matters detailed below.

Impact on residential amenity

43. Paragraph 126 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users. In line with this, CDP Policy 31 states 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. Proposals will also need to demonstrate that future occupiers of the development will have acceptable living conditions. Development which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated. In addition, criterion e) of Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
44. Belmont Parish Council have raised concerns regarding the size of rooms and shared spaces citing a perceived failure to meet minimum Nationally Prescribed Space Standards. A review of all bedroom sizes was undertaken in assessment of the application and the amount of internal amenity space provided by the property as a whole. That assessment found that in all cases the room sizes met the minimum standard required. In addition, the Council's HMO licensing section has confirmed that the property would not be licensable as a HMO.
45. In addition, existing residents have raised that the change of use would have a detrimental impact in terms of increased disruption from noise and antisocial behaviour. Whilst it is noted that this type of accommodation is often associated with greater use of the night-time economy and as such an increased level of night-time noise may occur, notwithstanding this, any disturbance generated by the introduction of small HMO is unlikely to be unduly significant. The Council's Environmental Health Section has been consulted and confirms that the development is unlikely to cause a statutory nuisance subject to appropriate management and does not raise any objection to the application in this regard.
46. It is noted that the application site is a semi-detached two storey property located within a residential area predominantly characterised by family homes. However, noting that there is no identified over proliferation of C4 dwellings currently in the locality, it is not considered that the introduction of a single HMO within this context would likely have any cumulative impact on the wider population in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.
47. Policy 16 includes a requirement to ensure that adequate bin storage provision is provided and that other shared facilities are also adequate. As already noted it is considered that there is adequate space to provide sufficient bin storage within the site to service demand, with precise detail to be secured through planning condition.
48. In light of the above the proposal is considered to be acceptable in terms of residential amenity and the proposal is considered to accord with the requirements of policies 16 and 31 of the County Durham Plan and Paragraph 174 of the NPPF

Parking, Access and Highway Safety

49. Policy 16 of the CDP requires new HMO's to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site.

50. The proposal is located within a controlled parking zone and would utilise a shared access from the adopted highway with an adjacent property. Objections have been received from local residents in this regard who are concerned that the proposal would increase the number of vehicles using the local road network and that this would have a detrimental impact upon highway safety.
51. The Highway Authority has been consulted and raises no objections to the proposal which it is not considered would result in any unacceptable harm to highway safety in accordance with the aims of policy 16 and 21 of the CDP and paragraph 110 of the NPPF.

Other Issues

52. Local residents have raised objection to the application citing concern at the elderly nature of existing residents and that the proposal would lead to an increase in crime/fear of crime.
53. Part 8 of the NPPF relating to the promotion of healthy and safe communities, states within paragraph 92 that planning decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Paragraph 93 further states that in order to provide social, recreational and cultural facilities and services to meet community needs, planning decisions should take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.
54. Whilst it is acknowledged that residents hold fears that crime in the area would increase as a result of the proposals, there is no evidence to underpin this. As the courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern, it is considered that a refusal reason framed around this issue would not be capable of being sustained. Issues of crime and the fear of crime are material considerations in determination of the application but given the nature of the proposed use it is not considered that there would be any material increase in crime as a result of the development and as such this should be afforded limited weight in the determination of this application in accordance with part 8 of the NPPF.

CONCLUSION

55. It is considered that the principle of development would accord with the requirements of Policy 16 of the County Durham Plan which is the principal policy against which the application should be assessed. In this regard it is noted that the percentage of HMOs already present in the area is below the 10% threshold contained within the policy at 3.8%, and that the change of use as proposed would not, when taking into account the presence of extant planning permissions capable of implementation, exceed this threshold.
56. When assessed against other criteria contained within policy 16 and the remaining policies of the County Durham Plan relevant to the application, it is considered that the introduction of a single small C4 HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents or highway safety in accordance with policies 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.

57. Whilst the concerns raised by the Local Ward Cllrs, the Parish Council and several residents are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application.
58. In light of the above, the application is reported to the Committee with a recommendation to approve, subject to conditions.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions;

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 16, 21, 29, and 31 of the County Durham Plan and Parts 8, 9 11 and 12 of the National Planning Policy Framework.

3. Prior to the first occupation of the development hereby approved, details of all bin stores and cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The bin stores and cycle storage shall thereafter be constructed in accordance with the approved details and be made available prior to the first occupation of the property as a C4 HMO.

Reason: In the interests of visual amenity and highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

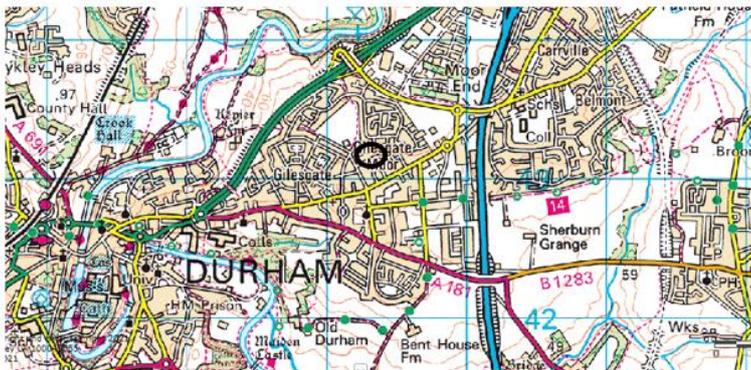
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (Adopted 2020)

Statutory, internal and public consultation responses



Planning Services

Change of Use from C3 to C4 at 67 Kepler Crescent, Gilesgate Moor, Durham, DH1 1PQ

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Comments

Date

December 2021

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