



## Area Planning Committee (South and West)

**Date** Thursday 20 October 2022

**Time** 9.30 am

**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. The Minutes of the Meeting held on 22 September 2022 (Pages 3 - 12)
5. Applications to be determined
  - a) DM/22/01910/FPA - 35 Gateways, Wolsingham, Bishop Auckland (Pages 13 - 22)  
Change of use from public highway to private drive
  - b) DM/21/04249/FPA - Site of former St Peters School, Main Road, Gainford (Pages 23 - 58)  
Residential Development of 37 units with associated access and landscaping (resubmission of application DM/20/01603/FPA)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
12 October 2022

To: **The Members of the Area Planning Committee (South and West)**

Councillor G Richardson (Chair)  
Councillor A Savory (Vice-Chair)

Councillors E Adam, V Andrews, J Atkinson, D Boyes, D Brown,  
J Cairns, N Jones, L Maddison, M McKeon, D Oliver, S Quinn,  
I Roberts, M Stead and S Zair

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 22 September 2022 at 9.30 am**

**Present:**

**Councillor G Richardson (Chair)**

**Members of the Committee:**

Councillors A Savory (Vice-Chair), E Adam, V Andrews, J Atkinson, N Jones, L Maddison, M McKeon, D Oliver, S Quinn, M Stead, L Fenwick (substitute for I Roberts) and P Jopling (substitute for D Brown)

**1 Apologies for Absence**

Apologies for Absence were received from Councillor D Brown, Councillor I Roberts and Councillor S Zair

**2 Substitute Members**

Councillor L Fenwick was present as substitute for Councillor I Roberts and Councillor P Jopling was present as substitute for Councillor D Brown.

**3 Declarations of Interest**

No declarations were made.

**4 Minutes**

The minutes of the meeting held on 23 June 2022 were agreed as a correct record and signed by the Chair.

**5 Applications to be determined**

**a DM/22/01877/FPA - Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN**

The Committee considered a report of the Senior Planning Officer which provided details of an application for erection of extension to newly constructed building at Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN (for copy see file of minutes).

G Spurgeon, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site.

Judith Mashiter the Clerk to Middleton and Newbiggin Parish Council informed the Committee that whilst the Parish Council had no objections to the application, they had attended to represent local residents and to make sure the application received the maximum amount of scrutiny. Concerns had been raised with regards to noise, increased traffic and the loss of parking and she noted that there had been a reduction of two parking spaces. She advised that there was only one bus service per week and therefore employees would be relying on travelling to work by car. Nevertheless, the report had addressed concerns raised by residents and the harm was localised and not substantial in any case.

Rod Hepplewhite, Agent to the Applicant informed the Committee that the works were necessary for the continued growth of the applicants business as they looked to expand manufacturing. He added that the proposal would have no impact on any nearby listed buildings and would only have a slight impact on the conservation area, but this was outweighed by the employment benefits that would be brought to the area. The proposed landscaping would increase the biodiversity to a net gain of 24% overall and which was in excess of requirements and the application was within local and national planning policies.

The Chair informed the Committee that the application was listed as being in Barnard Castle East Division but was in fact located in the Barnard Castle West Division.

Councillor Jopling asked why the application had seen a reduction in parking spaces, which was followed by a question from Councillor McKeon regarding whether the spaces could be reinstated.

Mr Hepplewhite informed the Committee that the loss of the two spaces had been necessary when looking to expand the work area however the application included more than the minimum number of parking spaces required and Highways Officers were content with the provision. Under the current design the spaces could not be reinstated without substantial changes in the layout but there was an area of land to the east of the site which could be amended to provide an additional two or three spaces, however this would impact on the biodiversity net gain.

The Senior Planning Officer confirmed that he was satisfied with the level of parking provision and would prefer to keep the current landscaping and biodiversity net gain. He advised that whilst a condition to alter the level of parking could be added, it was not considered necessary.

Councillor Atkinson addressed the Committee and brought Members attention to the statement of the Parish Council. Although they had attended, they had raised no objections and had noted that concerns of local residents had been addressed. He confirmed that this application would bring local jobs to the area and he moved the recommendation to approve the application for the reasons outlined in the report.

Councillor Jopling noted that the application would bring benefits to a rural area and create jobs , although she noted that the bus service was insignificant, she seconded Councillor Atkinson's motion to approve the application.

Councillor Quinn added this application would provide jobs for the local community and in her opinion the parking provision was an issue for the Applicant to determine.

Councillor Savory added that all relevant measures had been applied and reiterated that the application would create 20-30 jobs over the next five years, bringing the total to 145.

**RESOLVED:**

The application be APPROVED subject to conditions as outlined in the report

**b DM/22/01643/FPA - Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN**

The Committee considered a report of the Senior Planning Officer which provided details of an application for Insertion of louvre into the southern elevation of building approved at Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN (for copy see file of minutes).

G Spurgeon, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site.

The Clerk to Middleton and Newbiggin Parish Council addressed the Committee, directing Members to points made on the previous application adding residents concerns about noise as the works were being carried out which had been addressed asking that the condition apply to any consecutive 28-day period and would be robustly enforced.

Rod Hepplewhite, Agent for the applicant, addressed the Committee noting that this application had been submitted first. The applicant was looking to install the louvre was when it was noticed that the business would require

more space for manufacturing. The works were needed for air flow in the current space and would require no additional external works. Rod Hepplewhite added that all work was in accordance with planning policy, adding all external work would be coloured to match the existing building meaning there would be little to no impact.

Councillor Andrews enquired what use the louvre would provide and would it be a medical requirement, Councillor Andrews added that the works seemed essential to the business.

In response to the question asked Rod Hepplewhite informed the Committee that it would be used for air flow which would be essential given the nature of the work done on site and without this application being approved a new location for manufacturing would need to be found.

Councillor Atkinson commented that the works made sense to the requirements of the business noting the previous application had already been approved and moved to approve the application.

Councillor Oliver seconded the motion to approve.

RESOLVED:

The application be APPROVED subject to conditions as outlined in the report.

**c DM/22/01695/FPA - Stockley View, Stockley Lane, Oakenshaw, Crook, DL15 0TL**

The Committee considered a report of the Senior Planning Officer which provided details of a Resubmission of DM/22/00885/FPA for the conversion of lambing shed to single dwelling and engineering works to create lower ground floor, new access road, install ground source heat pumps and klargester package sewage treatment plant, create 3 ponds and construct new footpath (part retrospective) at Stockley View, Stockley Lane, Oakenshaw, Crook, DL15 0TL (for copy see file of minutes).

G Spurgeon, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site.

Councillor F Tinsley, local Member questioned the location of the footpath and whether it was near the former railway line.

The Senior Planning Officer informed the Committee that the site access was not near the former railway line.

Councillor F Tinsley, Local Member informed the Committee that both local members were in agreement regarding this application and could both only see the positives adding the unusual nature of the application with officers being bound by policies the Committee were not. Councillor Tinsley noted that conversion of an agricultural building to a residential building was acceptable and informed the Committee of the significant work and cost that the applicant had put into the site noting with hindsight the applicant would have done things differently. The works in question causing the issues were basement works and below ground where any vehicles would be parked. The application proposed to plant trees on the site which would be able to demonstrate bio-diversity noting the uplift was in excess of 20%. Councillor Tinsley noted that the site was a minutes' walk from the local bus service. There were no objections from local residents and the application had already been approved under Class-Q noting members could add conditions on the site for any concerns they had.

Steve Barker, Agent for the applicant, addressed the Committee and apologised for the mistake the applicant had made, informing the Committee the applicant lived close to the site and had wanted to get it fit and designed to accommodate a family members disability to be moved on to the site adding the applicant had believed the Class-Q would allow for such works. The site would use green energy adding the site was more than double the required bio-diversity and was already attracting wildlife seeing a 23% uplift. Once the work was completed it would be an improvement on the previous application. There were local transport links close to the site noting that a footpath would be created to link the site to the bus stop, and it would include low level lighting, which would go off when not required. If approved it would create an exemplary carbon neutral dwelling with biodiversity net gain.

Councillor Atkinson queried the nature of the Class Q adding he understood the reasoning for wanting to move on to the site noting the application still looks as it did when first made so was unsure of what the issues were now adding it seemed the applicant had made a genuine mistake.

The Senior Planning Officer informed the Committee that the permitted development was for a change of use of the property under the Class Q restrictions which allowed the conversion of an agricultural building to a dwelling which limited the considerations the officers could take into account, adding that because of the works already carried out they could not be implemented under Class Q and so require full planning permission. The principal of development was not accepted and there had been no information submitted that would alter the views of the planning officer, as due to the work already carried out the proposals amounted to a complete rebuild and there was no fallback position for the applicant.

Councillor Adam noted that officers were not objecting to the original application adding that issues seemed to be with the work carried out underground and that the building as it existed now would still be approved.

The Senior Planning Officer reminded the Committee that the original application was a Class Q application which restricted the considerations Officers could take into account however due to the work that had been carried out that this was now a planning application.

Councillor McKeon stated that there was nothing more frustrating to her than a retrospective application and wondered why it did not come for secondary class Q approval before bringing the Committees attention to paragraphs 11 and 12 of the report noting that the application had been approved in principle adding that the committee was looking to grant retrospective planning permission, whilst also questioning why the original conditions had not been adhered to.

In response to Councillor McKeon, Steve Barker informed the Committee that the applicant had not sought advice on the works before carrying them out and had believed that the works taken underground would not need any additional permission, by the time this had been discovered it was beyond the point of the Class Q permissions and beyond rectifying whilst adding everything possible had been done to correct the mistake.

S Pilkington, South West Team Leader informed the Committee that Class Q applications did not need permission as long as they met limited criteria. He added that the Class Q and the planning application in front of Members today were two separate considerations, adding that whilst the Class Q had been approved the application had strayed so significantly from the original building that the applicant could not go back to exercise his development rights and the Planning Authority had to consider a full planning application.

L Ackermann, Planning and Highways Legal Officer informed the Committee that under Class Q the property could be converted from an agricultural building to a dwelling. Class Q sets out works that are allowed to be carried out to enable the agricultural building to be habitable. Class Q lists works that may not be carried out, including to the floor which was the case in this application. Once the works had been carried out to the floor it had changed the application from a Class Q permitted development to a conversion to needing planning permission.

Councillor Jopling noted that that works were permitted on some of the building with the original submission this was now clearly something very different.



Councillor McKeon noted that as the application now stood it would not have been given permission under Class Q, also asking the question regarding provisions for people with a disability and the works necessary to the property for this.

The South West Team Leader informed the Committee that the current application would not have been given permission under Class Q adding that there would be no direct permissions relating to disabled access. The Chair asked what conditions were in place regarding the asbestos roof.

Steve Barker responded and noted that both applications proposed careful removal of the roof.

Councillor Jopling addressed the Committee stating this was a difficult application but as a Committee they would have to look at the extensive amount of work done without permission. She would be happy to go along with officer recommendation on this application, as there was a concern if it was allowed it could open the floodgates on a lot of other similar applications, noting the applicant seemed to have taken it for granted they would be given permission.

Councillor Adam agreed with Councillor Jopling that this was a difficult application but was minded to approve noting the application was still in character with the site and the improved bio-diversity adding that all of the works were in position.

Councillor Fenwick noted the similarity between this and an application in her area noting that whilst that application had also benefited from change of use permission and it had looked unsightly and had a detrimental impact to the look of the area whereas this application would improve the area and increase the bio-diversity and she would therefore be minded to approve the application.

Councillor M Stead sought clarification on the difference between the application in front of the Committee and the one 2019/2020, noting that there was already a successful appeal on the previous application for this building and raised the issue of access to the site.

The Senior Planning Officer informed the Committee that the difference between the two applications was the work that had been carried out on the basement and the footpath, adding the access point was part of the original application but the access road was not.

Councillor A Savory noted the considerable works already done on the site adding the committee had to be careful when making a decision as this could be used as an example for future applications.

Councillor D Oliver noted the landscaping improvements of the site adding it would preserve the rural nature of the site whilst making practical improvements and he would be minded to approve the application.

The Senior Planning Officer responded to state that disabilities were not specified under class Q although there was the ability to make internal adaptations, the limitations still had to be complied with.

Councillor McKeon noted this was a difficult to decision given that the mistake had now been made, adding that the Class Q did not take in to account any works that would need to be done for disabled access. commenting that this was something that planning policy needed to look at, raising concerns that the application in front of them still had elements of the Class Q and queried if the application could be looked at in two parts, one for the basement works and another for the pond and pumps.

The Chair reminded the Committee that they had to consider the application as it was before them.

Councillor Andrews stated she was minded to approve the application based on the ecological and environmental impact and much improved aesthetics of the area.

Councillor N Jones added that there were no objections to the application, noting the site had access to a local bus route and was well within the biodiversity so would approve the application.

Cllr Quinn commented that barn conversions added much value to the local area and despite the change to the foundation of the building, it would look the same once complete and she was minded to approve.

Councillor Stead moved to approve the application which was seconded by Councillor Oliver.

The South West Team Leader informed the Committee that they could delegate to the Planning Officers to add conditions to the approved application.

**RESOLVED:**

The application be APPROVED with conditions to be agreed in conjunction with the Chair, vice chair and planning officers.

**d DM/22/01634/OUT - Land south of Eve Lane, Spennymoor, Co Durham**

The Committee considered a report of the Senior Planning Officer which provided details of an application for a residential development of up to 20no. dwellings Land south of Eve Lane, Spennymoor, Co Durham (for copy see file of minutes).

M O'Sullivan, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photograph and photographs of the site.

Jeremy Good, agent for the applicant addressed the Committee and clarified that a noise report had been undertaken and that Environmental Health were happy with the noise levels on the site.

Councillor Maddison noted the reference to not harming the character of the site adding the development would fall between two roads one being the access to an already major development and asked what benefit there was to have the development on this site.

In response Jeremy Good informed the Committee the main benefit would be the additional houses in the area, noting the previous application had been refused on Policy 6 which this development now met and was acceptable in principle.

Councillor M McKeon noted she had been on the previous Committee that had refused the application and still saw good reason to refuse now, questioning the use of the Masterplan which was used to give residents assurance of what developments they were going to get in their area if the Committee was just going to override it.

Councillor L Maddison added that the S.106 agreement did not outweigh the impact of the loss of the area noting another development so close to the Durham Gate site was unnecessary, and that development would provide more than enough housing for the area with consideration needing to be given to affordable housing.

Councillor E Adam addressed the Committee commenting he would be minded to refuse the application given the Committee had refused this application recently and those issues had not been addressed and sought assurances that the issues previously raised would be addressed.

The South West Team Leader noted this was a difficult application adding that the Inspectors decision carried significant weight, informing Members that a balanced decision needed to be made and if Members were to refuse this application they would need to find additional reasons for doing so.

Councillor J Atkinson noted that although the application had previously been refused and subsequent appeal also refused the planning inspectorate had visited the site and taken everything into account and deemed it suitable for a development, so would be minded to approve the application.

Councillor M McKeon added that this was housing that County Durham did not want but felt it had to accept noting there were many reasons to refuse the application with air quality being a significant issue.

Councillor D Oliver noted that although the application was not ideal, there was no ground for refusal.

Councillor P Jopling added that there was a need for housing and accepted that the location for this was not always ideal. She agreed with the officer recommendation to approve.

Councillor M Stead noted that there was already a 5-6 bedroom house on the opposite side of the road which had occupants. He agreed that there was a shortage of housing and expressed concern regarding the future of the land if not utilised for housing.

The Chair asked to see an aerial photograph of the site and enquired about the nearby agricultural site.

The South West Team Leader informed the Committee that all of the land was in use adding that if this application was approved it would not be setting a precedent.

Councillor Atkinson moved to approve the application which was seconded by Councillor Jopling.

## RESOLVED

The application be APPROVED subject to the conditions outlined in the report and completion of a Section 106 Obligation to secure the following:

- Provision of 15% affordable housing on site
- Financial contribution totalling £31, 482.00 towards offsite open and recreational provision, payable in a single instalment prior to the occupation of the first dwelling, and a minimum 660m<sup>2</sup> of usable on-site amenity open space provided on a pro rata basis.



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/22/01910/FPA
Full Application Description:	Change of use from public highway to private drive
Name of Applicant:	Mrs Lynda Collis
Address:	35 Gateways, Wolsingham, Bishop Auckland, DL13 3HW
Electoral Division:	Weardale
Case Officer:	Jacob Reed (Planning Officer) Tel: 03000 260826 Email: jacob.reed@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site is located to the north of the Village of Wolsingham, to the West of the County. The site itself relates to part of a turning head within the adopted highway, located to the front of a detached dormer bungalow, sited centrally within a cul-de-sac known as 'Gateways'
2. The dwelling and application site are surrounded by other residential properties of a similar scale, while to the west larger detached dwellings are located. An area of public open space is also sited to the west of the site. The Gateways estate is largely open plan, with limited boundary treatments to the front of the properties, however similar to the application site, some properties have planted vegetation to provide a degree of enclosure. Access to the dwelling is provided through part of the turning head, serving an integral garage and small hardstanding.
3. The site is located outside of the Wolsingham Conservation Area.

#### The Proposal

4. Retrospective, planning permission is sought to change the use of part of a turning head to the front of the dwelling, to residential curtilage to provide

parking for the property. The works undertaken to date have involved the installation of a new driveway over the tarmac of the adopted highway, in line with the most southern extent of residential curtilage of the property. The works have effectively removed one of the turning stubs of the turning head, to provide a formal driveway or the property allowing parking of two vehicles. Prior to this, the property had no formal in-curtilage car parking and informally parked within the turning head.

5. The application is being reported to planning committee at the request of Councillor Savory to allow full consideration of the development with particular interest relating to highway safety and visual amenity matters.

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## **PLANNING HISTORY**

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6. Planning permission for the wider estate was granted in 1986.

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## **PLANNING POLICY**

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### **National Policy**

7. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
8. 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.
9. 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.
10. 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.

11. 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>

#### **National Planning Practice Guidance:**

12. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; flood risk; healthy and safe communities and highway safety.

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

#### **Local Plan Policy:**

The County Durham Plan (CDP)

13. *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.
14. *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.
15. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

16. *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.
17. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

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

#### **Neighbourhood Plan:**

18. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **Statutory Consultee Responses:**

19. *Highways Authority* – Advise that historical highways adoptions records indicate there was a turning head provided for the Gateways Road outside No. 35 Gateways. However, as the estate subsequently expanded and the Gateways Road extended, another turning head was provided adjacent to No. 23 Gateways. As a result, the turning head outside No. 35 Gateways was not deemed necessary albeit it was never removed from the adopted highway network. Therefore, it is advised that, the portion of the turning head outside No. 35 Gateways can be used for a private drive without resulting in a loss of highway safety.
20. In addition to this, it is advised that the utility chambers sited in the road outside No. 35 Gateways are solely related to the drainage associated with No. 35 Gateways. It is advised a separate 'stopping up' process to remove the adopted highways status would be required, this is a separate process following the grant of planning permission.

#### **Public Responses:**

21. Neighbouring residents have notified by individual notification letters one letter of objection has been received raising concerns related to highway safety. This is due to the narrow nature of the road and as a turning point is now not provided a loss of highway safety would arise. Concerns are also raised that this may set a precedent for others within the street and the resultant impact on highway safety.



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## PLANNING CONSIDERATION AND ASSESSMENT

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

### Principle of Development

23. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
24. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
25. CDP Policy 6 recognises that in addition to the development of specifically allocated sites, there will be situation where future opportunities arise for additional new development over and above that identified. Policy 6 sets out the that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and (relevant to this proposal):
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
  - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
  - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
  - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
  - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;

26. The County Durham Plan defines 'the built up area' as land contained within the main body of existing built development of a settlement or is within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside. The site is located within the heart of the village of Wolsingham and as a result is considered as development within a built-up area. The application site, forming part of the adopted highway, does not have any recreational, ecological value, and therefore subject to a detailed analysis of the impacts of the scheme, the development is considered to be acceptable in principle.

#### Highway Safety

27. Policy 6 of the County Durham Plan sets out that development should not be prejudicial to highway safety. 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
28. Part 9 of the NPPF requires that applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards. Furthermore Part 9 outlines 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.
29. Objections have raised concerns regarding the impact upon highway safety that the proposal may cause, as the cul-de-sac of Gateways would lose a turning head at its mid-point.
30. The development undertaken, has resulted in the change of use of part of a turning head situated halfway down the cul-de-sac of Gateways. The area in question is located directly in front of no.35 Gateways and consists of a turning stub measuring 70 sqm in area. The applicant has resurfaced this area, though the installation of block type pavements, which facilitates the parking of two vehicles and now incorporates this area within the residential curtilage of the property.
31. In assessing the development, consultation has been held with the Highway Authority. They advise that in reviewing historical highways adoptions records a turning head was initially provided for the Gateways development outside No. 35 Gateways. However, as the estate subsequently expanded and the Gateways road extended, another turning head was provided adjacent to No. 23 and no. 25 Gateways to serve the development as a whole. As a result, it is advised that the turning head outside No. 35 Gateways is not now deemed necessary, albeit it was never removed from the adopted highway network. It is also advised that under highways adoptions agreements the remaining part of the turning head, to the south of the application site, has been designed as visitor parking. Therefore, the Highways Authority offer no objections to the application and consider the provision of a turning head at the end of the Gateways road appropriate and suitable to serve the development, even when talking into account highways widths and geometries.

32. It is however advised that the applicant would need to apply to have the land deregistered as unadopted highway under highway legislation. This is a separate process to the determination of the planning application.
33. In addition to this, prior to the undertaking of the work, the property of no.35 Gateways had no in-curtilage car parking, with the exception of a substandard sized hardstanding, or designated parking within the wider highway. This somewhat peculiar arrangement is at odds with the Council's adopted Parking Standards which promotes at least one in curtilage car parking space in instances where there is additional on-street car parking. Furthermore, after reviewing aerial and historic photography it is clear that this area has been routinely used by the residents of the property, extending back as far as 2001. It is considered that the development is a formalisation of this established practice.
34. Concerns have been raised by the objector regarding the possibility of the development creating a precedent for other residents to carry out similar works within the remaining the cul-de-sac on the street. Whilst each application needs to be determined on its own merits, the remaining turning heads serve a function within the estate due to their position within the highway, therefore their loss would impact on manoeuvring within the street and highway safety. Therefore, any subsequent change of use would likely be resisted.
35. Overall, whilst the concerns of local residents are appreciated, in line with the advice of the Highways Authority it is considered that the proposal does not affect highway safety, according with Policies 6 and 21 of the County Durham Plan and Part 9 of the NPPF.

#### Visual Amenity

36. Policy 6 of the CDP sets out that development will only be permitted where it is appropriate in terms of scale, design, layout and location to the function form of the settlement. Policy 29 of the County Durham Plan sets out that development should contribute positively to an areas character, townscape and landscape features to create and reinforce locally distinctive and sustainable communities.
37. Part 12 of the NPPF seeks to promote good design of developments that are sympathetic with their surroundings
38. In this respect that the development as undertaken has resurfaced part of the highway through the installation of block paving and will extend to the most southern part of the curtilage of the dwelling. The curtilage of the dwelling in this location is defined by semi mature hedging and a tree. When viewed in the wider street scene it is considered that the created driveway, and the part of the tuning head, is read as part of the curtilage of the dwelling and does not create an incongruous feature in the street scene. This is particularly evident when parked cars are in situ, which appears to have happed for a significant period of time.
39. Overall, it is considered that the development has not impacted on the character or appearance of the surrounding area, in accordance with Policies 6 and 29 of the County Durham Plan and Part 12 of the NPPF.

## Other Matters

40. It is considered that due to the nature of the proposals and separation to surrounding properties that a loss of residential amenity has and will not occur. The development is considered to accord with Policy 6, 29 and 31 of the County Durham Plan in this respect.
41. The development has not increased the amount of hardstanding over and above the adopted highway and therefore is not considered to increase the risk of flooding or surface water runoff in the area. In addition to this, it is advised by the Highway Authority that the utility chambers sited in the road outside No. 35 Gateways are solely related to the drainage associated with No. 35 Gateways. The development is therefore considered to accord with Policies 6 and 35 of the County Durham Plan in this respect.

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## CONCLUSION

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42. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The CDP is an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
43. In this respect the application seeks retrospective planning permission for the change of use of part of the public highway serving as a turning head to private driveway and residential curtilage. It is concluded that this would not adversely affect highway safety, the visual amenity of the surrounding area or the residential amenity. Therefore, the proposal is considered to accord with relevant policies of the County Durham Plan and the NPPF.
44. The objections and concerns raised have been taken into account and addressed within the report. However, on balance the concerns raised were not considered sufficient to justify refusal of this application. There are no material considerations which indicate otherwise and therefore the application is recommended for approval.

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## RECOMMENDATION

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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 following approved plans:

Site location plan  
Site Plan

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 6, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 9 and 12 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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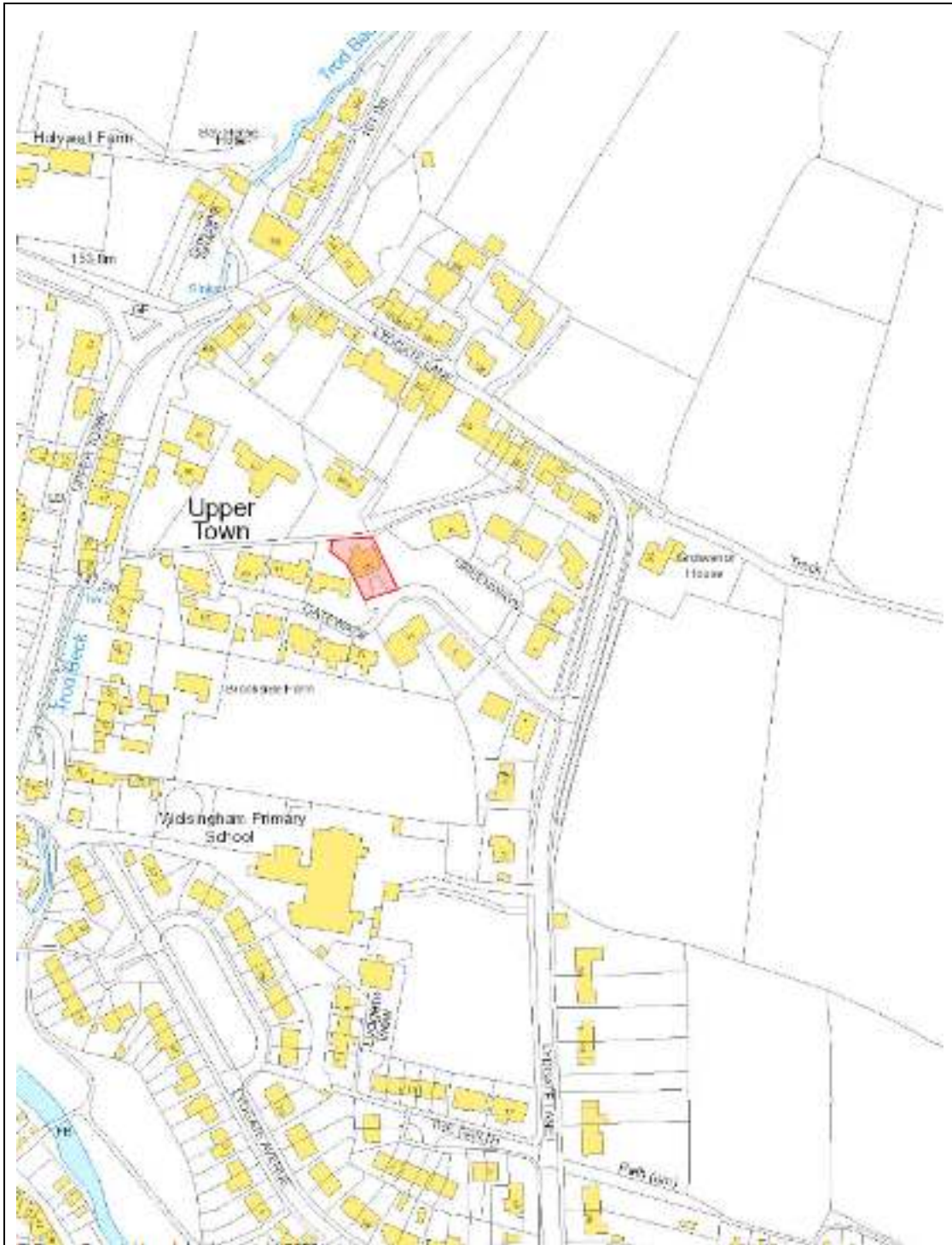
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
Residential Amenity Standards Supplementary Planning Document 2020  
Statutory consultation responses



<p><b>Planning Services</b></p>	<p>Change of use to driveway</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>Comments</p>	
	<p>Date: 4<sup>th</sup>          October 2022</p>	

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/21/04249/FPA
Full Application Description:	Residential Development of 37 units with associated access and landscaping (resubmission of application DM/20/01603/FPA)
Name of Applicant:	Kebbell Development Ltd
Address:	Site of former St Peters School, Main Road, Gainford
Electoral Division:	Barnard Castle East
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site measures approximately 5.34 ha in area and relates to part of the former St Peters School site and undeveloped land, located on the A67 to the east of Gainford. The site is in a detached location around 200m from the eastern settlement edge of Gainford, which is defined by dwellings on Main Road and Eden Park and Gainford Medical Practice. The vast majority of the application site is located within the Gainford conservation area.
2. To the north of the site lies the dwelling known as 'The Manse', with the A67 and agricultural fields beyond. To the east of the site lie the principle remaining building of the former St Peters School, along with agricultural allotments. An access track leading to a sewage works is sited along the eastern boundary of the site. The sewage works are located to the south of the site with the River Tees beyond. To the western site boundary lie the dwellings of 'Sentosa' and 'Holme Cottage', with agricultural fields located beyond.

## The Proposal

3. Planning permission has previously been granted on this site in 2019 for the erection of 48 no. new build dwellings, conversion of the school building adjacent to the A67 to 9no. flats, associated demolition, landscaping and provision of open space. This scheme has recently begun to have been implemented through the digging of foundations to prevent the permission from expiring.
4. This application follows on from application DM/20/01603/FPA which was refused last year, in which the former school building adjacent to the A67 and associated access, which are in separate ownership, continue to no longer form part of the proposed scheme. As such, the proposals would not involve the conversion of this building or include it as part of the development of the site in a comprehensive approach as was previously approved in 2019. A new access point is detailed in this application as was proposed in the application refused last year.
5. Planning permission is still sought for the erection of 37 no. dwellings on the site, of which six of these would be in the form of a two storey apartment block, with three bungalows and four semi-detached properties. The remaining dwellings would be detached. 8 no. affordable rented properties are proposed to consist of the six apartments and two discounted sale semi-detached dwellings.
6. A new vehicle access would be provided off the A67 to the west of the existing school building and between 'The Manse'. This would lead down a central spine road through the site leading to private drives to the east and west.
7. A large landscaped area would be provided to the south of the dwellings, comprising amenity and wildflower grassland, tree and scrub planting. This would include a series of footpaths connecting the southern end of the central access road to an existing riverside footpath and to the track to the east. A SuDs basin is also proposed within the landscaped area immediately to the south of the dwellings.
8. The proposed layout is broadly the same to that proposed in the previously refused application, with alterations to the orientation of Plots 29 to 31 to the north of the site and Plots 1 to 7 at the south, the introduction of the apartments to the eastern side, and the extension of the central access road further to the south along with an altered distribution of visitor parking spaces.
9. It would be necessary to remove around 12 no. individual trees and 7 no. groups of trees/hedging to accommodate the proposed development.
10. The dwellings would be constructed from a limited palette of materials comprising a mix of red and buff brick, grey interlocking roof tiles and terracotta pantiles, and would include sash style white upvc windows with head and cill detailing and door surrounds. The dwellings would have their own off street parking spaces, together with 10 no. visitor parking spaces scattered throughout the site.



11. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as it constitutes a housing development exceeding 10 dwellings.

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## **PLANNING HISTORY**

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12. DM/21/01210/FPA - Demolition of building. Pending consideration
13. DRC/21/00388 - Discharge of conditions 3 (external materials), 4 (detailed landscaping scheme), 5 (engineering details), 7 (ecological mitigation), 8 (construction management plan), 10 (contamination) and 11 (written scheme of investigation) pursuant to DM/18/01980/FPA. Approved 15<sup>th</sup> August 2022.
14. DM/20/01603/FPA -37 no. dwellings with associated access and landscaping (amended engineering plan and drainage scheme 4.2.2021) Refused 30th March 2021 due to the proposals failing to make effective use of previously developed land, representing poor design when assessed against the Building for Life SPD, poor outlook for some future residents onto adjacent dilapidated land, and failure to provide a minimum of 10% affordable housing and 66% of housing compliant with building regulation standard M4(2).
15. Planning permission DM/18/01980/FPA was previously granted in 2019 for erection of 48 no. new build dwellings, conversion of the school building adjacent to the A67 to 9no. flats, associated demolition, landscaping and provision of open space. Approved 23<sup>rd</sup> September 2019. Recently implemented through the digging of foundations to prevent the permission from expiring.
16. Planning permission DM/15/00730/FPA was granted on the 2<sup>nd</sup> April 2019 for part conversion and demolition of existing school to 6 apartments and erection of 10 dwellings and associated infrastructure. The approved scheme has not been implemented and has now expired.

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## **PLANNING POLICY**

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### **National Policy**

17. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
18. 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.

19. 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.
20. 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.
21. NPPF Part 6 Building a Strong, Competitive Economy - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
22. 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.
23. 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.
24. 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.
25. 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.
26. NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

27. 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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
28. NPPF Part 16 - Conserving and enhancing the historic environment. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

### **National Planning Practice Guidance:**

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

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

### **Local Plan Policy:**

The County Durham Plan (CDP)

30. *Policy 1 (Quantity of Development)* outlines the levels of employment land and housing delivery considered to be required across the plan period.
31. *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.

32. *Policy 10 (Development in the Countryside)* states that development 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, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
33. *Policy 14 (Best and Most Versatile Agricultural Land and Soil Resources)* Development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. Soil on previously undeveloped land should be properly managed.
34. *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.
35. *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.
36. *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.
37. *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.
38. *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.
39. *Policy 29 (Sustainable Design)* details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape

features, helping to create and reinforce locally distinctive and sustainable communities.

40. *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.
41. *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.
42. *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.
43. *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 wastewater 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.
44. *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
45. *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.

46. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
47. *Policy 42 (Internationally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.
48. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
49. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
50. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

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

### **Emerging Plan:**

Gainford and Langton Neighbourhood Plan (GLNP)

51. A Neighbourhood Area was designated in 2013. Whilst there have been some public consultation events and questionnaires circulated throughout the village, there has been no further progress since. The GLNP has not yet reached a stage where weight can be afforded to it.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **Statutory Consultee Responses:**

52. *Highways Authority* – Raise no objections. Advise that the applicant would be required to enter into agreements under the Highways Act 1980 for the adoption of the new road and new access onto the existing public highway and to obtain a Road and Street Works Permit. The new roads through the site would also need to be subject to a 20mph speed limit controlled via a Traffic Regulation Order, which would form part of the Highways Act Agreement.
53. *Lead Local Flood Authority* – The proposed layout does not appear to show areas for the landscape, ecology and SuDs combination within the site, or details regarding how surface water runoff within the site would be managed.
54. *Environment Agency* – No response received.
55. *Gainford Parish Council* – No response received.

#### **Internal Consultee Responses:**

56. *Spatial Policy* – Advise that the proposal does not utilise as much brownfield land as possible as the redundant school is still not part of the proposal, in conflict with CDP Policy 6. Aligned to this is Section 11 (Making effective use of land) of the NPPF which seeks to promote an effective use of land in meeting the need for homes and strives to make as much use as possible of previously developed land. Paragraph 120 expects planning decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes (part c) and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing (part d).
57. A minimum of 7 no. affordable dwellings, comprising 3 no. affordable home ownership and 4 no. affordable rent should be provided. 10% of the dwellings should be of a design and type that will increase the housing options of older people and should be built to M4(2) standard.
58. Open space contributions of £58,241.70 would need to be secured as part of a s106 agreement.
59. *Design and Conservation* – Reiterate concerns that the development of the housing element only would appear as a development in isolation from the existing settlement with little benefit to the former school building which is considered a non-designated heritage asset. Consider that the amended layout resolves some of the issues previously raised relating to dwelling orientation and natural surveillance of public open space.
60. *Arboriculture* – The proposed development will result in the loss of numerous trees inside the site. Of these, the majority are reasonably categorised as ‘C’ within the Arboricultural Impact Assessment (AIA). While they still make a positive impact on the visual setting, particularly group 9 and group 7, they would not be suitable candidates for tree preservation orders and their value is more as part of a group than as individual trees. Of more concern is the removal of the ‘B’ category trees (T14, 15, 17, 18), but again, these alone are unlikely to have a significantly negative impact on the wider visual amenity. The development does however look likely to impact the ‘A’ category trees to the west and south west of the proposed development, adjacent to units 25-29. It would be preferable for a design to allow a greater buffer between the

development and the 'A' category trees to the west of the site. However, it may be possible to avoid damage to these trees through the submission of a detailed tree protection plan (TPP), which could be agreed by condition, providing it is followed in full and under arboricultural supervision although any deviation from a TPP will increase the risk of tree damage.

61. *Ecology* – Request a full copy of the Excel spreadsheet from the original biodiversity net gain metric.
62. *Education* – Confirm that 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.
63. *Contaminated Land* – Advise that further sampling in the location of the former boiler house and a Phase 3 Remediation Report is required. These details could be secured via condition.
64. *Environmental Health Nuisance* – Indicate their satisfaction with the submitted noise and odour assessments and recommend conditions to agree details of a final glazing scheme and uprated ventilation.
65. *Environmental Health Air Quality* – Confirm that no consideration of road traffic emissions impacts is considered to be required in this instance. Advise that the potential for construction dust to harm the amenity of nearby residential properties, directly to the north adjacent to the red line boundary of the site, on A67 Main Road should be considered. Further details could be secured via a suitably worded condition.
66. *Public Rights of Way* – Advise that a claimed public right of way crosses the site which is expected to have gained public rights by deemed dedication. The line of this claimed footpath follows the riverbank throughout the site, to the south west corner of the sewage works. It is welcomed that this path is more or less included in the plan for the public amenity space, along with several other desire lines across this open space. Recommend a condition to secure the unclaimed footpath as a public footpath. Advise that the riverside footpath and the main link from the housing to this path should have an unsealed surface with a width of 1.5m-1.8m.
67. *Archaeology* – Raise no objections as the remaining school building is no longer included in the scheme.

#### **External Consultee Responses:**

68. *NHS* – Comment that Gainford Surgery falls within Teesdale Primary Care Network which is at full capacity with regards to space requirements to deliver services to their patient list size. Request that a financial contribution of £17,871 be secured via a S106 agreement to support creating extra capacity for the surgery to provide appropriate services to patients.
69. *Northumbrian Water Ltd* – Request the imposition of a condition to secure details of a scheme for the disposal of foul and surface water from the development.



## **Public Responses:**

70. The application has been publicised by way of site notice, press advertisement and individual neighbour notification letters. Four objections, including one from the Countryside Charity CPRE, have been received raising the following concerns:
- The proposal would no longer enable the redevelopment of the St Peter's School building,
  - The site is separate from Gainford so would represent an incursion into countryside and that there are two or three isolated dwellings nearby does not mean they form part of a settlement,
  - The site is shown as a housing commitment in the CDP Policies Map due to planning permission previously being approved for 48 dwellings on the whole site but this proposal does not include the redevelopment of the former school building and so is materially different,
  - 79 dwellings were recently approved (ref DM/20/01205/FPA) on the other side of Gainford so there is no need for more housing on this site,
  - The site lies within an Area of Higher Landscape Value and so the benefits of the development are required to outweigh any harm but the benefits are limited due to the proposals not involving the redevelopment of the former school building,
  - No details have been submitted to satisfy CDP Policy 29 c),
  - Questions whether the further bat survey recommended by the submitted Preliminary Ecological Appraisal has been carried out and notes that House Martins and Greenfinches are now on the Red List indicating that they are of the greatest conservation concern,
  - Plot 29, 30 and 31 would utilise the garage and fencing of The Manse as a boundary to the gardens raising concerns over property maintenance.

## **Applicants Statement:**

71. As you will all be aware, planning permission was granted in 2019 for the comprehensive redevelopment of this site, and at the point of this consent being granted Kebbell had every intention, for it to be implemented and brought forward promptly. Since the approval, Kebbell Homes has worked very hard to try and agree a deal with the other landowner that would allow the site to be developed on a comprehensive basis. However, despite their best endeavours these discussions have not borne fruit.
72. Kebbell appreciate that in an ideal world it would be preferable for the whole site, including the derelict buildings that are remaining but extremely fire damaged and dangerous, be brought forward to enable comprehensive redevelopment. However, this has not proved possible in this instance and so alternative proposals for the site must therefore be considered if the site is not just to sit there derelict in perpetuity.
73. Kebbell's solution to this dilemma has therefore been to seek a standalone planning permission for their part of the site (which constitutes the vast majority of the land at St Peter's ) in the hope that by bringing their site forward it to give them the necessary confidence to bring forward the development on their part

of the site, for which they already have a standalone planning permission. Both schemes can work independently and would be complimentary.

74. This approach has culminated in the submission of a planning application by Kebbell for housing development on the part of the site that Kebbell own. This was refused in March 2021. This resubmission seeks to address the previous reasons for refusal by providing an amended design and providing further justification as to why we consider there is no planning policy basis for resisting development on the Kebbell land in isolation.
75. The current scheme will provide the same benefits to the local community that the original scheme would have delivered including: delivering high quality designed new dwellings within walking distance of local services and facilities, as well as a policy compliant number of affordable housing units, offering first time buyers and those on lower incomes increased opportunities to access new housing. The scheme will also provide an improved area of public open space to the south of the site, for all local residents to enjoy.
76. Kebbell believe that granting planning permission for their current application provides the best opportunity available to resolve the problems at St Peters.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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77. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the Principle of Development, Housing Land Supply and Effective Use of Land, Locational Sustainability, Landscape and Visual Impacts, Impact on Heritage Assets, Design/Layout, Highway Safety, Residential Amenity, Flooding/Drainage, Ecology, Ground Conditions, Affordable and Accessible/Adapted Housing, Infrastructure and Open Space and Other matters

### Principle of Development

78. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
79. Paragraph 11 c) of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

80. CDP Policy 1 sets out the quantum of development to meet the needs for housing over the Plan period. A large proportion of the housing need consists of already committed sites, including those sites with planning permission. In this respect the wider site, as approved under the 2018 planning permission, forms part of a recognised commitment under CDP Policy 1. However, the principal buildings of the former St Peters School and associated access are now omitted from this scheme.
81. The assessment of this acceptability of this original application was made using saved policies of the Teesdale District Local Plan, which were not considered to be up to date and therefore the planning balance test of Paragraph 11 d) of the NPPF was engaged. The benefits of redeveloping the former school buildings and associated enhancement of the character of the conservation area were given significant weight in the planning balance and together with other associated benefits of the scheme which were considered to outweigh harm caused by development beyond the main built form of the settlement and the previously developed part of the site and loss of trees.
82. Whilst recognising that a significant part of the site forms part of the housing commitment identified within the CDP and remains extant, delivery of the approved site is reliant upon the access adjacent to the principle standing St Peters School building which is outside of the applicant's ownership. Full implementation of this scheme could not be achieved without the agreement of both landowners. This application proposes an alternative access and excludes the main buildings that were previously proposed to be converted. This re-submitted standalone application is therefore required to be assessed against relevant policies now in force (the CDP) and on its own planning merits.
83. In this respect CDP Policy 6 recognises that in addition to the development of specifically allocated sites, there will be situations where future opportunities arise for additional new development, this includes windfall housing sites. The policy sets out that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
  - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
  - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
  - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
  - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;

- f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
  - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
  - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
  - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
  - j. where appropriate, it reflects priorities for urban regeneration.
84. The County Durham Plan defines 'the built up area' as land contained within the main body of existing built development of a settlement or is within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside. In this respect, the site is not considered to be either within the built up area of Gainford or well related to the settlement, which has a strong settlement boundary to its western edge. In principle the development would conflict with CDP Policy 6, detailed consideration of the scheme against the relevant above criterion (a-j) of the policy will occur in later sections of the report.
85. As the application site is located outside of the built-up area of Gainford it is considered to be by definition in the countryside. CDP Policy 10 relates to development in the countryside and advises that development will not be permitted unless allowed for by specific policies in the Plan (including Policy 6) or where the proposal compromises an exception related to economic development, infrastructure development or the development of existing buildings. The proposal conflicts with Policy 6 and does not form one of these forms of development and is therefore in conflict with CDP Policy 10. Consideration will be given to the general development principles of development within the countryside set out in CDP Policy 10 later in the report.
86. The applicant in their submitted Planning Statement makes reference to an appeal decision (APP/X1355/W/20/3260650) relating to an outline application for the erection of up to three dwellings outside the built up area of Esh Winning. In that case, the Inspector considered that the accessibility of the site to local services and facilities would not be solely dependent upon the use of the private car and would not have an unacceptable impact on the character and appearance of the area and on this basis allowed the appeal. However, the appeal decision related to the erection of up to three dwellings whereas this application relates to the erection of 37 dwellings and so the two schemes and their impacts are not considered to be comparable. This planning application should be judged on its own merits.

#### Housing Land Supply and Effective Use of Land

87. With regards housing supply, Paragraph 74 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum

of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

88. It was established under the adoption of the CDP that the Council can demonstrate in excess of 5 years housing land supply. The CDP was adopted in October 2020 and therefore, in accordance with Paragraph 75 of the NPPF, a five-year supply of deliverable housing sites, with the appropriate buffer can be demonstrated.
89. As identified above, although a large portion of the site is a recognised commitment under CDP Policy 1 the total housing need figure does recognise some sites will not come forward for varying reasons, with an average lapse rate of 12% estimated. This lapse factored into the total housing need figure and therefore failure to develop the site is not considered to have a significant impact on the Councils Housing delivery.
90. The NPPF at Paragraph 85 sets out that the use of previously developed land, and sites that are physically well related to existing settlement should be encouraged where suitable opportunities exist. Furthermore Part 11 (Making effective use of land) of the NPPF seeks to promote an effective use of land in meeting the need for homes and strives to make as much use as possible of previously-developed land (PDL). Paragraph 120 expects planning decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes (part c) and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing (part d).
91. CDP Policy 6 requires that development proposals make as much use as possible of PDL and reflect priorities for urban regeneration. The policy also sets out that inappropriate backland development should be avoided.
92. In assessing this application against this policy context, the inclusion of the former school building fronting the A67 is considered pivotal to any redevelopment of the site to enhance the character of the conservation area and deliver other environmental benefits. As this area is excluded from the current proposal, it is considered that the current proposal represents an inappropriate form of backland development situated in a detached position in the countryside outside the main form of the settlement, that fails to take account of its surroundings by excluding the school building. As such, the proposed development is not appropriate to the form and setting of the settlement. Whilst some brownfield land would be developed as part of the scheme, this is only estimated to be around 65% with the remaining 35% being previously undeveloped, greenfield land. Without inclusion of the school building as part of the proposals, it is not considered the scheme would make as much use as possible of previously developed land and does not reflect local priorities for urban regeneration. Without the revenues generated from the market housing element of the scheme, it is considered that the conversion works to secure the retention of the building would be unviable. As such the proposal would conflict with CDP Policy 6 and the aims of Parts 6 and 11 of the NPPF.

93. CDP Policy 6 requires that sites have good access by sustainable modes of transport to relevant services and facilities and reflect the size of the settlement and the level of service provision within that settlement. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. CDP Policy 29 requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities, and, emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
94. The NPPF sets out at Paragraph 105 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. At Paragraph 110 the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst Paragraph 112 amongst its advice seeks to facilitate access to high quality public transport.
95. The County Durham Settlement Study 2018 is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. Gainford is rated as having a settlement score of 23 (ranked 55th out of an identified 230 settlements including clusters). It is considered as one of the middle order settlements within the County based on the services and facilities within the area and is therefore capable of accommodating appropriate housing growth. Consideration is required to be given as to the ability of future occupiers to access these services and amenities. In this respect, the application is accompanied by a Transport Assessment and Travel Plan, which assess the accessibility of the site to local services and facilities, by foot, bicycle and bus, as well as impacts upon the highway network in terms of vehicular traffic. Gainford benefits from a range of facilities including a primary school, GP surgery, a public house, a village hall, places of worship and local convenience store therefore is relatively well serviced.
96. There is a roadside footpath to the southern side of the A67 linking the site to the village. Gainford Medical Practice lies around 200m to the west of the site, the Post Office, Village Hall and a Fish and Chip Shop lie around 550m away and Gainford Primary School is around 850m away within the centre of the village. All of these are at the lower to mid limits of the acceptable walking distance (800/1000m respectively) suggested by The Institution of Highways and Transportation (CIHT) in their document "Providing for Journeys". The walking routes to the amenities and services in the surrounding area are on adopted well-lit highways with no significant topographical restrictions. For similar reasons, cycling is also likely to be a viable alternative to the private motor car to access amenities and services within the village. Whilst recognising Gainford does not possess the same range of facilities as a major settlement or larger town, those it does have, coupled with sustainable transport options, reduces the amount of trip generation between settlements and reliance on the private motor vehicle.

97. Bus Stops are located on the A67 immediately outside the site, offering regular daily services to Barnard Castle, Darlington and other local settlements.
98. Overall, it is considered that the site has access to an array of services and facilities, to serve the development proposed and that these are within relatively easy reach of the site. Established bus services, walking and cycle routes would give future residents alternative options to the private motor car to access services. No objections are raised having regards to the locational sustainability of the site.
99. In conclusion, the development would promote accessibility by a range of methods in accordance with Policies 6, 21, 26 and 29 of the CDP and Paragraphs 105, 110 and 112 of the NPPF. It is also considered that the development has the potential to maintain or enhance the vitality of the village through increased patronage of its local shops, services and facilities.

#### Landscape and Visual Impacts

100. CDP Policy 6 sets out developments should not contribute to coalescence with neighbouring settlement, would not result in ribbon or inappropriate backland development. The Policy also requires that development should be appropriate in scale, location and form and setting of a settlement. Policy 10 also seeks to protect townscape qualities, including important vistas and the intrinsic character and beauty of the wider countryside.
101. CDP Policy 39 states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 39 also sets out that development affecting Areas of Higher Landscape Value will only be permitted where it conserves the special qualities of the landscape unless the benefits of development in that location clearly outweigh the harm.
102. Policy 26 outlines developments are expected to provide new green infrastructure and ensure provision for its long-term management and maintenance. Similar requirements are outlined in Policy 29. Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
103. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site
104. The site is situated in an area of higher landscape value (AHLV). Key views of the site are generally localised from the A67 to the north and the track to the east and riverside footpath which crosses the southern part of the site, which although not designated public rights of way are likely to have attracted public rights through long term use. The site comprises relatively flat terrain adjacent to the River Tees, land rises to the north and south away from the river. The banks of the river contain mature woodland which provides effective screening of the site in long distance views from public rights of way to the southern side of the river. Gently sloping topography, trees and existing buildings on

intervening land to the north, effectively screen the site in long distance views to the north from North Lane, Eden Lane and Cock Lane and public rights of way.

105. Land adjacent to the site varies in character from the open agricultural fields to the north and west, existing residential properties to the north and west, allotments to the east and the sewage treatment works further to the south. Whilst only the main former school building, together with a derelict single storey block to the south remain on the site, the unmistakable appearance of the site is of the remains of its former use, which in its current state detracts from both the character and the appearance of the landscape and wider area.
106. The main former school building fronting the A67 would remain in its current condition unaffected by the proposed development. This would continue to be an eyesore for pedestrians and vehicle users travelling both east and west along the A67, new residents and pedestrians passing through the proposed development and users of the track to the east of the site. The retained, fire damaged building, viewed against the background of a new housing development would appear extremely incongruous in views of the site from the locality and is likely to be off putting to potential purchasers and tenants of the new dwellings.
107. One of the primary benefits of the previous scheme was the sensitive re-use and environmental improvements provided by the conversion of the former school building. This would no longer be achieved. The proposed housing development would be located around 200m from the existing built-up edge of the settlement. Although there are a few detached dwellings clustered around the St Peters site, a modern housing estate within this context would read as a detached urban development in the open countryside. Although relatively self-contained, this would have transformative adverse impact on the character of the surrounding countryside and would be a prominent feature in views from the A67 to the north, the track to the east and riverside footpath which crosses the southern part of the site.
108. The proposal would involve development of a significant area of greenfield land, around 35% of the total proposed developable area. Previously this was justified due to the other benefits of restoring the school building and associated environmental improvements. Whilst the proposal would improve the appearance of the derelict hard standings and single storey block to the rear of the school building, it would not address the fundamental issue of the prominent, derelict school building and land immediately behind this. Development of attractive green space beyond the previously developed envelope would have transformative, impact on the character of this land and the immediate surroundings of the site. Without the significant public benefits of the previous approval, there is no justification for these adverse impacts within the AHLV and development of attractive green space in the open countryside.
109. The development would result in the loss of around 12 no. individual trees and 7 no. groups of trees/hedging to accommodate the proposed development. Many of these trees are beyond or on the edge of the previously developed envelope. Four of these trees are defined as category B (moderate quality and value and of a condition making a substantial contribution to the site). Their removal would result in adverse impacts on the character of the surroundings.



CDP Policy 40 seeks to prevent the loss of trees with high landscape value or amenity value unless the benefits of the proposal clearly outweigh the harm, this planning balance exercise is undertaken later in the report. The Tree Officer previously recommended the redesign of certain elements of the scheme to allow for retention of a greater number of valued trees and to afford more protection to category A trees along the western boundary, however this opportunity has not been progressed by the applicant.

110. The Landscape Officer previously advised that the proposed area of public open space to the south of the site is very large in comparison to the housing development itself. The application does not provide formal details of how this large area would be managed in the long term, although it has been indicated informally this would be passed to a management company to maintain. The meadow areas and mown paths are likely to require frequent cutting. Given the size of the open space, it is likely that long term management and maintenance would be expensive and impractical over time, potentially leading to the area becoming overgrown and untidy. Whilst the landscaped area is similar to that approved as part of a previous application, where a Landscape Management Plan was secured as part of a Section 106 agreement, this was within a different planning policy context and before the internal Design Review Process was introduced. The applicant has been made aware of the concerns about the size and management of the open space but has not amended the scheme to address these matters.
111. Overall, it is considered that the detached nature of the development in the open countryside 200m beyond the well established settlement edge and loss of a significant number of valued trees, would result in adverse impacts to the character of the rural landscape and AHLV. While this level of impact is similar to that previously proposed the conflict with Policies 6, 10, 26, 29, 39 and 40 of the CDP and Parts 12 and 15 of the NPPF need to be weighed in the planning balance.

#### Impact on Heritage Assets

112. CDP Policy 44 sets out development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. The policy permits flexibility in decision-making where harm is found to the heritage assets, with a public benefit test referenced similar to that within the NPPF.
113. NPPF Parts 12 and 16 advocate the importance of achieving good design in new developments, which show sensitivity to heritage assets and the historic environment.
114. Given the location of the site within a conservation area regard is to be given to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
115. The development fails to preserve or enhance the character and appearance of the key aspect of the St Peters site, the former school building and adjacent

land, fronting on to the A67. Although not listed and now in poor condition, this building is a prominent feature and an important historical building within the conservation area. The detached modern housing development would be at odds with the character of the existing retained building, which would remain in its current derelict state. The proposals do not seek to maximise on opportunities to enhance the character and appearance of the conservation area in this regard.

116. The lack of inclusion of this prominent, derelict part of the site within the scheme, coupled with the visual and landscape impacts identified above, would result in negative impacts to the character and appearance of the conservation area. The Design and Conservation Officer considers the resulting harm would be less than substantial. This level of harm is required to be outweighed by the public benefits of the proposal and this planning balance exercise is undertaken later in the report

#### Design/Layout

117. CDP Policy 6 criterion d) requires that development on unallocated sites is appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement. CDP Policy 10 also seeks to protect townscape qualities, including important vistas and the intrinsic character and beauty of the wider countryside.
118. CDP Policy 29 outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. In total, Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; 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.
119. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
120. A Building for Life Supplementary Planning Document (2019) (BfL SPD) has recently been adopted. In recognition of national planning advice and to achieve high quality housing developments DCC has adopted an in-house review process to assess schemes against the Building for Life 12 (BfL 12) Standards. The BfL SPD formalises the review process and establishes the guidelines and standards for its operation and is linked to the Sustainable Design Policy (29) in the County Durham Plan. The scheme refused last year under application DM/20/01603/FPA was considered against the BfL standard through a series of 12 questions. The scoring is based on a traffic light system with the aim of the proposed new development to secure as many "greens" as possible, minimise the number of "ambers" and avoid "reds". The more "greens" achieved the better the development will be, "ambers" are usually concerns that can be raised to "green" with revisions, whereas a "red" gives a warning that a particular aspect needs strong reconsideration. Policy 29 of the CDP states that

schemes with one or more red will not be acceptable and will be refused planning permission unless there are significant overriding reasons.

121. At the final consideration by the internal Design Review Panel in relation to the previously refused application, the scheme received 3 “reds”, 6 “ambers” and 3 “green” scores. This resubmitted scheme was also considered by the Design Review Panel and scored 2 “reds”, 4 “ambers” and 6 “greens”.
122. The first “red” relates to the poor connectivity of the development resulting from the omission of the former school building, which would not respect existing buildings and land uses around the site. The proposed site plan now indicates the position of paths throughout the public open space which link with the southern part of the development, but concerns remained regarding a footpath connection onto a track to the east of the site which is not fully within the applicants control and may not be accessible to new residents.
123. The second “red” relates to the definition and designation of public and private spaces, whether these would have appropriate access and be well managed and safe to use. Concerns were raised regarding the practicality of the meadow space and how such a large area would be practically maintained by the management company, conflicting with the aims of CDP Policy 29 m) which seeks to ensure that with regard to major development open spaces are designed to be well managed, safe and durable. Although a SuDs basin is proposed to the south of the site, this would only be concentrated in one location rather than being distributed throughout the site as required by CDP Policy 35 and no detailed drainage design has been provided.
124. “Amber” scores related to the exclusion of the former school building and loss of trees within the site, meaning the scheme would not take full advantage of existing landscape features, wildlife habitats, existing buildings and site orientation.
125. In terms of well defined streets and spaces within the scheme, the current application proposes a revised layout whereby Plot 29, 30 and 31 and the north side elevation of the two storey apartment block would provide an active frontage on arrival into the site. The plots to the south of the site have also been revised so that they would now face towards the public open space and house types have been amended to be constructed in traditional materials and incorporate some vernacular features, reflective of the character of the surrounding conservation area. However, concerns were raised regarding the positioning of the detached garage blocks to the southern corners of the site. Therefore, the scheme continued to score amber in relation to this question.
126. In terms of external storage and amenity space, it was noted in relation to the previously refused application that some of the affordable units only had limited external space for storage and the size of private gardens to these plots could be increased. The current application has seen the affordable units where concerns were previously raised regarding small gardens replaced with apartments. A bin store and garage would exist on the ground floor serving the apartments, with 8 no. car parking spaces to the rear. It is unclear which users the garage would be intended to serve and there is no area clearly defined to be used for cycle storage. Concerns were also raised regarding the kitchen windows of Plot 32 and 35 and the bedroom windows of Plot 34 and 37 within

the apartment block looking out over the car parking area. Therefore, the scheme continued to score amber in relation to this question.

127. "Green" scores were awarded due to the sustainable location of the site where local services would be accessible, with good links to public transport, and the good mix of house types and tenures proposed that reflect the character of Gainford. The layout of visitor parking is considered acceptable and appropriate parking is provided for each house type. The site would be easy to navigate, with this application having seen access to the public open space revised to include dedicated footpath links across the public open space and linking to the River Tees to the south. The streets are designed to encourage low vehicle speeds and the introduction of the apartment block has seen their associated car parking spaces screened by the building reducing the dominance of parked cars on the central road when entering the site. However, access to the public open space from the link to the eastern track, part of which is outside the applicant's ownership, remains unclear.
128. In line with Policy 29 of the CDP, as 2 "reds" are still awarded to the revised scheme, it is considered there are significant areas where the design and layout that could be improved and that the development is not to a good standard of design. This policy advises that if any "reds" are scored the application should be refused unless there are significant overriding reasons otherwise. In this case, it is not considered there are any significant reasons that outweigh the low standard of design and the proposal would not accord with CDP Policy 29 in this respect and would fail criterion d of CDP Policy 6. The development is also considered contrary to Part 12 of the NPPF in this respect.

#### Highway Safety

129. Criterion e) of CDP Policy 6 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Policy 10 criterion q) also requires that new development in the countryside should not be prejudicial to highway safety. Policy 21 reiterates the requirement of Policy 6 in addition to expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
130. A new vehicle access to the site would be formed on to the A67 to the north of the site between the former school building and a dwelling known as the Manse. This would lead on to an adoptable standard road with various off shoots leading to private drives. Individual dwellings would have off street parking and 10 no. visitor bays would be provided distributes adequately throughout the site, in accordance with the DCC Parking and Accessibility Standards (2019). It is considered that there is adequate capacity on the local highway network to accommodate the additional vehicle movements generated by the proposed development, without resulting in adverse highway safety impacts. As per the previous application, the applicant would be required to enter into the relevant separate agreements under the Highways Act 1980 for the adoption of the new road and new access onto the public highway and obtaining a Road and Street

Works Permit. The new roads through the site would also need to be subject to a 20mph speed limit controlled via a Traffic Regulation Order, which would form part of the Highways Act Agreement.

131. Overall, the highway impacts of the proposed development are considered to be acceptable and in accordance with CDP Policy 6 e), 10 q), 21 and 29 of the CDP, as well as Part 9 of the NPPF.

#### Residential Amenity

132. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
133. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
134. CDP Policy 6 criterion a) also requires that development on unallocated sites is compatible with, and is not prejudicial to, any existing, allocated or permitted use of land. In addition, CDP Policy 10 criterion r) does not permit new development in the countryside where it would adversely affect residential or general amenity.
135. A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council. The SPD advocates separation distances of 21m between facing principal elevations and 18m between bungalows, 13m between principal and two storey gable elevations and 10m to a single storey. On the whole these separation distances would be achieved by the proposals, with three instances where a slightly smaller distance would result (19m between the front elevations of the dwellings on Plot 13 and 19; 19.7m between the front elevations of the dwellings on Plot 14 and 17; and 20m between the front elevations of the dwellings on Plot 11 and 21).
136. However, the SPD advises that it is not intended to apply the standards rigidly and that there may be scope to relax distances between public facing elevations within housing schemes to allow for a variation in layout where this will add interest and help create a sense of place and where future residents would still enjoy a satisfactory level of privacy and outlook. In this instance, all of the dwellings would comply with the Nationally Described Space Standards and benefit from rear gardens around 9m in length as recommended by the SPD. Given this and the relatively small disparity below the typically required separation distance, it is considered that the future occupants of the aforementioned 6 no. dwellings would benefit from satisfactory levels of privacy and outlook.
137. One of the refusal reasons for the previous application was in relation to Plots 16-19, 22 and 32-37 backing on to the derelict land and buildings at St Peters. This application has seen Plots 32-37 comprised within an apartment block. Whilst the living room and bedroom windows within Plot 32 and 35 would face

west towards the street and the living / kitchen windows within Plot 34 and 37 look towards the trees to the north, the kitchen windows of Plot 32 and 35 and the bedroom windows of Plot 34 and 37 would face onto the car parking area. There are no alterations to Plots 16-19 and 22 which would still back onto the derelict land. Whilst boundary treatments would be erected and would provide separation, the adjacent land is untidy and in an unkempt condition. There have been ongoing issues of breaking in, vandalism and antisocial behaviour to the St Peters building and adjacent land. As such, residents of these properties would be subject to a poor outlook of the derelict site resulting in a low standard of visual amenity. They may also be subject to disturbance from ongoing problems of breaking in, vandalism and antisocial behaviour on the adjacent derelict land. Given the relationship of these properties to the derelict land and building, it is considered that future occupiers would be subject to unacceptable levels of residential amenity and they are unlikely to be desirable to future purchasers and tenants. Whilst permission DM/18/01980/FPA has recently begun to have been implemented there is no guarantee that this will be built out so that the site will no longer be derelict.

138. A noise assessment has been submitted as part of the application. The Environmental Health Nuisance Team advise this has been carried out to the correct methodology and identifies the nearest noise source as the A67.
139. The report also considers noise and odour from the nearby sewage works. The report advises that a separation distance is proposed between the proposed residential development and the sewage works to mitigate against elevated odour levels during certain climatic conditions. Whilst the noise report does not consider noise from the sewage works to be significant, the Environmental Health Nuisance Team consider it likely that some low-level noise might be heard from motors/pumps operating on the site, although the separation distance will help mitigate against low-level noise. It is considered that this issue could be overcome by a condition requiring the approval of a scheme of noise mitigation measures, to include details of glazing and uprated ventilation, and in the event the application was to be approved this could be attached. Conditions to secure further details regarding measures to protect existing nearby residents from construction dust in line with IAQM guidance and adherence to the submitted construction management plan could also be imposed if the application were to be approved.
140. Whilst in the main, the development would provide a reasonable level of residential amenity. Occupiers of the plots immediately adjacent to the derelict St Peters building and land would be subject to low levels of amenity resulting from a poor outlook on the dilapidated site and ongoing problems of breaking in, vandalism and antisocial behaviour. For this reason, it is considered the development would not provide acceptable levels of amenity to future occupiers, in conflict with CDP Policy 6a), 10r), 29 and 31 and Parts 12 and 15 of the NPPF.

#### Flooding/Drainage

141. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

142. Policies 35 and 36 of the CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
143. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where a sequential test and some instances exception test are passed, informed by a site-specific flood risk assessment.
144. A Flood Risk Assessment has been submitted in support of the application. During the course of the previously refused application a Surface Water Drainage Strategy and Calculations document was received and revised following advice from the Drainage Section. The drainage strategy included the incorporation of Sustainable Urban Drainage (SUD's) including permeable paving and a basin to treat and attenuate surface water runoff.
145. The site is located to the northern side of the River Tees. A small section of the proposed landscaped area along the river bank to the south of the site is located within flood zones 2 and 3, however no development other than soft landscaping is proposed in this area.
146. The Drainage Section previously broadly considered the SUD's proposals to be acceptable to deal with surface water from the site, however they advised that the private access shared drives should be constructed out of permeable paving. Additionally, the construction details of the permeable paving, design and construction details for the basin, surface water hydraulic digital files were requested together with a plan indicating all finished floor levels and plot connection drainage indicating cover and invert levels and a maintenance plan for the SUDS features. It is considered that these matters could be agreed by condition in the event the application were to be approved.
147. Policy 35 d) requires that for major developments the management of surface water must be an intrinsic part of the overall development. Part f) of the policy requires that surface water management measures should supplement green infrastructure networks. As highlighted by Drainage Officers, the SUDs basin is located in one area of the site only and so there is no network of SUDs features throughout the site providing a green infrastructure network.
148. Although this is disappointing, as SUDs features are proposed broadly to the satisfaction of the Drainage Section, on balance it is not considered that this omission would result in a significant conflict with CDP Policy 35 to the extent that would warrant inclusion of a flooding/drainage refusal reason.
149. The Environment Agency previously raised no objections to the application subject to a condition for development to be carried out in accordance with submitted flood risk assessment and to ensure no built development takes

place within flood zones 2 and 3, which is considered appropriate. Northumbrian Water have also raised no objections to the proposal subject to a condition to secure details of a scheme to dispose of surface and foul water from the development.

150. On this basis no objections to the development on the grounds of flood risk or drainage are raised having regards to CDP Policies 35 and 36 and Part 14 of the NPPF.

#### Nutrient Neutrality

151. CDP Policy 42 states that development that has the potential to have an effect on internationally designated site(s), either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site.
152. Earlier this year Natural England provided guidance for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites.
153. In freshwater habitats and estuaries, poor water quality due to nutrient enrichment from elevated nitrogen and phosphorus levels is one of the primary reasons for habitats sites being in unfavourable condition. Excessive levels of nutrients can cause the rapid growth of certain plants through the process of eutrophication. The effects of this look different depending on the habitat, however in each case, there is a loss of biodiversity, leading to sites being in 'unfavourable condition'. To achieve the necessary improvements in water quality, it is becoming increasingly evident that in many cases substantial reductions in nutrients are needed. In addition, for habitats sites that are unfavourable due to nutrients, and where there is considerable development pressure, mitigation solutions are likely to be needed to enable new development to proceed without causing further harm. They advise the LPA, as the Competent Authority under the Habitats Regulations, to carefully consider the nutrients impacts of any new plans and projects (including new development proposals) on habitats sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality.
154. Natural England have undertaken an internal evidence review to identify an initial list of water dependent habitats sites (which includes their underpinning Sites of Special Scientific Interest) that are in unfavourable condition due to elevated nutrient levels (phosphorus or nitrogen or both). The Teesmouth & Cleveland Coast is a designated Special Protection Area (SPA) and Ramsar site (Wetlands of international importance) and is identified as a habitat site in unfavourable condition due to excessive nitrogen nutrients.
155. Mitigation through nutrient neutrality offers a potential solution. Nutrient neutrality is an approach which enables decision makers to assess and quantify mitigation requirements of new developments; allowing new developments to be approved with no net increase in nutrient loading within the catchments of the affected habitats site.



156. Natural England are now advising that in the absence of evidence to the contrary, all new housing development proposals will need to consider, via an appropriate assessment, the impact of adding to the existing nutrients levels / loads where water quality targets are not being achieved for these habitats sites. Having carried out that assessment, permission for the plan or project may only be given if the assessment allows us to be certain that it will not have an adverse impact on the integrity of the site i.e. where no reasonable scientific doubt remains as to the absence of effects. Where the scheme will (or, in line with the precautionary principle, it cannot be ascertained that it will not) contribute additional significant nutrients, alone or in-combination directly to, or upstream of, any unfavourable location which is important for maintaining or restoring the sensitive designated interest features, then Natural England advises that either there is a Likely Significant Effect (LSE) or a LSE cannot be ruled out and therefore, an Appropriate Assessment should be undertaken.
157. In light of the above guidance recently provided by Natural England, the application proposes residential development on brownfield land that would generate additional wastewater from overnight use. However, permission DM/18/01980/FPA for the erection of 48 dwellings and conversion of the former school building to 9 flats has recently begun to be implemented. When overlaying the approved site plan from this permission onto the proposed site plan submitted with this application, 38 of these dwellings fall within the red line boundary of the application site, with the other 19 falling outside the site. This application proposes the erection of 37 dwellings and so if approved and built out would not result in an increase of overnight accommodation compared to that which was approved under DM/18/01980/FPA.
158. Therefore, it is not considered that the proposal would generate additional wastewater compared to that which is possible under the previous recently implemented approval and so nitrate levels in the Teesmouth & Cleveland Coast SPA would not be increased as a result of this development. Consequently, in this instance no further information regarding nutrient neutrality is required.

## Ecology

159. Policy 10 i) states that new development in the countryside should not give rise to unacceptable harm to biodiversity either individually or cumulatively which cannot be adequately mitigated or compensated for. Policies 26, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
160. A Preliminary Ecological Assessment (PEA), and Bat Transect Survey (both dated August 2020) have been submitted as part of the application. The survey found low to moderate levels of bat activity but concluded that no impacts on roosting bats are predicted. The surveys recommendation to develop a sensitive lighting scheme could be secured via a suitably worded condition.
161. The Council's Ecologist has reviewed the submitted information and requested a full copy of the Excel spreadsheet from the original metric biodiversity calculation. During the course of the previously refused application, a full copy

of this spreadsheet was provided and the Ecologist advised that the existing semi-improved grassland did not appear to have been included in the metric calculation and that details of the target habitat types/seed mixes, management principles, proposed monitoring intervals were required. Details of the location of 4 no. integrated bat boxes and sparrow terrace next boxes recommended by the submitted PEA were also requested. Whilst again it would have been desirable for these details to have been provided prior to the determination of the application to give the LPA confidence a net gain to biodiversity would be achieved, in the circumstances it is considered they could be agreed by condition if the application were to be approved.

162. Overall and subject to relevant conditions to agree final ecological details, it is considered the scheme is capable of providing a net gain to biodiversity and would not impact upon any European protected species, according with CDP Policy 10 i), 26, 41 and 43 and Part 15 of the NPPF.

#### Ground Conditions

163. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
164. The Contaminated Land Officer has reviewed the Phase 2 Intrusive Site Investigation Report. The report identified Made Ground and fill across the site and contamination in the soils. Therefore, further sampling in the location of the former boiler house/built-up ground area is required and further sampling of the topsoil if it is proposed for re-use in the soft landscaping/garden areas. A Phase 3 Remediation Strategy is also required. These details could be secured via a suitably worded condition.
165. Together with an informative relating to unforeseen contamination, this would ensure that the site is suitable for its intended use taking account of any risks arising from contamination. The proposal would therefore accord with CDP Policy 32 and Paragraph 183 of the NPPF.
166. The site does not lie within the defined high risk area in relation to coal mining legacy. An informative outlining the Coal Authority's standing advice would be applied in the event of an approval. The proposal therefore complies with CDP Policy 32 and Paragraph 183 of the NPPF in demonstrating that the site is safe and stable for future development.

#### Affordable and Accessible/Adapted Housing

167. The Council's most up to date assessment of need is outlined within CDP Policy 15, setting out the required percentage of affordable housing and tenure mix. Paragraph 63 of the NPPF sets out that, where a need has been established, an appropriate level of affordable housing should be provided.
168. As the site falls within a high value area, it would normally be expected that 20% of the properties within the scheme would be delivered as affordable housing, split into 10% in the form of affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership) and 10% as affordable housing for rent. These requirements would

translate as 3 no. affordable home ownership units and 4 no. affordable rented units.

169. The scheme proposes 8 no. affordable rented units and 2 no. affordable home ownership units. Whilst these indicated affordable units are not fully compliant with the requirements of the CDP, overall the number of affordable units exceeds the required standards. Precise details of affordable housing products could be secured as part of a S106 agreement if the application were to be approved, as such this is not considered to be a reason for refusing the application.
170. CDP Policy 15 outlines on sites of 10 or more units, a minimum of 10% of the units to be designed so as to increase the housing options for older persons and people with disabilities comprising of level access flats and bungalows or housing products which can be shown to meet the specific needs of a multi-generational family. The policy also requires that 66% of dwellings should be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard unless site specific factors indicate otherwise. Policy 19 requires an appropriate mix of dwellings, types and sizes. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed. Part 5 of the NPPF is also clear that developments should help to address housing needs.
171. The submitted Planning Statement confirms that 25 no. dwellings would be built to Building Regulations Requirement M4(2), which equates to 67%. Further details of compliance with this requirement could be secured via a suitably worded condition. The scheme comprises 3 no. two bed bungalows, 3 no. one bed ground floor apartments and 2 no. one bed first floor apartments accessible by lift. This would meet the requirement for 10% of the dwellings to meet the needs of older and disabled people. Therefore, the proposal accords with Policy 15 of the CDP and Part 5 of the NPPF in this regard.

#### Sustainability

172. Criterion o) of Policy 29 requires all major residential development to achieve reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations. The application is supported by a Sustainability Statement which confirms that the dwellings proposed would achieve reductions in CO2 emissions of at least 10% below the DER against the TER. It proposes to use high efficiency gas heating, and high insulation levels to the floor, walls and roof, windows and doors with an airtight envelope to minimise heat loss.
173. Criterion c) of Policy 29 requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source. The submitted Sustainability Statement states that the use of solar panels and air source heat pumps may be appropriate and can be considered further.
174. Criterion d) of Policy 29 requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and

appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials. The submitted Sustainability Statement states that building materials will be locally sourced where available, with water usage to be within the permitted usage of 110 litres of water per person per day.

175. Subject to a condition to secure precise details of a scheme building upon the those within the Sustainability Statement, the proposals are considered to be sufficient to meet the sustainability requirements of CDP Policy 29.

#### Infrastructure and Open Space

176. Policy 26 of the CDP outlines that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. Paragraph 98 of the NPPF highlights that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Paragraph 130 requires amongst its advice that developments function well and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
177. The Council's Open Space Needs Assessment (OSNA) 2018 is considered the most up to date assessment of need. It identifies the five typologies (allotments; amenity/natural greenspace; parks, sports and recreation grounds; play space (children) and play space (youth)), sets out requirements for public open space on a population pro rata basis and whether provision should be either within the site, or through a financial contribution towards offsite provision, in lieu taking into consideration factors such as the scale of the development, existing provision within suitable walking distances and the level of contribution sought.
178. The site layout demonstrates that large areas of green space (equating to around 3.4ha) would be provided on site fulfilling and significantly exceeding the open space/natural green space requirement (requirement is for 0.12ha). It has been advised that a private management company would be used to manage and maintain the areas of open space within the development. As considered earlier in the report, given the size of the open space it is likely that long term management and maintenance would be expensive and impractical over time, potentially leading to the area becoming overgrown and untidy.
179. A contribution of £58,241.70 would be required towards off-site provision in lieu for those typologies not provided for on-site (allotments, parks, sports and recreation grounds, children and youth play space). Having regard to the OSNA, this is considered to acceptable and in accordance with the Council's standard approach. The contribution could be secured through a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). This would satisfy the requirements of the OSNA, CDP Policy 26 and Paragraph 98 of the NPPF with regards to the provision of public open space.

180. CDP Policy 25 supports securing developer contributions where mitigation is necessary to make the development acceptable in planning terms including for social infrastructure such as education and health facilities. Paragraph 95 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities.
181. The School Places Manager has advised that the proposed development is likely to generate an additional 12 primary age school pupils and 5 secondary age school pupils and there is sufficient capacity at the local schools to accommodate this need. As such no financial contribution is required.
182. Paragraph 93 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. Paragraphs 55-57 explain the circumstances when it is appropriate for planning obligations to be used to mitigate the impacts of the development. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal.
183. The Tees Valley Clinical Commissioning Group (TV CCG) has advised that the increase in resident population as a result of this development should not have a material effect on the local GP surgeries and their abilities to provide care. As such no contribution has been sought to make the proposed housing expansion supportable from a health infrastructure perspective.

#### Other issues

184. CDP Policy 14 states that the development of the best and most versatile agricultural land, will be permitted where it can be demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. NPPF Paragraph 174 states that LPAs should recognise the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Best and most versatile agricultural land is classified by the NPPF as grades 1, 2 or 3a. Only a relatively small area of open land beyond the previously developed area of the former school site is intended to be developed. This is not currently used for agriculture, as such there would be no conflict with CDP Policy 14 or Paragraph 174 of the NPPF.
185. An objection was received raising a concern that Plot 29, 30 and 31 would utilise the garage and fencing of The Manse as a boundary to the gardens, with this preventing the owner from being able to maintain their property. However, this is not a material planning consideration.

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## **CONCLUSION**

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186. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date

development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

187. In this instance, it is concluded that the proposed development would conflict with CDP Policy 6 as it is outside the built-up area for Gainford and it is not well related to the settlement. Similarly, the proposal is not one of the acceptable forms of development listed in Policy 10 and is also in conflict with this policy. Given the omission of the former school building fronting the A67 and associated land, it is considered that the benefits previously attributed to redeveloping this element do not weigh in favour of the proposal and therefore the presumption against development in this location should not be overridden.
188. Furthermore, it is concluded that the omission of the principle building of the former St Peters School from the scheme, results in the formation of inappropriate form of backland development that fails to take into account the opportunity of the site. It is considered that without the cross subsidy of market housing the conversion of the main building is unlikely to occur and does not reflect local priorities for urban regeneration or effective use of previously developed land. As such, the proposal would the proposal is considered to conflict with CDP Policy 6 and Parts 11 and 12 of the NPPF.
189. The proposals would result in impacts to the character of the rural landscape and AHLV. The scheme would provide public benefits in terms of the provision of affordable housing and economic benefits during construction and from new residents supporting local services, however these would not outweigh the identified less than substantial harm to the character and appearance of the conservation area, landscape harm, and loss of trees. As such, the proposals would conflict with Policies 6, 10, 26, 39 and 40 of the CDP and Parts 12 and 15 of the NPPF.
190. It is concluded that the development does not achieve high quality design, achieving 2 “reds” and 4 “ambers” during the Design Review process when assessed against the Building for Life 12 (BfL 12) Standards. There are no significant reasons or that outweigh the low standard of design and the development would conflict with CDP Policy 29 and Part 12 of the NPPF in this respect.
191. Whilst in the main, the development would provide a reasonable level of residential amenity, it is concluded that occupiers of the plots immediately adjacent to the derelict St Peters building and land would be subject to low levels of amenity resulting from a poor outlook on the dilapidated site and on going problems of breaking in, vandalism and antisocial behaviour. For this reason, it is considered the development would not provide acceptable levels of amenity to future occupiers, in conflict with CDP Policy 29 and 31 and Parts 12 and 15 of the NPPF.
192. It is acknowledged that permission DM/18/01980/FPA relating to the wider site has recently begun to be implemented in order to prevent it from expiring and to keep the applicants’ options open going forward. However, this application should be judged on its own merits and on its own would not provide benefits capable of outweighing the identified harm and policy conflict. In addition, there is no guarantee that the approved scheme would be completed in the future, including the conversion of the former school building to 9 flats, with part of the site being in separate ownership, and the benefits that could potentially be

realised through the building out of this separate permission is not considered to outweigh the harm and policy conflict identified above arising from the development proposed in this application.

193. Subject to conditions, the proposals are considered acceptable in terms of Infrastructure and Open Space, Ground Conditions, Drainage, and Locational Sustainability in accordance with Policies 6 (part e), 21, 25, 26, 32, 35, 36 and Parts 8, 9, 12, 14 and 15 of the NPPF in this respect.
194. Overall, it is concluded that the development would conflict with the CDP, given the absence of securing the benefits of the retention and redevelopments of the key buildings on site there no material considerations which are considered capable of outweighing this conflict and therefore the application is recommended for refusal.

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## **RECOMMENDATION**

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

1. In the opinion of the Local Planning Authority, the development fails to make effective use of previously developed land resulting in a backland development that does not take into account the opportunities available for improving the character and appearance of the area. Due to the lack of a comprehensive development, any benefits associated with the development are not considered to outweigh the presumption against development in this countryside location, and the associated landscape and heritage harm. The development is therefore considered to conflict with Policies 6, 10, 26, 29, 39, 40 and 44 of the County Durham Plan and Parts 6, 11, 12, 15 and 16 of the NPPF.
2. The development is considered to represent poor design when assessed against the County Durham Plan Building for Life Supplementary Planning Document in conflict with Policy 29 of the County Durham Plan and Part 12 of the NPPF.
3. In the opinion of the Local Planning Authority future occupiers of plots 16-19 and 22 of the development would experience an unacceptable level of residential amenity resulting from the poor outlook onto adjacent dilapidated land and building and from ongoing problems of breaking in, vandalism and antisocial behaviour, in conflict with Policies 29 and 31 of the County Durham Plan, the County Durham Plan Residential Amenity Standards Supplementary Planning Document and Parts 12 and 15 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

The County Durham Plan (CDP)

County Durham Plan Building for Life Supplementary Planning Document 2019

Residential Amenity Standards Supplementary Planning Document 2020

Statutory consultation responses

Internal consultation responses

External consultation responses





 <b>Durham County Council</b>	Location	Residential Development of 37 units with associated access and landscaping (resubmission of application DMR20201602/PFA)	
	Comments		
<small>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Durham County Council, Service No. 20004870 (2018)</small>	Date	01 March 2022	Scale
			1:5531

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