



## Area Planning Committee (Central and East)

**Date** Tuesday 11 October 2022  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

---

### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 13 September 2022  
(Pages 3 - 14)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee  
(Central and East)
  - a) DM/22/01526 - Land to the North of 22, Coronation Avenue, Blackhall Colliery, TS27 4HR (Pages 15 - 40)  
The erection of 5 no 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted).
  - b) DM/22/00042/FPA - 48 Highgate, Durham, DH1 4GA  
(Pages 41 - 52)  
Construction of roof balcony and installation of first floor balcony and French doors to rear (revised scheme).
  - c) DM/22/00367/FPA - Land North and East of Burnigill Cottages, Burnigill, Meadowfield, DH6 5JJ (Pages 53 - 72)  
Ground stabilisation works to support the East Coast Main Line comprising sheet & bored piling; drainage improvements; new headwalls to the River Browney; landscaping and new vehicular accesses from the B6300.
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

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

County Hall  
Durham  
3 October 2022

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

Councillor D Freeman (Chair)  
Councillor L A Holmes (Vice-Chair)

Councillors A Bell, L Brown, I Cochrane, J Cosslett, S Deinali,  
J Elmer, C Kay, D McKenna, R Manchester, C Marshall,  
J Quinn, K Robson, K Shaw and A Surtees

**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Tuesday 13 September 2022** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors A Bell, L Brown, I Cochrane, S Deinali, J Elmer, D McKenna, R Manchester, C Marshall, E Peeke (substitute for L A Holmes), J Quinn, K Shaw and A Surtees

**Also Present:**

Councillors J Blakey and M Wilkes

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Cosslett, LA Holmes, C Kay and K Robson.

**2 Substitute Members**

Councillor E Peeke substituted for Councillor LA Holmes.

**3 Minutes**

The minutes of the meeting held on 12 July 2022 and the special meeting held 18 July 2022 were confirmed as correct records by the Committee and signed by the Chair.

**4 Declarations of Interest**

Councillor L Brown noted in respect of Item 5b she knew the applicant and explained that, upon seeking advice from the Legal Section, she would make a comment on the application, then leave and take no part in the decision making.

The Chair, Councillor D Freeman noted in respect of Item 5b he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to the application.

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

**a DM/22/01679/FPA - Land at East Grange Farm, Sheraton, Hartlepool, TS27 4RA**

The Senior Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the construction and operation of a Synchronous Condenser located within an agricultural style steel frame building with associated transformer and cooling systems and other ancillary equipment located within a fenced compound and associated landscaping and was recommended for approval, subject to conditions.

The Chair thanked the Senior Planning Officer and asked Mr Daniel Grierson, agent for the application, to speak in support of the application.

Mr D Grierson thanked the Chair and Committee and explained that the role of the proposed synchronous condenser was to help sustain the frequency of the substation by use of a large flywheel and motor. He added the condenser would effectively 'pump' to top up supply and was increasingly necessary as electricity was provided less by fossil fuel power and replaced by low carbon sources. He explained that the location and position within the grid was as per National Grid requirements, in their request for proposals to help ensure provision and reduce the chance of blackout or brownout. He noted the design of the building was agricultural with external cooling elements. He noted screening with existing planting and an area of woodland and plans for a restored calciferous wildflower meadow, an improvement on the low biodiversity area used for grazing. Mr D Grierson noted the proposals were in line with policy and the design was such to present the minimum impact. He added that the condenser would operate for up to 20 years, after which it would be decommissioned, and the site restored. Mr D Grierson thanked Members and noted he would be happy to answer any questions from the Committee.

The Chair thanked Mr D Grierson and asked the Committee for their comments and questions.

Councillor L Brown noted there was only one nearby resident, however, asked as regards noise levels from the proposal. The Chair asked Mr D Grierson if he could respond. Mr D Grierson noted that the property belonged to the landowner, and he had been involved throughout the process and was aware of the impacts. He added that the Council's Environmental Health section has added conditions and noted that noise levels were not atypical for an electrical installation.

Councillor J Elmer noted he had attended the site visit which had been very useful and explained the site nestled in the landscape and was in the style of an agricultural building, though noted that was a broad term, with many of the other buildings in the area being white. He noted he would be happy to proposal approval, though asked whether it would be possible for a condition to have the building be coloured dark green to help it fit in better. Mr D Grierson note that had been the intention, however, would be happy for such a condition.

Councillor J Quinn noted he had initially a few concerns upon receiving the report, however, upon attending the site visit those concerns had been addressed and therefore he would second the proposal for approval, including the additional condition relating to a dark green finish.

The Senior Planning Officer noted that noise issues were addressed within Conditions Four and Five as set out in the agenda papers, with Condition Five referring to an acoustic wall and Condition Four noting maximum allowed noise levels. The Senior Planning Officer noted the agent for the applicant had noted their willingness to paint the proposed building dark green, and that the colour was stated within the application form, however, should Members wish a condition could be included. Councillor J Elmer noted he wished for a condition to be added to that effect.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED**, subject to the conditions as set out within the report and an additional condition relating to a dark green finish.

### **b DM/22/01022/FPA - Land south east of 18 Foster Terrace, Croxdale, DH6 5HP**

The Senior Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes).

Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a new build development of 6 new dwelling houses in the form of 2 terraces of 3 units including 3 no. 3 bed units and 3 no. 2 bed units and was recommended for approval, subject to conditions and a s106 Legal Agreement towards off-site affordable housing provision.

The Chair thanked the Senior Planning Officer and asked Councillor J Blakey, Local Member, to speak in relation to the application.

Councillor J Blakey thanked the Chair and Committee and noted that while many residents had not written to the Planning Department, many had contacted her as Local Member to make their concerns known. She explained that the biggest concern was site entrance and exit, with the road having a 40mph limit, with many vehicles frequently travelling at 50mph or faster. She noted issues with deliveries to the car showroom opposite to the application site and requests that car transporter vehicles not to be parked on the A167. She noted that the proposals in conjunction with existing issues would be a 'double whammy' and added that the Highways Section had been aware of the issues in the area for a number of years. Councillor J Blakey noted that the development was a move into the countryside and asked how far was too far in terms of encroaching into the countryside and creating ribbon development. She concluded by asking the Committee to refuse the application.

The Chair thanked Councillor J Blakey and asked the Committee Services Officer to read a statement from another Local Member, Councillor M McKeon.

The Committee Services Officer read the statement from Councillor M McKeon as follows:

*'I had hoped to address the Committee in person, unfortunately a last-minute work commitment means that I am unable to, and I have instead sent this representation. After discussions with local residents and the Parish Council, I have become concerned about the Highways implications of this development. The roads on the proposed new estate are narrow, too narrow to manoeuvre larger vehicles including bin lorries, or to allow cars to pass each other. In an era where so much of our shopping is delivered by courier, residents and I wonder how multiple delivery vans could operate simultaneously on the site once it's completed.*

*Beyond this, I am concerned about the position of the opening to the development on the main road.*

*The A167 is a major road that connects Durham City to the South and West of the County. It is the main road to Spennymoor, Bishop Auckland, Ferryhill, and many other major settlements. It connects the city to Newton Aycliffe and Darlington through the regular 7 bus service. This particular section of road is incredibly busy due to its proximity to Thinford and Durham Gate, a site that continues to attract both investment and traffic. The proposed new custody suite at Thinford would see arrestees from across the North, East and West of the County be driven past. In short, this section of road can be excessively hectic, particularly at peak times.*

*This development is on the left side of the road coming out of a busy roundabout, where there is a speed limit of 40mph. When cars leave this roundabout, they pick up speed very quickly, and the residents of this new development will be turning into and out of the space where commuting cars and buses are accelerating. In contrast, the existing junction for the houses at Wayside comes out onto the roundabout, where motorists are already driving slowly and aware that other cars will pull out of junctions. The junction further back at Rogerson Terrace comes as cars are slowing down for the roundabout. The whole of Croxdale has a 40mph speed limit despite being built up on both sides, within the past couple of years there has been a fatality on the road and there have been other serious incidents around the roundabout in the past. The local Residents' Association has launched a petition to reduce the speed limit to 30mph, almost every person in the village has signed it and the MP is supporting the campaign.*

*I applaud the s106 contribution for affordable housing off-site, and I would not normally object to a development of this size at the edge of a village. However, the Highways situation in relation to the A167 gives me severe cause for concern. If the committee is minded to approve this application, I hope that a condition can be added to revisit the speed limit across Croxdale. If the village is to suffer a development that will make the roads less safe, then something should be done to compensate directly, such as reducing the speed limit to 30mph. This will not just benefit the people of Croxdale, it will benefit people across County Durham who use this arterial highway and prevent the kind of incident that causes severe disruption, which we have sadly seen in the past'.*

The Chair thanked the Committee Services Officer and asked Mr John Ashby of the City of Durham Trust to present the objections on behalf of the Trust.

Mr J Ashby thanked the Chair and Committee and referred to slides during his presentation. He began by noting that the Trust held the Senior Planning Officer in high regard for her many excellent professional reports and added that it pained him to be taking issue in this case.

He noted that the proposed development was ribbon development outside the settlement boundary of Croxdale, with ribbon development defined as *“the growth of buildings and industrial and commercial establishments linearly along a highway with direct access to the highway”*.

Mr J Ashby explained that the Senior Planning Officer’s report, at paragraph 21, appeared to quote County Durham Plan (CDP) Policy 6, but in fact left out the crucial words about ribbon development. He noted the relevant part of Policy 6 was: *“The development of sites... ..will be permitted provided the proposal: b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development; “*

He noted similarly, the report’s version of Policy 10 in paragraph 22 and again in paragraph 60 leaves out the bit about ribbon development: *“New development in the countryside must accord with all other relevant development plan policies and by virtue of their siting, scale, design and operation must not: n. contribute to ribbon development;”*

Mr J Ashby continued by explaining that the CDP says unmistakably that ribbon development is wrong and noted that the Senior Planning Officer’s report did discuss ribbon development at paragraph 62 but argues it would not be harmful. He added the Trust begged to disagree. He noted that usually one would expect a local plan to designate a settlement boundary for the locality at issue. He added that although the CDP was technically a local plan, it covered the whole of a very large County and did not attempt to delineate individual development boundaries for the hundreds of towns and villages. He explained that the only available official judgement on this was in the City of Durham Local Plan 2004 and, although superseded by the CDP 2020, the site lies outside the defined settlement boundary for Croxdale laid down in that Local Plan.

Mr J Ashby noted that Policy 6 goes on to require that development: *“e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;”*. He added that the layout drawings and Design and Access Statement proposed a dedicated car parking area which accessed straight on to the A167 running to Durham City from the busy Croxdale roundabout. He explained that direct access onto the A167 was most undesirable as it presented the potential for movement conflicts, for risk to highway safety, and for interruption to traffic flow on this primary route. Mr J Ashby noted that cars turning right out of the access, i.e. north towards Durham, would have to cross a busy trunk road traffic lane heading south where the speed limit changes, a recipe for mis-judgements and indeed accidents.

Mr J Ashby noted the 40mph speed limit changed to 60mph alongside the most southerly edge of the proposed houses and referred to a photograph within his presentation that showed a derestricted sign, with plot 6 lying adjacent to, and beyond that sign. He added that the Trust considered that the road safety aspect heightened the unsuitability of the site for the proposed development. He noted the photograph also showed that the development would be an extension of the village into the countryside.

Mr J Ashby concluded by noting that, on those grounds, the City of Durham Trust asked that the County Council refuse the application as it was contrary to CDP Policies 6 and 10.

The Chair thanked Mr J Ashby and asked the Senior Planning Officer and Principal DM Engineer, David Battensby to respond to the points raised.

The Senior Planning Officer noted that ribbon development had been referred to by the Local Member and the City of Durham Trust in their objections. She explained that paragraph 21 merely summarises the relevant policy without full extent of detail within that policy. She added that within the principle of development part of the report, detailed assessment of the proposals against Policies 6 and 10 of the CDP were undertaken, particularly in relation to whether site was well related to the settlement and amounted to ribbon development. She explained that paragraph 62(b) of the report set out why it was not felt that the proposals represented ribbon development. In reference to settlement boundaries, the Senior Planning Officer noted that the National Planning Policy Framework (NPPF) was silent on the issue and the CDP also did not refer to them. She noted there was no Neighbourhood Plan in place for Croxdale and in the absence of such a plan there was flexibility in assessing the site on its own merits. She noted that it was considered acceptable in visual and amenity terms and the boundary of the site was clearly delineated by the adjoining Area of High Landscape Value (AHLV) with the application site clearly not being designated as such. She added that the AHLV helped in providing a defensible boundary and in terms of preventing further development in the future and added that the proposal represented a logical extension to the settlement and the design was in keeping with existing development.

The Principal DM Engineer explained that Highways took a risk-based approach and noted the concerns raised by speakers regarding vehicle speed. He noted the speed survey was carried out after consent was given by the Department for Transport (DfT) for the recommencement of traffic surveys after lockdown and this survey was compared to previously carried out surveys and the results were consistent, giving confidence that the results were accurate.

He noted the assessment of the junction design was made under the Design Manual for Roads and Bridges, a stricter set of criteria than for 'Manual for Streets', requiring greater visibility splays and greater stopping distances. He added that therefore Highways were comfortable with both the north and south approaches.

He noted there were not sufficient reasons to sustain an objection in terms of refusal on highway grounds.

The Chair thanked the Officer and asked Councillor L Brown to speak prior to leaving the Chamber.

Councillor L Brown noted that on the site visit the issue of bins being stored on the roadside being a potential hazard should they be blown by the wind onto the road and wondered if it could be possible to look to have bin storage contained within the site, perhaps in the allocated car parking area.

*Councillor L Brown left the meeting at 10.23am*

The Chair asked the Committee for their questions and comments.

Councillor J Quinn explained he was struggling to see reasons not to agree with the Officer's recommendation and suggested additional conditions relating to electric vehicle charging, in line with Policy 26 and 29 and solar panels and batteries for each property, in line with Policy 26.

Councillor J Elmer noted that many of the concerns raised related to highways and asked if any physical traffic calming measures, speed advisor sign, or reduction of the speed limit to 30mph could be feasible. The Principal DM Engineer explained that any speed limit imposed must be credible in terms of the volume, nature of the traffic and road environment. He added that if a lowered speed limit was imposed, it would lead to a significant proportion of vehicles being in the enforcement category and have to be enforced which was not sustainable and in this case that would not be credible. As regards a speed advisory sign, he noted there were criteria for the provision of such signs and that previous analysis had shown there was not sufficient numbers exceeding the 40mph limit, with the majority of drivers adhering to the limit.

Councillor J Elmer asked as regards the question raised by Councillor L Brown in relation to bins storage and the potential of bins blowing on to the highway. The Senior Planning Officer noted that if a storage area was proposed within the proposed parking area, that would result in the loss of parking provision and bins could not be stored in such a place where they would not be adequately accessible in highways terms.

She added that the refuse vehicles currently already collect bins from further along the A167 successfully and therefore it was not felt to be an issue. The Principal DM Engineer explained that refuse vehicles already served similar arrangements at Croxdale, and indeed other similar locations around the county, without incident and therefore there were no concerns from Highways.

The Principal Planning Officer, Paul Hopper, noted from the comments from the Principal DM Engineer and therefore any conditions relating to bins storage citing highways concerns would likely fail the test in terms of being a reasonable condition to impose.

Councillor A Bell noted he had listened to the comments from Local Members and the concerns raised on behalf of their local residents, adding he had not seen any local support for the scheme. He noted the description of the land currently as 'informal allotment', however, it was surrounded by the AHLV, and he felt development should compliment the AHLV and from the drawings provided it did not jump out at him that the scheme complimented the AHLV. He noted he was currently undecided.

Councillor C Marshall noted he felt similarly to Councillor A Bell and added he frequently drove along the road in question, noting it was a fast road. He added he appreciated the logic of the arguments put forward by the Planning and Highways Officers. In relation to the additional conditions proposed by Councillor J Quinn, he asked whether they were required in order for the development to go forward, whether they were enforceable, and if they would then impact upon the viability of the proposals. He noted those were material concerns and if planning standards were being met by the proposal then it should be approved, and if they were not in line with policy then he would find it difficult to apply conditions at this stage.

Councillor R Manchester noted an objector had referred to the development overspilling into an area of national speed limit and asked if the speed limit could therefore be pushed further back away from the development. Councillor J Elmer noted the issue was a tough one and explained that when attending the site visit he could see that the outer limit of the proposed development would be in line with the development on the opposite site of the road and added the proposals did not feel like ribbon development to him, they were a natural fit. He added that he felt the Officers had got it right and the proposed style matched the existing terraced properties, very attractive buildings and therefore appropriate to replicate. Councillor J Elmer noted he agreed with the comments from Councillor J Quinn in terms of energy efficiency, EV charging points, solar panels and batteries. He noted slight concern in terms of the extent of the hedgerow removal, however, there was net biodiversity gain and provision off-site.

He noted that concerns relating to the highway had been addressed by the Principal DM Engineer and accordingly, Councillor J Elmer seconded the proposal by Councillor J Quinn for approval, with additional conditions.

The Chair noted the reference to a 30mph zone within the statement from Councillor M McKeon and asked if that could be addressed.

In reference to points raised, the Senior Planning Officer noted that loss of allotment land was not an issue as the land was only used informally as such, and as the land was not allotment or open land it therefore did not conflict with Policy 6. In terms of impact upon the AHLV, it was noted that the site was excluded from the area designated as AHLV.

She added that the question was whether the juxtaposition of development in an urban environment or the open countryside and that it was not felt in this case that the development would breach the current relationship and therefore it would not have a negative impact.

In reference to the additional conditions proposed, she noted that the applicant had intended to look at how to best achieve EV charging and therefore would likely not have an issue with such a condition. She noted that Policies 29(c) and 29(d) referred to net zero and low carbon and within the application there was reference in the Design and Access Statement to higher levels of insulation, being 20 percent better than building regulation requirements and therefore that was felt sufficient in order to comply with Policy 29 and not require a specific condition. The Principal Planning Officer reiterated that the insulation provided was more than policy compliant, however, Members could add further conditions if they felt it was necessary. The Principal DM Engineer noted that the extremity of the development was around three metres into the area where the speed limit changed and noted that it made no material difference to change of the position of the limit by such an amount. He noted that in terms of a 30mph limit, there were two sets of DfT criteria and previous assessments had found that the current 40mph limit was correct for the A167 and any reduction in speed limit would therefore not be appropriate for that location.

The Chair asked as regards solar panels as noted by Councillor J Quinn. The Principal Planning Officer noted if the Committee felt that the addition was something that had not been explored then they could condition for further information, and it could be worded such to note the Council be in receipt of that information prior to work being above the damp proof course if Members felt necessary. Councillor J Elmer noted that considering the significance of people being able to generate their own energy, having the potential to save future residents on their bills, he would support it being conditioned.

Councillor C Marshall noted the benefits of energy generation, however, added that his concern was that Durham County Council Policy did not mandate developers to include solar panels and therefore additional conditions being added at Committee may stagnate investment and growth in the county. He noted he would say to Members of the Joint Administration that if they wished for policy to be changed then to bring forward an amended policy for consideration, adding he would vote for it. He noted he would be happy with the proposals and recommendations as set out by Officers and reiterated that it would be preferable to have a supplementary planning document setting out any such requirements up front so that it was clear to investors what the Council's expectations were.

Upon a vote being taken it was:

**RESOLVED**

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report and additional conditions relating to electric vehicle charging and carbon reduction measures, including solar panels and storage.

This page is intentionally left blank

## Planning Services

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/21/01526/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	The erection of 5 No. 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted)
<b>NAME OF APPLICANT:</b>	Mr Geoff Robson
<b>ADDRESS:</b>	Land To The North Of 22 Coronation Avenue Blackhall Colliery TS27 4HR
<b>ELECTORAL DIVISION:</b>	Blackhalls
<b>CASE OFFICER:</b>	Michelle Hurton Planning Officer <a href="mailto:Michelle.hurton@durham.gov.uk">Michelle.hurton@durham.gov.uk</a> 03000 261398

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

#### The Site

1. The application site lies within the settlement of Blackhall and is bound to the north and northeast by a railway embankment, to the northwest, west and southwest by residential properties, and to the southeast by Blackhall Welfare Ground which is defined within the Council's Open Space Needs Assessment (OSNA) as a park and recreation ground. The site is mostly brownfield and was previously a local authority garage site and as such some of the associated hardstanding still remains.
2. The site is currently accessed via The Coast Road (A1086) from both Hepscoth Avenue and Coronation Avenue.
3. The application site itself lies at the end of two rows of terraced properties mentioned above and slopes down to the edge of the coastal railway line. The site is visible from the nearby terraced properties, from properties in Enid Gardens to the northwest and also from Blackhall Welfare Ground. The site is not visible from the railway line due to the vegetation and height of the trees along the northern and north-eastern boundary.
4. The site is located within 400m of the Durham Coast SAC and Northumbria Coast SPA/RASMAR sites which form part of a wider European network of sites known as Natura 2000. Natura 200 sites are of exceptional importance in respect of rare, endangered, or vulnerable natural habitats and species within the European Community.

5. Any plan or project likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, is required to undergo an Appropriate Assessment to determine its implications for the site. The competent authorities (Durham County Council in this instance) can only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the site concerned.

## The Proposal

6. The application seeks planning permission for the erection of 5 detached dwellings at the site with a double garage associated with plot 1. All properties would have three floors comprising a lounge, hall and kitchen at ground floor, three bedrooms and a bathroom at first floor, with a fourth master bedroom, en-suite and walk in wardrobe to the second floor. In curtilage parking is provided for all five dwellings. External walls of three of the dwellings would be finished in Forterra Moray Red Mixture Brick with the other two finished in Forterra Abbey Red Multi Facing Brick. All properties would be finished in Russell Grampian Slate Grey tiles to the roof and each would have access to a rear garden and parking provision to the front.
7. The site would be accessed from Coronation Avenue via the A1086 (Coast Road) located to the west of the site which is the main road through Blackhall.
8. The application was previously considered by the Committee in March 2022 at the request of Councillor Rob Crute who considered that traffic generation and access issues warranted detailed consideration by the committee. At the meeting the Committee members resolved to defer the application in order to allow further time for the applicant to submit additional information with the aim of overcoming the objections raised by Natural England and the Council's Ecologist.

---

## **PLANNING HISTORY**

---

9. In January 2008, Easington District Council granted conditional planning approval for 4no Dwellings and 8no garages with an associated adoptable turning head/access road. Due to the economic downturn later that year but was never implemented and as such the permission subsequently expired on January 24/01/2011.
10. An application for outline planning permission relating to a revised scheme of 5 units was submitted in March 2015 and was subsequently approved in October 2015. Again, this permission was never implemented and as a consequence lapsed in 2018.
11. A similar application to that reflected in the current application relating to the erection of 5 dwellings was submitted in October 2020 but was withdrawn in April 2021.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

#### National Planning Policy Framework

12. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
13. 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.

14. 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.
15. NPPF Part 5 – Delivering a wide choice of high quality homes. The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
16. 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.
17. NPPF Part 8 – Promoting healthy and safe communities. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
18. NPPF Part 9 – Promoting sustainable transport. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
19. NPPF Part 11 - Making Effective Use of Land. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
20. NPPF Part 10 Supporting High Quality Communications - The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services. Local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband.
21. NPPF Part 12 - Achieving Well-Designed Places. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
22. NPPF Part 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.

23. NPPF Part 15 - Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

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

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

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

##### The County Durham Plan

25. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
26. 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.
27. 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.

28. 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 the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
29. 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.
30. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing sites must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable the proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
31. Any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
32. 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
33. 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.

34. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
35. 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.
36. Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
37. 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.
38. 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.
39. 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.
40. Policy 42 (Internationally Designated Sites) states that development that has the potential to have an effect on internationally designated sites, 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.
41. 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.

42. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

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

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

43. The Highway Authority raised no objection noting that highway concerns identified in relation to the previously withdrawn application have been adequately addressed. However, noting the narrow roads accessing the site a condition requiring the submission, agreement and implementation of a construction management plan is advised.
44. Natural England objects advising that insufficient information has been submitted in support of the proposal, and as such the development could potentially significantly effect the Durham Coast Special Area of Conservation (SAC), Northumbrian Coast and Teesmouth and Cleveland Coast Special Protection Areas (SPAs) and Durham Coast Site of Special Scientific Interest (SSSI).
45. Network Rail raises no objections subject to a number of conditions and informatives being attached to any approval granted given the closeness of the site to the railway line.
46. Northumbrian Water raises no objections to the application subject to a pre-commencement condition requiring the submission, agreement and implementation of a detailed scheme for the disposal of foul and surface water from the development. They have also confirmed that the site does not fall within the Teesmouth & Cleveland Coast catchment area relating to Nutrient Neutrality and that specifically the development will fall within the area served by the NWL sewerage treatment works at Horden.
47. The Council's Drainage Section as Lead Local Flood Authority have not commented on the application.

### **INTERNAL CONSULTEE RESPONSES:**

48. DCC Ecology Section initially raised objection to the development advising that new C3 residential housing within the 0.4km HRA buffer zone would likely to lead to an increase in recreational disturbance on the qualifying species and habitats of the coastal SPA and SAC, and would therefore be in conflict with Measure 1 of the coastal avoidance and mitigation strategy and that the mitigation initially proposed by the applicant would be inconsistent with that guidance. However, the applicant has since identified additional site specific measures to mitigate any adverse impact in this regard. Consequently, the Council's Ecologist has removed their previous objection and considers that the mitigation proposed would adequately ensure there would be no adverse impact upon the SAC and SPA in accordance with the requirements of the Habitats Regulations. It nevertheless remains that given the location of the site within

the 6km buffer of the SAC and SPA that a financial contribution of £3783.05 is required towards CAMMs which would be secured by a S106 agreement or Unilateral Undertaking.

49. Spatial Policy Section advises that due to the close proximity of the Durham Coast Railway Line, the Northumbria Coast SPA/Ramsar site and Durham Coast SAC that the development would need to be carefully considered in terms of the impacts on these European protected sites. In addition, they note the requirements of Policy 29 in relation to Nationally Described Spaces Standards and Policy 15 that 66% of dwellings on sites of 5 units or more must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard.
50. Landscape raise concerns with the development given the limited amount of landscaping proposed within the scheme and considers that there would be permanent and adverse impacts created.
51. Environment, Health and Consumer Protection (Contaminated Land) considered the details and note that because the development constitutes a change of use to a sensitive receptor that a pre commencement condition is required for Phase 2 and 3 reports and also a Phase 4 verification report prior to occupation of the development.
52. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the proposals, noting that they agree with the findings regarding BS8233:2014 levels to be exceeded at night-time due to passing trains. Conditions are requested to be applied to submit a noise mitigation report, and to regulate noise and environmental matters from construction works.

#### **PUBLIC RESPONSES:**

53. One representation letter has been received requesting the developer to contact them to advise what effect the development would have on access to their property as they live immediately adjacent to the site and access for work vehicles would be difficult.

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

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

54. The applicant Mr Robson has owned the site since 2007, previously occupied by a number of garages, which had fallen into disuse, the site was/is an untidy eyesore in close proximity to the residential streets
55. In January 2008, Easington District Council granted conditional planning approval on this site for 4 No Dwellings and 8 garages with an associated adoptable turning head/access road. Due to the economic downturn later that year, the scheme was never built, despite receiving full building regulations approval. The permission subsequently expired without being renewed on January 24th, 2011.
56. Outline Planning Approval for a revised scheme of 5 units was applied for in March 2015 and was subsequently approved in October 2015, again for various reasons this approval has now lapsed.
57. The current proposal is to develop the site with 5 units on similar footprints to those previously approved, but over 2.5 storeys. This application will be for full approval rather than outline.

58. Since these 2 expired approvals the council have undertaken and implemented Habitat Regulations Assessments ( HRAs ) in relation to the nearby Durham Coastal SAC which states is considered a general presumption against any net increase in residential development within (a) 0.4 km buffer zone unless information and evidence to inform the HRA can be provided which is able to satisfactorily demonstrate that the proposed development will not adversely affect the integrity of the coastal European Protected Sites in question”
59. In this instance, although generally outside the 0.4km buffer zone and separated from this by a mainline railway and dense tree line, the application site falls within the zone due to the proximity of Blue House Gill a long-vegetated inlet to the north
60. The applicant feels that the benefits of tidying up and bringing back into use a derelict run-down brownfield site in close proximity to existing residential areas far outweighs the perceived harm to the Coastal special area of conservation and the sites separation from the protected area by a busy railway line forms a more natural barrier than any notional buffer zone
61. In this respect the applicant asks that members take this fact into consideration, together with the previously granted approvals, the highway improvements offered to the access and egress from the adjoining streets and the loss of an unkempt derelict area, in granting approval for this proposed development.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

62. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development including the impact upon the Northumbria Coast Special Protection Area and Ramsar, Durham Coast Special Area of Conservation, Teesmouth and Cleveland Coast Special Protection Area and Ramsar, impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, contaminated land, drainage and other matters.

Principle of the Development and its Impact upon the Northumbria and Cleveland Coast Special Protection Areas (SPA) and Ramsar; Durham Coast Special Area of Conservation (SAC); Durham Coast Site of Special Scientific Interest (SSSI); and Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar

63. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP.
64. The NPPF is a material planning consideration. 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.

65. The application site is located within the settlement of Blackhall Colliery. It is not allocated for housing within CDP Policy 4. Development of housing on unallocated sites within the built-up area should be assessed and determined against CDP Policy 6. This policy sets out the following criteria:

The development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:

- a. 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.
66. In relation to criteria a) and b), proposed residential dwellings in this location are considered compatible with adjoining residential uses. There is no concern that it would result in inappropriate ribbon development, nor that it would be considered inappropriate backland development, as the site has ready independent highway access and can meet distance standards, which will be discussed in more detail elsewhere in the report. In line with criteria f), the site is noted as highly sustainable, being located within walking distance of a range of facilities and has ready access to sustainable modes of transport.
67. The development to erect five residential dwellings in a highly sustainable location would therefore be considered to comply with CDP Policy 6 and the principle of development can draw some support from CDP Policy 6 in this regard.

68. However, the application site also lies within 400m of a range of protected sites comprising of the Northumbria and Teesmouth and Cleveland Coast SPAs and Ramsar, Durham Coast SAC and the and Durham Coast SSSI. It is also identified as being within the Teesmouth & Cleveland Coast Nutrient Neutrality Protection Area (SPA) and Ramsar catchment area identified on the maps supplied by Northumbrian Water and as such CDP Policy 42, Water Framework Directive Regulations 2017, Conservation of Habitats and Species Regulations 2017 and the Habitats Regulations Assessment: Developer Guidance and Requirements in County Durham document are relevant when considering the acceptability of the proposals.
69. The Conservation of Habitats and Species Regulations 2017, referred to as the 'Habitats Regulations' implement in England the requirements of the EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Fauna, referred to as the 'Habitats Directive' (Council Directive 92/43/EEC) and protect areas classified under Directive 2009/147/EC referred to as the 'Birds Directive.' The Regulations aim to protect a network of sites known as Natura 2000 that have rare or important habitats and species threatened at a pan European level in order to safeguard biodiversity.
70. 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. Paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
71. 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. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68.
72. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site.
73. The Habitats Regulations Assessment undertaken for the County Durham Plan proposes a series of three measures to avoid likely significant effects on the coastal European Protected Sites. These being:
- Measure 1: General presumption against any net increase in residential development within 0.4km of the coastal sites
  - Measure 2: Provision/enhancement of alternate natural greenspace to reduce the frequency of visits to the coastal sites by residents and hence reduce pressure on them
  - Measure 3: Coastal access management and monitoring measures to reduce and monitor the effects of residents and those from a wider catchment who visit the coastal sites

74. It is considered that if within the 0.4km buffer new development resulting in any net increase in residential development, even if measures 2 and 3 of the strategy are implemented, may not be possible to conclude that no adverse effect would occur on the coastal European sites. There is therefore a general presumption against any net increase in residential development in this buffer zone unless information and evidence to inform the HRA can be provided by the proposer or applicant which is able to satisfactorily demonstrate that it will not adversely affect the integrity of the coastal sites in question.
75. A shadow habitats regulations assessment report by Naturally Wild Consultants Ltd was submitted in support of the planning application which proposed mitigation measures to contribute to Measures 2 and 3. However, noting the above it was considered that would conflict with the general presumption against new net residential development as set out in Measure 1.
76. In turn, there is no provision within the Coastal Avoidance and Mitigation Strategy to avoid Measure 1 by simply offering an enhanced financial contribution to Measures 2 and 3. The DCC Developer Guidance document details the types of residential development within the 0.4km buffer which can be considered to not result in adverse impacts. These are largely purpose-built residential schemes falling within C2 uses (residential institutions) that involve an element of close personal care, where occupants are considered unlikely to be regularly visiting the coast for recreation and dog exercise. The proposed use falls beyond the scope of those listed above. However, it is considered that there are site specific circumstances in this instance which, when combined with targeted mitigation, would be sufficient to ensure that there would be no adverse impact upon the coastal European protect sites of the SAC and SPA in accordance with the Habitats Regulations.
77. In assessment of the proposal as originally submitted the Council's Appropriate Assessment of the scheme concluded that the introduction of 5no detached dwellings falling within C3 use class within 0.4km of the HRA would be likely to increase recreational disturbance on the qualifying species and habitats of the SPA and SAC, and would therefore be in conflict with Measure 1 of the Council's Developer Contribution Guidance, the coastal avoidance and mitigation strategy, policy 42 of the CDP and the Conservation of Habitats and Species Regulations 2017. Similarly, Natural England originally objected to the application due to insufficient information having been provided to demonstrate that the application would not have significant effects on the Durham Coast SAC, Northumbrian and Teesmouth and Cleveland Coast SPAs and the Durham Coast SSSI. They requested further information including details of mitigation measures proposed to offset potential impacts on the SAC and SPAs, including a specific figure for the proposed financial contribution to wider strategic mitigation measures and an assessment of potential impacts on SSSI features, where these do not overlap with SAC or SPA interest features.
78. However, the Committee resolved to defer determination of the application to allow the applicant to further explore potential mitigation measures.
79. This process was subsequently completed and a basic scheme of targeted, site-specific mitigation provided, supplemented by agreement from the applicant to the inclusion of a S106 agreement securing the submission and agreement of precise detail in this regard, should planning permission be granted. This mitigation relates to a scheme of works to upgrade and improve access to Blackhall Welfare Ground which lies immediately to the east/south-east of the application site and is currently owned and maintained by the County Council. Specifically, works are targeted at improving access for dog walkers and it is understood that the site is already well used by the public for this purpose. It is therefore considered that improving access in this regard

would provide an existing, well managed and maintained area, sufficient to attract occupiers of the proposed development for dog walkers in preference to visiting the coast. Whilst precise detail would be secured via a S106 agreement the principle scope of works have been agreed as comprising upgrade to the access arrangements on the southern boundary of the field to create an improved arrangement for both vehicles and pedestrians, making the field more welcoming and accessible to users.

80. It is also noted that the site is framed by the existing rail line to the north/north-east and that this provides a significant barrier to pedestrian access to the coast. In this regard the distance that residents would have to travel in order to access the coast from the development would be approximately 1.18km (if access via the bridge on Station Road to the south), or 1.28km (if access from the bridge from East Street to the north). Whilst alone this is not considered sufficient to demonstrate that there would be no adverse impact upon the heritage coast from increased recreational use by residents of the development, there are also unique, site specific circumstances as detailed above such as the presence of an existing area of public space which could be improved, that weigh in favour of the development in this instance.
81. The Council's Ecologist has assessed the proposed mitigation and reviewed the Appropriate Assessment originally undertaken and considers that given the site specific circumstances in this instance, the proposed mitigation would be sufficient to overcome the previous objection to the scheme, given that no adverse effect would occur on the coastal European sites.
82. On the 16<sup>th</sup> of March 2022 Natural England notified Durham County Council's local planning authority (LPA) providing new advice in relation to development proposals which had the potential to affect water quality resulting in adverse nutrient impacts on protected habitat sites. In addition, Northumbrian Water also notified the LPA with indicative maps on the 24<sup>th</sup> of May 2022 identifying the NWL nutrient neutrality catchment areas.
83. Nutrient pollution is particularly harmful for freshwater habitats and estuaries. Increased levels of nutrients (especially nitrogen and phosphorus) can speed up the growth of certain plants, disrupting natural processes and impacting wildlife. This process damages water dependent sites, harming the plants and wildlife, and affects the oxygen carrying capacity of the water. In technical terms it can put sites in 'unfavourable condition'. The sources of excess nutrients are site specific, but predominantly originate from wastewater treatment works and agricultural pollution.
84. The requirement for nutrient neutrality impacts all planning applications located within the Tees catchment area, both existing and proposed, and relate to all types of overnight accommodation, such as new dwellings, holiday accommodation etc.
85. Internationally important water dependent places (lakes, rivers, estuaries, etc) are designated as protected under the Water Framework Directive Regulations and the Conservation of Habitats and Species Regulations 2017(as amended). When competent authorities assess projects and planning applications, they must consider whether the plan or project is likely to have significant effects on the Habitats Sites by carrying out a Habitats Regulations Assessment (HRA). In practice, this means that all developments in the affected catchment will have to demonstrate 'nutrient neutrality', meaning that the nutrients (nitrogen and/or phosphorus) from all surface water runoff and wastewater generated by the development must be less than or equal to the nutrients generated by the existing land use.
86. Achieving nutrient neutrality often requires mitigation as part of development, either in the form of onsite treatment of wastewater and surface water runoff, or by offsetting

any increase in nutrient loading by converting land on or offsite with woodlands or wetlands.

87. While the NWL indicative map indicates that the application site would fall within their catchment area, Northumbrian Water have since confirmed that the site lies within the catchment area served by Northumbrian Waters sewerage treatment works situated in Horden. Therefore, the proposed development would not have any harmful impact upon the protected sites from increased nutrient pollution.
88. Officers consider that the erection of 5no dwellings within 0.4km of the SPA and SAC, taking into consideration the proposed mitigation, would not have an adverse impact on the SPA and SAC. The material planning considerations, site specific circumstances and additional mitigation proposed would satisfactorily demonstrate that the proposed development will not adversely affect the integrity of the coastal European Protected Site and therefore complies with the Conservation of Habitats and Species Regulations 2017, CPD Policy 42 and paragraph 182 of the NPPF.
89. As the site is not allocated in the CDP but is located within the 0.4km HRA buffer zone, a financial contribution of £756.61 per dwelling towards specific Coastal Access Management Measures is required. The applicants have agreed to pay the financial contribution which would need to be secured by either a S106 agreement or a Unilateral Undertaking. The financial contribution would be £756.61 per unit, equalling to £3783.05

#### Impact on the character and appearance of the area

90. CDP Policy 6c) states that development should not be approved where it would 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. It also states under criteria d) that development should be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.
91. CDP Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
92. The site lies to the north-east of Coronation Avenue and currently comprises of a mix of hard standings, rough grass, and has an appearance of derelict land with overgrown vegetation and a mixture of surfaces of concrete, bricks and soil. There is an existing outhouse in the southern corner of the site. The proposed development would remove the outhouse and introduce 5no two and a half storey detached dwellings and a detached garage to the northwest. The frontage of the dwellings would incorporate hard surface with 2no parking spaces for each dwelling. A turning head and 2no visitor parking spaces would be positioned between plots 2 and 3 with a further 2no visitor spaces proposed adjacent to number 22 Coronation Avenue. The layout incorporates a small area of green space to the northwest to supplement lawned private rear gardens to the dwellings. It is noted that there are also two trees located to the rear of the central visitor parking.

93. CDP 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.
94. The Landscape Section considers that the proposed layout would create a stark arrangement of hard surfaces and building facades given the minimal proposed landscaping on the west facing frontages. The proposed buildings are perpendicular to the existing terraces and are contrary to the existing urban pattern of development in this locale. Therefore, without adequate landscape mitigation it is considered the development would result in significant adverse and permanent landscape effects at site level.
95. The Landscape Section notes that the development would have limited visibility in the context of the wider landscape but would be visible at close range in oblique views from adjacent residences and that there are views across the existing site towards the coast and the Area of Higher Landscape Value (AHLV) to the north-east. The Landscape Section consider that these views would be permanently concealed by built development and that the visual effects would be adverse and permanent given the limited amount of landscape mitigation proposed. In addition, it is considered that the proposed design does not have a green frontage and is dominated by hard surfaces. The introduction of green elements was advised such as trees, shrubs and grass along the frontages of the proposed dwellings. However, no amendments were received.
96. The dwellings are simple in appearance, with a proposed red brick to be used in Plots 2 and 4 and with a slightly varied Red Mixture to be used in plots 1, 3 and 5. All roofs would be finished in Russell Grampian Grey Slate and include chimney detail. To the rear the properties include a small flat roofed dormer window and bi-fold doors at ground floor level to provide access into the rear garden area from the open plan kitchen/dining room. Doors and windows incorporate heads and cills. Boundary treatments to the rear would consist of 1.8 metre high close boarded timber fencing with acoustic fencing to be used to the boundary with the existing railway line. The front incorporates open plan block paved hardstanding areas finished in Marshalls Driveline Nova Smooth Brindle, as are the 4no visitor parking spaces. The provision of bin storage areas is provided for each of the properties, and this would be located within the rear gardens.
97. Officers note that the dwellings proposed are at a height of two and a half storeys, which is higher than the properties within the area, which are predominantly two storey terraced and semi-detached properties. However, the land falls away to the east and as such the increase in height would not have an adverse impact upon the character and appearance of the area.
98. Whilst the concerns of the Council Landscape Section are noted, it is not considered that the development would cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and as such accords with the aims of CDP Policy 39 and paragraph 174 of the NPPF.
99. Noting the proximity of the rail line to the east, Network Rail were consulted and raise no objection to the application in principle, subject to planning conditions requiring the submission and agreement of additional information relating to details of all surface and foul water arising from the development which must be collected and diverted away from Network Rail property, details of excavations and earthworks to be carried out near to the railway undertakers boundary fence, details of fencing which must be trespass proof, a method statement outlining means of construction, use of vibro-

impact machinery, risk assessment and construction management plan and details of a landscaping scheme.

100. In light of the above the proposals are considered to be in keeping with the general form of development in the local area, which is noted as largely consisting of two storey terraced properties laid out in traditional linear format, finished in brick materials. On this basis, the proposals are deemed to accord with requirements set out in CDP Policies 6d) and 29 as the dwellings would be appropriate in terms of scale, design and layout to the character, function, form and setting of the settlement.

#### Impact on residential amenity

101. Policy 29 requires that all development achieves well designed buildings and places having regard to supplementary planning documents and: e) provide high standards of amenity and privacy and minimises the impact of development upon the occupants or existing adjacent and nearby properties. Distance standards and outdoor garden areas are outlined within the Residential Amenity Standards Supplementary Planning Document (SPD).
102. Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance, or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and / or community facilities do not have any unreasonable restrictions placed upon them as a result.
103. Residential properties at Coronation Avenue and Hepscoth Avenue frame the site to the south with those at Enid Gardens framing the site to the west.
104. In assessing the layout of the site it is noted that distance standards required by the Council's SPD of 13m can be achieved with approximately 14.7m between the principal elevation of plots 1 and 2 and the gable elevation of 22 Hepscoth Avenue, and approximately 18.2m between the principle elevation of plots 3 to 5 and the gable elevation of 22 Coronation Avenue. The blank gable of plot 1 faces onto the rear garden areas of the properties within Enid Gardens, however, this is in excess of 13m. Therefore, it is considered the development would not have any adverse impact upon the residential amenity of existing or proposed residents.
105. Based on this assessment the proposed development is considered to suitably protect residential amenities of existing neighbouring properties, and with proposed dwellings considered to be appropriate in scale and height, there are no concerns that the development would result in issues of loss of light, overshadowing or overbearing impacts.
106. In terms of internal space standards, it is noted that CDP Policy 29 requires all new residential development to meet the Nationally Described Space Standards (NDSS). This recommends that two storey 4-bed dwellings for five persons should provide a total internal space of 97sqm and that three storey 4-bed dwellings for five persons should provide total internal space of 103sqm. Given the development proposes 2.5 storey dwellings the proposed residential units would comply with the nationally described space standards with each of the dwellings providing in excess of the required amount at 107sqm. It is noted that the application was amended during the

course of the application to remove a 4<sup>th</sup> bedroom in each property which failed to meet the minimum space standards. Consequently, all of the bedrooms in each property now meet minimum space standards. Therefore, it is considered that an adequate level of amenity would be provided for residents in accordance with Policy 29.

107. The proposals have also been designed to meet the needs of older people and people with disabilities by ensuring that all of the properties meet M(4)2 Building Regulation standards. Whilst it is proposed for all properties to meet the standard, CDP Policy 15 requires only 66% of those dwellings proposed to meet the M4(2) requirements. Given that all of the properties meet the minimum standard the development would exceed the level of provision required through Policy 15.
108. It is noted that the rear garden areas of plots 1, 4 and 5 would be below the required size stated within the SPD as they are less than 9m wide or deep. However, given the location of the site adjacent to terraced properties to the west, which themselves have limited outdoor amenity space, it is considered that in this instance the size of the outdoor space is acceptable.
109. In summary, the proposals have been assessed against SPD guidance and are considered to meet amenity distance standards and mutual privacy is considered to be suitably protected. The proposed design and scale of the properties and their location and relationship to nearest properties is considered sufficiently appropriate to ensure that the proposal would not be visually dominant or intrusive on nearest residents. Spaces standards and accessibility standards have also been largely complied with to ensure suitable amenity standards for future occupiers. The proposals are considered to accord with CDP Policies 29 and 31 and the SPD in this regard.

#### Highway Safety and Access

110. CDP Policy 6 requires that development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. CDP Policy 21 states that development should: c) ensure that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. In relation to parking the policy states that car parking at residential developments should ensure that a sufficient level is provided for both occupants and visitors, to minimise potential harm to amenity from footway parking.
111. The proposed layout indicates that it would be possible to provide a public highway and turning head to adoptable standards accessed from both the front and rear of Coronation Avenue. There is a double garage associated with plot 1 and a private shared surface area to the front of plots 1 and 2.
112. The Highway Authority advises that there would be no objection to the proposed layout in terms of highway safety. The site has been subject to previous applications and highways officer comments provided in respect of these previous applications have been satisfactorily incorporated into the scheme given that the proposed adoptable highway layout remains unchanged from the previous application.
113. The 4.8 metres wide road layout and associated 1 metre wide service strip/vehicular access crossing is acceptable. In turn, the additional visitor parking bays are

welcomed to help mitigate the loss of the informal parking arrangement for which it is understood surrounding residents have previously used the site.

114. Due to the narrow roads accessing the site, the Highway Authority has requested that a Construction Management Plan be submitted prior to the commencement of development should planning permission be granted which could be secured via planning condition.
115. The proposals could be safely and satisfactorily be accommodated without adverse impact upon highway safety and as such is considered compliant with CDP Policies 6 and 21 and paragraphs 110 and 111 of the NPPF.

### Contaminated Land

116. CDP 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.
117. Contaminated land section has assessed the site, historical maps and Phase 1 Desk Study Report and agree with the recommendation of the report that a Phase 2 should be undertaken. The Contaminated Land officer considers that a condition should apply requiring reports for phase 2 and 3 analysis of potential ground contamination on site and Phase 4 for remediation works in accordance with NPPF part 15 and CDP Policy 32.

### Drainage

118. CDP 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.
119. CDP Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted, though flood defense infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
120. Northumbrian Water have commented stating that the details within the application does not provide sufficient detail with regards to the management of foul and surface water from the development for them to be able assess their capacity to treat the flows from the development. Therefore, should approval be granted they have requested a planning condition be attached requesting a scheme for the disposal of foul and surface water from the development be submitted to the LPA for further consideration
121. Therefore, subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of CDP Policies 35 and 36.

### Other Matters

122. CDP Policy 27 requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located in a residential area. Similar, requirement in terms of broadband connectivity and broadband connectivity would be delivered in this wider context. As such it does not appear that there are any significant constraints to delivering the connectivity in accordance with the requirements of Policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of CDP Policy 27.
123. CDP Policy 29 criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
124. The applicants have confirmed that at this stage of the proposal they have not fully developed their sustainable energy strategy. However, the applicant has advised that the intention is to use renewable energy sources in all dwellings and that there are several possible options in this regard, the most likely being the use of ground and air source heat pumps and solar PV panels. The submission, agreement and implementation of a detailed scheme in this regard can be secured through planning conditions. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of Policy 29 in this regard.

---

## **CONCLUSION**

---

125. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
126. In summary, it is considered that the scale and design of the scheme is considered acceptable, CDP Policy 42 sets out criteria for development which has the potential to have an effect on internationally designated sites. In addition, paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
127. Following appropriate assessment, it is considered the development satisfactorily demonstrates that given the unique, site-specific circumstances and mitigation proposed in this instance, the development would not have an adverse detrimental impact upon internationally designated sites, in particular the Northumbria and Teesmouth and Cleveland Coast SPAs and Ramsar, Durham Coast SAC and the and Durham Coast SSSI, in accordance with CDP Policy 42, paragraph 182 of the NPPF and Conservation of Habitats and Species Regulations 2017 and as such, is recommended for approval.

### Public Sector Equality Duty

128. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and

persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

129. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

---

## **RECOMMENDATION**

---

That the application be **APPROVED** subject to completion of a S106 to secure the following:

- A financial contribution of £3783.05 for use in the CAMMs Tier 2 Beachcare and Wardening Programme
- The submission and agreement of a scheme of works to upgrade and improve the existing access to Blackhall Welfare Ground and that the agreed scheme is implemented prior to the first occupation of the development hereby approved.

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 15, 19, 21, 25, 27, 29, 31, 32, 35, 36, 39, 40, 41 and 42 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 10, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. The dwellings shall be constructed from those materials listed within the submitted application form.

Reason: In the interest of visual amenity and in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

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

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
2. Details of methods and means of noise reduction/suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).
7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

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

5. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National

Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

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

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

7. No development other than ground clearance or remediation works shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

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

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

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

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

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

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

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

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

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

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

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

Replacements will be subject to the same conditions.

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

10. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

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

11. No development other than site clearance shall take place until a method statement providing full details of all excavations and earthworks to be undertaken adjacent to the boundary with the adjacent rail line shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved detail.

Reason: To ensure the stability of land adjacent to the application site including the rail line in accordance with Policy 29 and 32 of the County Durham Plan and Part 15 of the NPPF.

12. No development shall commence until a scheme detailing noise mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall ensure that internal noise levels from rail traffic/commercial sources shall not exceed;

- 35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
- 30 dB LAeq 8hr in all bedrooms during the night-time (2300 - 0700)
- 45 dB LAmax in bedrooms during the night-time
- 55dB LAeq 16hr in outdoor living areas

None of the dwellings hereby approved shall be occupied until it has been demonstrated that the approved scheme has been sufficiently implemented in order to ensure the above limits have been achieved and be permanently retained thereafter.

Reason: To protect the amenity of future residents in accordance with the aims of Policy 31 of the County Durham Plan and Part 15 of the NPPF.

13. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

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

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

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

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

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

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

---

## **BACKGROUND PAPERS**

---

Submitted application form, plans, supporting documents and subsequent information provided by the applicant  
Statutory, internal and public consultation responses  
Conservation of Habitats and Species Regulations 2017 (as amended).  
The National Planning Policy Framework (2021)  
National Planning Practice Guidance Notes  
County Durham Plan  
Residential Amenity Standards SPD (2020)  
Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham



**Planning Services**

DM/21/01526/FPA The erection of 5 no 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted) at Land To The North Of 22 Coronation Avenue Blackhall Colliery TS27 4HR

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

**Date** 11 October 2022

**Scale** NTS



# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/22/00042/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Construction of roof balcony and installation of first floor balcony and French doors to rear (revised scheme)
<b>NAME OF APPLICANT:</b>	Mr Barry Grimes
<b>ADDRESS:</b>	48 Highgate Durham DH1 4GA
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site relates to a mid-terrace residential town house, located within the relatively recent, high-quality, modern development of Highgate, which is of traditional styling and modelled on Durham vernacular examples. The site is located within Durham City Conservation Area (CA) and contributes to the inner townscape setting of Durham Cathedral and Castle World Heritage Site (WHS).
2. The existing dwelling is a three-storey property finished in brick with a slate roof and includes white sash windows with stone cills to the front and rear. The property is situated in an elevated, visually prominent, position presenting a principal elevation to Framewellgate Peth.

### The Proposal

3. Planning permission is sought for the construction of a roof terrace and installation of a first-floor balcony and French doors to the rear. The current application is a resubmission of planning application DM/21/01877/FPA which was withdrawn in August 2021 due to concerns raised by the LPA in relation to the impact of the proposal upon the Conservation Area and World Heritage Site.
4. During the current application process the scheme has been amended and the bay window element omitted from this application. This element has been submitted under a new separate planning application. The proposed roof terrace has also been re-located to the rear roof slope. The rear first floor balcony remains unchanged.

5. The application was initially referred to Planning Committee at the request of Cllr R Ormerod on the grounds that other houses in the area have bay windows, the proposed rear balcony does not impact on any other houses' views of the WHS, the roof balcony is similar to the roof terrace in the building opposite and at Riverwalk, and it is not visible from the road.
6. Previously, the Committee deferred determination of the application to provide a period for further dialogue between the applicant and the Local Planning Authority (LPA), with the aim being to explore the possibility of amending the proposal to address the LPAs concerns in relation to the impact of the proposal upon Durham City Centre Conservation Area and the UNESCO World Heritage Site at Durham Castle and Cathedral. The application is therefore presented back to the committee following amendment. That amendment specifically relating to the omission of the bay window and the re-location and resizing, of the proposed roof terrace to the rear roof slope.

---

## **PLANNING HISTORY**

---

7. DM/21/01877/FPA - Construction of 2 no. balconies including a roof balcony, installation of box window and loft conversion. Withdrawn 27.08.2021.
8. 4/12/00038/FPA - Satellite dish low to front east facing elevation. Approved 07.03.2012.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

#### National Planning Policy Framework

9. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
10. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. NPPF Part 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.
12. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
13. 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:**

14. 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; historic environment; design process and tools; determining a planning application; natural environment; neighbourhood planning; noise; and use of planning conditions.

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

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

##### The County Durham Plan

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
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. 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.
18. Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal values (OUVs) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

## Neighbourhood Plan

19. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
20. Policy S1 (Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
21. Policy D4 (Building Housing to the Highest Standards) seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
22. Policy H1 (Protection and Enhancement of the World Heritage Site) requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces.
23. Policy H2 (The Conservation Areas) expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

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

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

24. Durham City Parish Council have not responded.

### **INTERNAL CONSULTEE RESPONSES:**

25. Design and Conservation – The proposal would be contrary to NPPF Section 16, Policy 44 of the County Durham Local Plan and Policy H2 of the Neighbourhood Plan.

### **PUBLIC RESPONSES:**

26. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. Neighbours have also been re-consulted on the current amended proposals and again no responses have been received.

27. A representation was initially received from the City of Durham Trust who objected to the application on the grounds that the roof terrace and bay window would have a negative impact on the Framwellgate Peth frontage. Their concerns raised were summarised as follows:
- The proposed roof terrace would be prominent and does not fit with the building or conform to a traditional styling.
  - The roof terrace would strip out a large section of traditional-style roof thereby affecting the otherwise positive contribution the Highgate roofscape makes to the Conservation Area.
  - Although the bay window follows the pertaining style it does not follow the local design code.
  - Together the bay and terrace will create a negative impact on the house frontage and thus will have a negative impact on the Conservation Area.
  - The Highgate development otherwise makes a positive contribution to the inner setting of the World Heritage Site (WHS).
  - The proposals are considered to fail against Policies 44 and 45 of the CDP and DCNP Policies D4, H1, H2 and S1.
  - The Trust sees no issues with the rear window and balcony alterations that work well in a 'mews' setting.
28. The City of Durham Trust were re-consulted on the amended proposals; however, no further comments were received.

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

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

29. The proposed alteration are submitted following members and officers comments at the planning meeting on the 12<sup>th</sup> July 2022. At the meeting members requested that we meet with the officers to achieve a mutually agreed proposal. We embraced this opportunity for discussions to allow us to work through the various issues. Although, we offered various options and proposals the officers were unable to offer any suggestions or solutions. They agreed within the meeting that the first floor balcony, could meet requirements and could be supported. However, the written report is to the contrary. We have submitted revised plans for the balcony off the first floor and the attic conversion to a family bedroom with an integral balcony.

Many concerns were raised regarding our previous application by members, relating to the attic conversion, and the impact on the WHS. Members made various suggestions for alternative balconies. However, your officers were directly opposed to these. After careful consideration of these comments, we decided to redesign our proposal to put the balcony to the rear of the property. Although this reduces the size of the room, it also removes the impact on the WHS. We acknowledge this is still within the conservation area; however, there are numerous example across the CA of properties with first floor and roof balconies. The conversion of the attic space with the balcony is to provide a family home with sufficient bedrooms in line with current guidance. The home is currently 3 bedrooms and was converted to a family home from a HMO. The balcony in the roof space will not be visible from the road, of the WHS, train station or any other vantage points within the city, and has been specifically designed with consideration for and without invasion on neighbouring properties.

The balcony to the rear of the property considers the privacy of neighbours and is reflected in the receipt of no comments from neighbours This balcony is in keeping

with balconies across the city and reflect their design and impact. The railings have been redesigned in line with officer's recommendations to include the same style as ironwork throughout the estate.

Durham City Trust previously comment that the balcony to the rear of the property will enhance the mews style of the houses and enhance the street appearance. Throughout the last 8 years we have lived within a circle of development from the park to Riverside Walk development, the conversion of the County Hospital, Milburngate demolition and the subsequent construction and most recently the bus station living with all the associated dust, noise etc. During this time, we have through actions of officers within the county council had our car parking permits removed; this has resulted in having to park on the drive. This drive even though it is at a substantial angle provided some outside sitting space. These actions have eradicated this sitting space, resulting in a total lack of outside space. All government guidance issued highlights the importance of outside space and access to fresh air, and the associated impact on everyone's mental health. All we are hoping for is a balcony to allow us to have this outside space to enjoy fresh air and support our mental health. All the alterations are designed to provide a family home whilst enhancing the property considering street appearance, locality and impact on the World Heritage Site and Conservation Area.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

30. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the impact on the character and setting of the Durham City Conservation Area (CA) and World Heritage Site (WHS), and residential amenity.
31. The NPPF is a material planning consideration in this regard and advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF. Paragraph 11 requires development which accords with an up-to-date Local Plan to be granted planning permission without delay.
32. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area along with the Durham City Neighbourhood Plan which is also now adopted, both are the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and NP.

### Impact on the conservation (CA) area and world heritage site (WHS)

33. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in discharging their planning responsibilities an LPA must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
34. Policy 44 Historic Environment (Conservation Area) states development proposals should respect and reinforce the established positive characteristics of the area in terms of appropriate design including pattern, layout, density, features, form, materials, and detailing). Policy 45 (Durham Castle and Cathedral World Heritage Site)

seeks to ensure that developments within the setting of the world heritage site sustain and enhance the significance of the designated asset. Whereas Policy 29 (Sustainable Design) states all development proposals will be required to contribute positively to an areas character, identity, heritage significance and townscape, and that extensions and alterations to residential property should ensure the development is sympathetic to the existing building and the character and appearance of the area in terms of design, scale, layout, roof design and materials.

35. Policies H1 (Protection and Enhancement of the World Heritage Site) and H2 (The Conservation Areas) of the Durham City Neighbourhood Plan (DCNP) seeks to ensure that proposals within the setting of the Durham Cathedral and Castle World Heritage Site and Durham City Conservation area sustain, conserve, and enhance its Outstanding Universal Value and the significance of the Conservation Area respectively. In addition, Policy D4 (Building Housing to the Highest Standard) seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design.
36. The application property is located within the Highgate development and is described in the Durham City Conservation Area Character Appraisal (Character Area 2: Framwellgate) as a modern housing development designed in the late Georgian/Victorian townhouse pastiche style. It is a dense urban development of two to three storey tall townhouses/apartments and mews apartments where the buildings are grouped around courtyards and squares, with one central access point from Framwellgate Peth. The development occupies an elevated position above street level which enhances its visual prominence. There are strong building lines and continuous frontages within the development.
37. The City of Durham Trust raised objection to the original proposals citing that it would have an adverse impact upon the Durham City Centre Conservation Area and WHS. Following amendments to the scheme and a re-consultation process no further comments have been received.
38. The Council's Design and Conservation officer was consulted on both the original and amended proposals and confirmed that the wider development of Highgate is of a high-quality design as a pastiche of the Durham vernacular, its significance relating to its architectural and aesthetic values. The officer notes that it makes strong references to the historic streets within the city centre and the Georgian/Victorian properties they feature, with a good attention to detail. By default, it therefore makes a positive contribution to the townscape and conservation area that informs the inner townscape setting of Durham Cathedral and Castle World Heritage Site (WHS).
39. In terms of the proposed roof terrace, this was initially proposed to the front roof slope to which the Council's Conservation officer raised objection, advising that it would be an intrusive intervention that adversely modifies the original and most noticeable roof plane, and thus its form and traditional appearance. Following amendment to the scheme and the re-location of the roof terrace to the rear of the property, the Design and Conservation officer has since advised that this would no longer impact upon main streetscene views along Framwellgate Peth, Milburngate etc which are Highgate's greatest contributor to the character and appearance of the surrounding Durham City Conservation Area in the public domain. As a result, the intervisibility in public views down Framwellgate Peth towards Durham Cathedral and Castle World Heritage Site (WHS) has been removed. As such, these views would be sustained and conserved.
40. Nevertheless, despite the reduction in size and its re-positioning into the rear roof slope, the Design and Conservation Officer remains of the opinion that this element would result in harm to the Conservation Area, specifically as a result of it introducing

an inharmonious, contemporary cutting into a traditional roof that would be detrimental to the unaltered terraced roofscape of the Highgate development. Highgate contributes positively to Durham City CA because of its high-quality vernacular design, attention to detailing and character. The Design and Conservation officer does not concur with the conclusion contained within the revised heritage statement that there would be no adverse impact upon the CA, given views would still be possible from within part of the public internal circulation space. In this respect the terrace would represent an inharmonious feature in its surroundings that would have a localised adverse visual impact that would fail to accord with the requirements of policy 44 of the CDP, H2 of the City of Durham Neighbourhood Plan and Part 16 of the NPPF and Section 72 of the Listed Building Act.

41. Following a further site visit by the Design and Conservation officer, it was considered that due to its position within the rear roof slope, the terrace would not feature in any public views towards Durham WHS, at street level or from nearby elevated public vantage points above Highgate such as from Wharton Park, the Railway Station and Station Approach, and from the pedestrian footbridge over the A690 etc. This would be on account of the rear roof of the subject property being fully shielded from view by the tree coverage and the existing residential terraced blocks along the west and south boundaries of Highgate, Nos 26 to 35, and Nos 36 to 41 respectively. The proposal would not therefore have any adverse impact upon the WHS in accordance with policy 45 of the CDP or policy H1 of the CDNP in this regard.
42. Turning to the proposed rear balcony, this would be positioned at first floor level with French doors providing access. This element was previously subject to objection by the Design and Conservation officer who considered that it would appear as an incongruent addition that failed to respect the form and character of the host property and surrounding Conservation Area. Despite exploring ways of potentially improving the design of this element of the proposal, an acceptable solution could not be reached which reduced its mass/bulk and mitigated the visual impact given the requirement to include side privacy panels, without compromising privacy issues.
43. Whilst the revised heritage statement submitted in support of the proposal stated that the design was formulated with consideration for the locality and other features in the Conservation Area, the Design and Conservation officer, advises that projecting balconies are not integral features of the original vernacular design of Highgate, with none currently in existence. As such the proposal would be deemed to cause some localised harm by being visual discordance and out of character. Again, this element would be visible from part of the internal circulation space within the Highgate development. It would be considered that altering one of the existing window openings to form a doorway and providing a Juliet style of balcony may be more appropriate solution, although it is noted that this would not deliver any additional external amenity space at this level.
44. For the above reasons, the proposals would be considered to have a detrimental impact upon the high-quality architectural design of Highgate, the success of which was dependant heavily on the authenticity of form, proportion, balance, and authenticity of detail that has remained conserved across the development since it was constructed. It is also noted that permitted development rights were removed via the original planning permission, which emphasises the desire to conserve the architectural quality of Highgate in perpetuity.
45. Policy H2 of the Durham City neighbourhood plan is clear that it requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard. For the reasons discussed above, it considered that the development would not accord with criteria 'a' or 'b' in that it fails to sustain or enhance the architectural qualities of

the host dwelling or the existing roofscape. In terms of criteria 'j' and 'k' it would not have detailing appropriate to the context and setting and nor would it use high quality design sympathetic to the character and context of the Highgate and the surrounding conservation area to which it contributes.

46. The revised Heritage Statement, whilst stating the proposed works will enhance the appearance of the dwelling, fails to include any evidence or explanation as to how this is achieved and includes no assessment of the impact within the CA where Highgate contributes positively, and the proposals are seen from the rear circulation space. It places the emphasis on the fact that the significance of the CA lies in the preserved medieval/historic layout, period housing, listed buildings and their group value and suggests that as the proposal is located remote from these assets its significance is not adversely affected. The statement also takes no account of the positive contribution made by various phases of later expansion and modern developments, including Highgate, within the wider city that add to the overall architectural diversity, aesthetic appeal, and character of the CA.
47. Taking the above into account, it is considered that the amended proposals would still fail to conserve or enhance the character, appearance, and significance of the conservation area. Therefore, the development would be contrary to Sections 12 and 16 of the NPPF, Policies 29 and 44 of the CDP, Policy H2 of the DCNP and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Impact on residential amenity

48. Paragraph 126 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
49. Policy 31 of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. Proposals will also need to demonstrate that future occupiers of the development will have acceptable living conditions. In addition, criterion e) of Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
50. Policy 29 requires that all development proposals will have regard to supplementary planning documents, which includes the council's Residential Amenity Standards Supplementary Planning Document (SPD) referred to in Paragraph 5.303 of the CDP. This sets down standards for alterations, extensions and distances between new dwellings.
51. The proposed roof terrace will be set into the rear roof slope and although would permit a degree of overlooking it would face the garage block to the west and there would be no direct overlooking of any habitable room windows. In addition, the properties beyond the garage block further to the west are sited on a higher ground level and the separation distance would be suitable. In terms of the rear balcony by reason of its scale and siting, together with the privacy screens proposed to either end of the balcony, it is not considered that the development would permit any views into the rear windows of the neighbouring properties. That being said, the balcony would potentially permit some additional overlooking into the rear external amenity space of the neighbouring dwelling but not to a degree which would warrant refusal.
52. In summary, it is not considered that the proposals would be unacceptably harmful in terms of the amenity of neighbouring occupants and mutual privacy is considered to

be suitably protected. The proposals are therefore considered to accord with policies 29 and 31 of the County Durham Plan and the SPD in this regard.

---

## **CONCLUSION**

---

53. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
54. In summary, despite the amendments to the scheme as originally proposed, the development would have an adverse impact upon the Durham City Centre Conservation Area and as such would fail to preserve or enhance the character, appearance, and significance of the CA. As such the development would be contrary to Section 72 of the Listed Building Act and Parts 12 and 16 of the NPPF, Policies 29 and 44 of the County Durham Plan.
55. In addition, it is considered that the development would fail to sustain, preserve and enhance the Durham City Centre Conservation Area contrary to Policy H2 of the Durham City Neighbourhood Plan.
56. In light of the above, the application is reported to the Committee with a recommendation to refuse the application.
57. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
58. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

---

## **RECOMMENDATION**

---

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

1. The development would fail to preserve or enhance the character, appearance, and significance of the Durham City Conservation Area. As such, the development would be contrary to Parts 12 and 16 of the National Planning Policy Framework, Policies 29 and 44 of the County Durham Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The development would fail to sustain, preserve and enhance the significance of the CA contrary to Policy H2 of the Durham City Neighbourhood Plan.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

## **BACKGROUND PAPERS**

---

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

Statutory, internal and public consultation responses

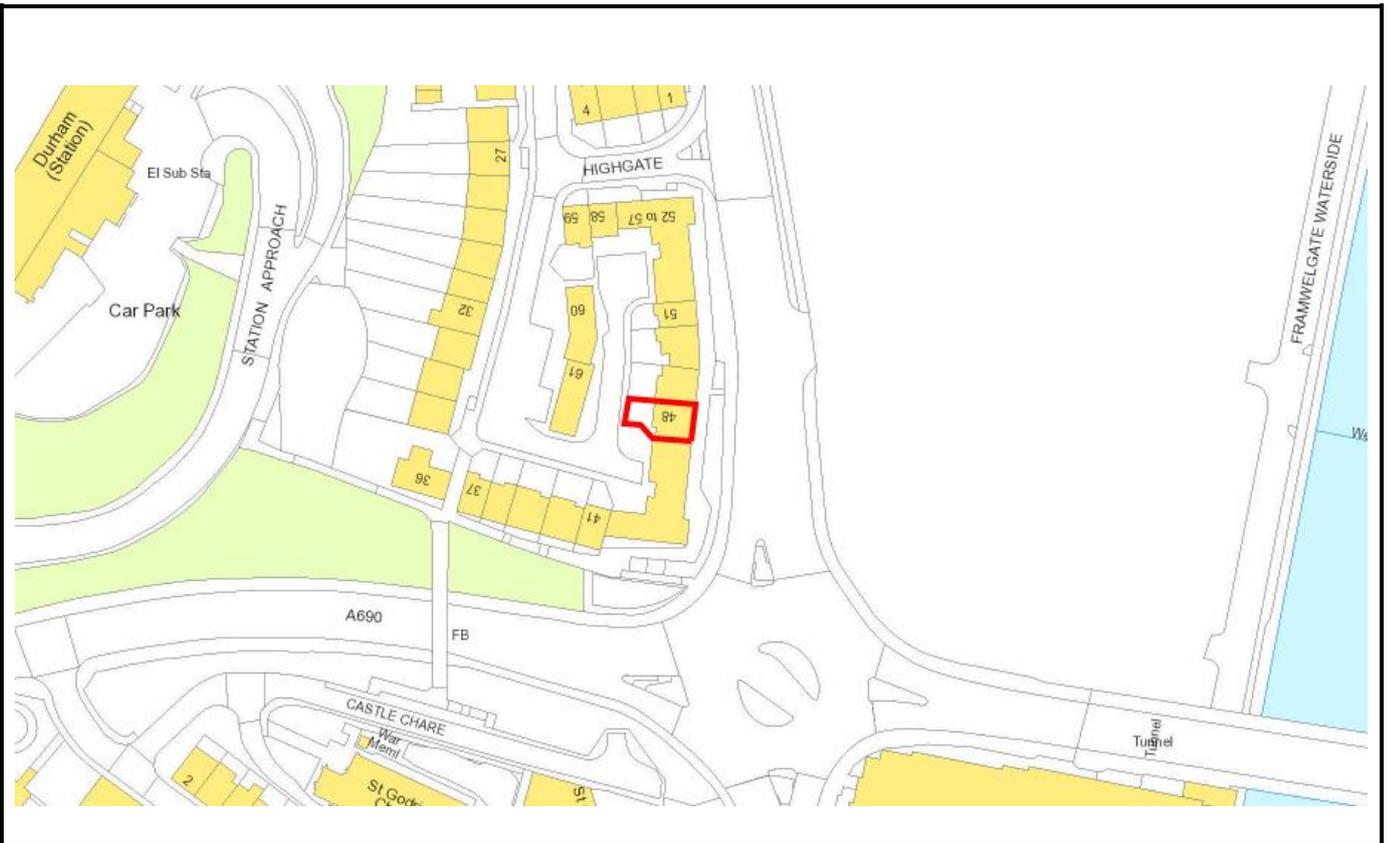
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2020)

Durham City Neighbourhood Plan (2021)



<p><b>Planning Services</b></p>	<p>48 Highgate Durham DH1 4GA</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. 100049055 2005</p>	<p><b>Construction of roof balcony and first floor bay window to front and installation of first floor balcony and French doors to rear (resubmission of DM/21/01877/FPA)</b></p>	
	<p><b>Date</b> July 2022</p>	<p><b>Scale</b> NTS</p>

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION No:</b>	<b>DM/22/00367/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Ground stabilisation works to support the East Coast Main Line comprising sheet and bored piling; drainage improvement; new headwalls to the River Browney; landscaping and new vehicular accesses from the B6300</b>
<b>NAME OF APPLICANT:</b>	<b>Network Rail Infrastructure Ltd</b>
<b>ADDRESS:</b>	<b>Land north and east of Burnigill Cottages, Burnigill, Meadowfield DH6 5JJ</b>
<b>ELECTORAL DIVISION:</b>	<b>Brandon</b>
<b>CASE OFFICER:</b>	<b>Jennifer Jennings Senior Planning Officer 03000 261059 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a></b>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site consists of three parcels of land located to the north and east of Browney Lane (B6300) and close to the East Coast Mainline rail track, known as ECM5. The sites are located in open countryside, with one section running adjacent to the B6300 consisting of grazing land and the remaining two sections of land adjacent to the River Browney and largely consisting of some planting and open grassland.
2. The general area is referred to as the 'Browney Curve Embankment' and contains two electrified tracks for the mainline trains. It runs in a curve from north west to south east, following the line of the B6300. The land west and south of the B6300 is relatively flat, but to its north and east there is a significant drop in levels of up to 12 metres, starting at the roadway sloping steeply down towards the railway and then onto the River Browney. Slope gradients on the land between Browney Lane and the railway, referred to as the Upper Slope, vary across the site, but are generally approximately a 1:3 gradient, whilst the slope between the railway and river, referred to as the Lower Slope, is less steep at a 1:5 gradient.
3. The site is wholly contained within an Area of Higher Landscape Value (AHLV), whilst the Lower Slope part of the application site is located within the Green Belt as well as Flood Zones 2 and 3. A small section of the southern edge of the site falls within the Sunderland Bridge Conservation Area. The Burn Hall Conservation Area and Grade II Listed Park and Garden of Special Historic Interest abuts the application site to the north, the River Browney providing a barrier between the two.

## The Proposal

4. The application sites form part of a larger programme of works by Network Rail to carry out essential embankment stabilisation works to the hillside carrying the ECM5 railway line. The area has been prone to landslips and varying degrees of movement and previous remediation work has not prevented further issues with land slippage in the area. Funding has now been secured to undertake a more permanent solution, through installation of bored and sheet piles, new drainage, reprofiling of the hillside and extensive planting of trees to assist with removal of water within the hillside.
5. It should be noted that the majority of the works proposed benefit from permitted development rights under Part 18a of the Town and Country Planning (General Permitted Development) Order 2015 as amended. Part 18a applies to development when it is authorised by a local or private Act of Parliament which designates specifically the nature of the development and the land upon which it may be carried out. The railway line in this case was authorised by the North Eastern Railway (Pelaw and other Branches) 1865 Act of Parliament which set out the Limits of Deviation within which the railway was to be constructed. These defined Limits extend some 120 metres to 170 metres either side of the railway line and all works within these Limits benefit from this permitted development right to undertake works associated with the railway line. It is noted that all of the piling works along with the majority of the drainage works and hillside reprofiling would take place within the defined Limits.
6. Some elements of the scheme fall outside these defined Limits and are the subject of this planning application divided into three parcels of land. One section of the application site is located on the Upper Slope, directly abutting the eastern edge of the B6300, and will be subject to some minor engineering works to facilitate the main piling and drainage works located just east of this land within the defined Limits. Within the northern most section of this part of the application site, a temporary compound site is also to be created utilising an existing field access from the road. This compound is intended to be a secondary compound area. Final restoration works to this part of the site would consist of new tree planting in the area.
7. The two other sections of land forming part of the application site are located on the lower slope adjacent to the River Browney. These areas of land would be subject to some minor engineering works and would also include installation of two headwall structures around existing drainage outfalls. The remainder of the riverbanks would be subject to soft engineered mitigation measures to limit erosion to the riverbank by tree planting and use of living or dead tree stems, roots and branches to cushion the bank from the force of the river.
8. A small section of the application site would adjoin the B6300 at the south eastern edge of the works, where it is proposed to formalise an existing field access and track leading down to a proposed main compound area. It should be noted that the compound area and a large section of the track would fall within the defined Limits and outside the scope of this application.
9. The application is being reported to the Central and East Planning Committee as it is a major development with a site area in excess of 1 hectare.

---

## **PLANNING HISTORY**

---

10. There is no relevant site history relating specifically to the application site, however, adjacent to the site a permission was granted in 2007 for the construction of a temporary

---

## PLANNING POLICY

---

### NATIONAL POLICY

11. A revised National Planning Policy Framework (NPPF) was published in July 2021 (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.
12. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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.

18. *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.
19. *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.
20. *NPPF Part 13 Protecting Green Belt Land* - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt land serves 5 purposes; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
21. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
22. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
23. *NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
24. *NPPF Part 17 - Facilitating the Sustainable Use of Minerals* - It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

25. 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; design process and tools; determining a planning application; flood risk; healthy and safe

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

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

## LOCAL PLAN POLICY:

### The County Durham Plan

26. *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. Provision for infrastructure development includes; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity.
27. *Policy 20 - Green Belt* - development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
28. *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.
29. *Policy 24 - Provision of Transport Infrastructure* - advises that new and improved transport infrastructure will be permitted where; it is necessary to improve highway/public transport infrastructure; minimises harmful impacts; provides provision for all users whilst also either supporting economic growth, enhancing connectivity or accommodating future development sites.
30. *Policy 25 - Developer Contributions*. Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
31. *Policy 26 – Green Infrastructure*. States that development will be expected to maintain and protect, and where appropriate improve, the County’s green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure

may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

32. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
33. *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.
34. *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.
35. *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.
36. *Policy 36 - Water Infrastructure.* Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
37. *Policy 39 – Landscape.* Proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
38. *Policy 40 - Trees, Woodlands and Hedges.* Proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme

clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

39. *Policy 41 - Biodiversity and Geodiversity.* Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
40. *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.
41. *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.

#### **NEIGHBOURHOOD PLAN:**

42. The application site does not fall within a Neighbourhood Plan area.

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

#### **STATUTORY RESPONSES:**

43. *Environment Agency* – Initially objected to the application, raising concerns over insufficient information in relation to ground raising within flood zones 2 and 3 and potential flood risks. An updated Flood Risk Assessment document was submitted confirming no ground raising works. On this basis the Environment Agency removed their objection, but requested a series of conditions and informatives be included on any permission granted.
44. *Highway Authority* – Support the proposals, noting that discussions have already taken place between the applicants and the Highway Authority.
45. *Drainage and Coastal Protection* – Proposals do not appear to result in any additional surface water discharge to the river, in which case no objection is offered.

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

46. *Durham County Council Landscape Section*- The Officer notes that the site forms part of the Area of Higher Landscape designation and would therefore be sensitive to development proposed. The works are recognised as being of importance to the safety

of a major strategic rail route. Slight adverse visual effects are expected however tree planting proposed would help mitigate over time. Further details on specific tree planting are therefore required to be secured through condition.

47. *Durham County Council Trees Section* – No objections raised with regards the proposed tree works and replacement planting proposed.
48. *Durham County Council Heritage and Design Section* - The Officer notes nearby heritage assets, in particular the Sunderland Bridge Conservation Area to the south east and the Burnhall Conservation Area to the north. The works relate to stabilisation works associated with the long established railway line. Whilst the works would bring about change to the local environment its impacts on the heritage assets are considered minor and not at a level that would create harm to their significance.
49. *Durham County Council Ecology Section* – Officers sought additional information in relation to roosting bats. Upon receipt of updated information, no objections subject to conditions.
50. *Environment, Health and Consumer Protection (Contaminated Land)* – Advise a full contaminated land condition be attached for reports to be submitted pre commencement of development.
51. *Environment, Health and Consumer Protection (Nuisance Action Team)* – Comment that whilst the Construction Management Plan (CMP) is limited in relation to noise and dust controls, it does refer to adhering to BS5228 in relation to noise and vibration, therefore it would suffice. The CMP also includes sufficient detail in relation to control of lighting. The daytime hours appear reasonable and it is also noted that there would be a need for works during the night, but given the nature of the railway this would be necessary. Given the location of the site and the fact that the majority of the works will be undertaken outside of LPA control, conditioning the CMP as an approved document would be beneficial. Should problems arise, there are other legislative means to apply controls in relation to noise.

#### **PUBLIC RESPONSES:**

52. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents. No comments or representations were received.

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

*<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QU6BIIGD0BK00>*

#### **APPLICANTS STATEMENT:**

53. The proposed stabilisation works are essential to prevent further landslips which are affecting the stability of the electrified railway line in this location. Since its construction in 1872, the railway here has suffered from varying degrees of movement. The problem is caused by the instability of the naturally occurring hillside upon which it sits. This has resulted in, on occasion, the imposition of speed restrictions, emergency stabilisation and realignment works.

Whilst in more recent times ad-hoc works have been undertaken to address the issue, none of the measures have completely prevented further movement and funding (circa £15) is now available to implement the permanent solution. The scheme would ensure

that the East Coast Mainline can operate safely and reliably, and therefore offers great public benefit.

The works have been designed in the most sympathetic way possible, taking into account the sensitive nature of the landscape in the area whilst recognising the environmental and ecological constraints present. It should be noted that whilst the works within the Limits of Deviation are permitted development (for which planning permission is not required), the scheme has been treated in a holistic manner, which the proposed planning conditions demonstrate.

We therefore respectfully ask that this application be approved in line with the Officer's recommendation, subject to the recommended planning conditions.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

54. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should also be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, landscape and visual impact, residential amenity, highway safety and access, ecology and flooding.

### Principle of the Development

55. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area and the starting point for the determination of this planning application. The NPPF is a material planning consideration. 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.
56. As noted above in the introductory section, part of the application site on the Lower Slope falls within the Green Belt. Policy 20 of the CDP is of relevance and states that proposals within the Green Belt will be determined in accordance with National Planning Policy as detailed within Section 13 of the NPPF.
57. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 138, that the Green Belt serves five purposes, including preventing urban sprawl and merging of towns, protecting the countryside from encroachment, preserving the setting of historic towns and assisting urban regeneration. Paragraph 149 states that the construction of new buildings within the Green Belt should be considered as being inappropriate development, except in specific, identified instances, whilst Paragraph 150 identifies certain other forms of development, which includes at para. 150b) engineering operations, as also being not inappropriate (i.e. appropriate) in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.
58. The proposed works on site are considered to fall within the exception under para. 150b). The works proposed within the application site areas would consist of some land clearance and engineering works to facilitate the larger scale stabilisation and drainage

works within the defined Limits, the latter benefiting from permitted development rights. Restoration works within the application site area would see the land levels returned to pre-existing levels, with additional planting and river bank works to prevent erosion. Overall, the scale of works within the application site areas would be considered to preserve the openness of the Green Belt and would not conflict with any of the five purposes of including land within this designation.

59. Those parts of the proposals that fall within the Green Belt therefore present no conflict with Green Belt policy.
60. Policy 10 in relation to development in the countryside is also relevant. This states that development will not be permitted unless allowed for by specific policies in the plan or where the proposal relates to one or more of a number of exceptions. One such exception relates to development necessary to support essential infrastructure where the need can be demonstrated for that location. In addition, Policy 24 in relation to provision of transport infrastructure would be considered a specific policy within the plan that would be permissive of development in countryside locations. This policy supports improved transport infrastructure where it is necessary to improve the existing public transport infrastructure and makes safe and proper provision for all users which prioritises the movement of public transport. As part of this policy, such infrastructure should also meet at least one of the following criteria: support economic growth, enhance connectivity within the County or region or accommodate future development sites. In the case of the current application, the wider works are considered essential infrastructure works to maintain the east coast mainline railway that connects nationwide and provides necessary infrastructure for movement of people and freight.
61. Both Policies 10 and 24 also require that any works adhere to general design principles, with Policy 10 seeking to ensure development does not give rise to unacceptable harm to the character of the area, amongst other requirements. Similarly Policy 24 requires that development minimises and mitigates any harmful impact upon the natural environment and amenity of communities including by incorporating green infrastructure. These aspects will be considered further on in the report.
62. Subject to these further considerations, the principle of the development is considered to accord with relevant Policies 10, 20 and 24 of the CDP and part 13 of the NPPF.

#### Impact on the character and appearance of the area

63. Key policies in consideration of impacts on the amenities of the area include Policies 29 (Sustainable Design) and 39 (Landscape), given the AHLV designation, as well as Policy 44 (Historic Environment) with nearby heritage assets. Further design principles are highlighted within Policies 10 and 24 as already outlined above.
64. Policy 29 requires that development contributes positively to an area's character and landscape features with development proposals required to respond creatively to topography and to existing features of landscape interest and wildlife habitats. Policy 39 states that development affecting AHLV will only be permitted where it conserves and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. A small section of the development falls within the Sunderland Bridge Conservation Area whilst the sections by the riverbank abut the Burnhall Conservation Area. Policy 44 relating to the Historic Environment requires that development sustains the significance of designated heritage assets, including any contribution made by their setting.
65. The parts of scheme subject to this planning application involve minor engineering works to facilitate the wider programme of works contained within the defined Limits of Deviation, that benefit from permitted development rights. Whilst the main body of works

will result in reprofiling of the hill nearest to the railway tracks, it is noted outside this area of land within the application site boundaries, finished land levels would not be significantly altered.

66. Works to be included within the application site include creation of a secondary compound to the north of the site, utilising an existing hard standing area associated with the original line of the B6300 road. The primary access for works vehicles would take place to the south of the site, with the existing farm access formalised with hardstanding area. This access and a small section of the track fall within the application site and also within the Sunderland Bridge Conservation Area. The remaining structural works involve installation of two new flexible headway by the riverbanks at existing drainage outfall points. The headways would consist of gabion baskets structures with clamp barriers on top, at a maximum of 1.5 metres in height. These structures would be set into the ground and surrounded with back fill material to camouflage their appearance within the immediate area. Other works to the riverbanks include soft engineered mitigation measures to limit erosion to the riverbank by tree planting and use of living or dead tree stems, roots and branches to cushion the bank from the force of the river.
67. In their assessment of the works, trees section raised no objection, however, landscape section considered that there would be slight adverse landscape and visual effects locally and a temporary harm to the AHLV. The applicant comments that the location of the work is determined by the position of the railway line and there would be no opportunity to carry out the works in a less sensitive location. They further comment that whilst the piling, associated caps and river headwalls will introduce manmade features into the landscape, they will be largely invisible at surface level. In any event the site is viewed within the context of the existing railway land and its overhead line equipment, with this corridor of public transport infrastructure forming a prominent existing feature within the landscape. In this regard, there are clear noted public benefits associated with the works that would outweigh the harm identified. In addition, the landscape effects would be temporary and the tree planting proposed, as landscape mitigation, would diminish the harm created over time such that a refusal under Policy 39 could not apply. A condition would be applied for the northern compound contained within the red line boundary to be reinstated within 3 months of completion of works.
68. The application area on the east side of the railway line is within the boundary of Sunderland Bridge Conservation Area with the west part within in its setting, and both areas within the setting Burn Hall Conservation Area, and the Burn Hall GR11 listed Park and Garden of Special Historic Interest. Listed Buildings and scheduled monuments are also noted with 1-2 kms of the site. Local authorities have a duty to preserve or enhance the Conservation Area as requested by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same act requires a similar duty to preserve or enhance Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
69. Design and Conservation assessed the details and commented that the proposal would be firmly in the context of the existing major railway infrastructure, a historic intervention into the landscape of the 1860s, and a prominent man-made industrial feature since this time. From Browney Lane the land falls away to the river so it would be anticipated that the visual impact of the change would not be significant to detract from the visual quality of the views towards the heritage assets. There would be no anticipated impacts in terms of views out from the Conservation Areas, the railway line being visually shielded by the topography and tree coverage. There would be a physical change to Sunderland

Bridge CA by reason of the formalised new access at the existing field gate but not one that would be harmful to its significance.

70. Given the above, plus how broad in scale the heritage assets are, the overall impact would be judged as being minor and not at a level that would create harm to the designated heritage assets significance nor setting in accordance with NPPF Section 16 and County Durham Plan Policy 44 and Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
71. A condition will be applied for a full detailed schedule of landscape planting to ensure that appropriate species are introduced into the area. Subject to this, the proposals are considered to accord with requirements set out in policy 10, 24, 29, 29 and 44 of the CDP.

#### Impact on residential amenity

72. Policy 10 states that development should not impact adversely upon residential or general amenity. Policy 24 requires development to minimise and mitigate any harmful impact upon the amenity of local communities. Policy 29 seeks for development to provide high standards of amenity and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
73. 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.
74. The majority of the significant engineering works would take place within the defined Limits of Deviation and therefore fall outside the scope and control of this planning application. In discussion with the Environmental Health officer, he confirmed that any issues with noise including vibration and disturbance can be dealt with through the Environment Protection Act 1990 as a Statutory Nuisance. There is also an option under Section 60 of the Control of Pollution Act 1974 which grants powers to the local authority to control noise from construction sites, which can be done by imposing restrictions on the works to ensure noise levels are controlled with respect to any noise sensitive premises nearby. Operators would have a duty to follow BS 5228 Code Parts 1 (Noise) and 2 (Vibration) in relation to control of noise and vibration on construction and open sites.
75. The site is largely isolated within open countryside with nearest residential properties at High Burnigill which is adjacent to the site area and Burnigill Farm, approximately 120 metres south. Beyond this, nearest properties are in excess of 500 metres away from the site. An EIA Screening assessment document acknowledges this noting noise sensitive locations. Also in support of the scheme an Outline Construction Management Plan has been submitted, identifying adherence to BS5528 code of practice. This plan also notes hours of working which are expected to be 0800 – 1800 Monday to Friday. However they further highlight that night time working, specifically Saturday nights 2100-0900, will be required due to access restrictions of working on the railway, where 'possessions' of the track will be required in order to facilitate aspects of the project that could affect the safe operations of the railway. Night-time operations would take place within the defined Limits area and given the nature and necessity of the works would be deemed reasonable.

76. Whilst it is accepted that the works would have noise implications, the location of the works including the main compound area would be located downhill from the B6300 and would therefore be screened by the topography, which would also help to reduce, to a degree, noise impacts. Neighbour notification letters were sent out to all residents within 500 metres of the site and no comments or objections were received. A condition can be applied to request adherence to the Outline Construction Management Plan and Environmental Health are agreeable to this. As previously stated, however, the works within the defined Limits are in any case outside the control of this application, but given the existence of legislative powers to intervene. should issues arise during works, and the works themselves being of a temporary nature with no new impacts in terms of noise post remediation works, it is considered that the amenities of nearest residents are suitably protected in line with relevant policies in this regard.

### Highways Safety and Access

77. 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. NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
78. As noted previously, two existing field accesses are to be formalised to allow access to two temporary compounds within the works site area. The northern most compound, intended as a secondary base, would exist on an existing hardstanding associated with the original B6300 road layout, which is now out of use and contained behind fencing. It is noted from the plans, that main access to this compound is intended from within the site along a temporary route to allow access to works vehicles as and when required within the site. No detailed drawings were provided of how access from the B6300 would be provided but a condition can be applied seeking these details.
79. The main compound would be accessed from an existing field gate to the south of the site. A more detailed plan was submitted indicating visibility splays as well as a sufficient length of track to allow any truck accessing the site sufficient space to be wholly off the carriageway when accessing the site. The track itself would be upgraded in order to handle large trucks, by means of cut and fill operations as well as new surfacing. In general, the works can be suitably accommodated in this location. The intention is to retain this southern access permanently for future access to allow railway maintenance works as required. Highways assessed the details and raised no objections. A condition can be applied seeking detailed drawings in relation to the access as well as further details on surface materials.
80. Overall, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 21 of the CDP as well as Part 9 of the NPPF.

### Ecology

81. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. Policy 43 (Protected Species and Nationally and Locally Protected Sites) states that 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

82. No parts of the application sites are located within any national or local wildlife designations, although there exists across the River Browney an ancient woodland and local wildlife site referred to as North Wood, within the Burnhall estate. A detailed Preliminary Ecological Appraisal and Biodiversity Assessment were submitted in support of the application. Whilst these were found to be acceptable, further information was required in relation to roosting of bats within existing trees. A further survey report was subsequently provided which found that foraging activity was captured at the site, indicating that bats may be roosting within neighbouring trees. As such, a recommendation was put forward for compensatory roosting boxes to be installed as part of the scheme. A condition will be applied to ensure that details are provided and the works implemented within a suitable timeframe.
83. Other details on ecology within the River Browney were picked up by the Environment Agency who sought the imposition of conditions including details of a Construction Environmental Management Plan to be submitted with details relating to sediment management and protected species plan, as well as management of invasive species and a habitat creation plan in relation to woodland and meadow habitats to be created. The applicant was notified of the requirements set out and is agreeable to conditions in this regard.
84. Subject to the imposition of conditions as outlined above, the proposals are considered to accord with the requirements of policies 41 and 43 of the CDP and part 15 of the NPPF.

#### Flood Issues

85. 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. Part 14 of the NPPF also provides detailed advice on flooding stating that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
86. Two sections of the application site are located within Flood Zones 2 and 3. A detailed Flood Risk Assessment (FRA) was submitted in support of the proposals. The Environment Agency objected to this original submission on the basis that insufficient information was provided. An updated document was provided clarifying that no ground raising works would be undertaken with further details provided in relation to riverbank strengthening works. In general it is acknowledged that the hill side stabilisation works would help to prevent further land slippage and thus mud and debris blockage of the River Browney. The Environment Agency removed their objection subject to a condition for strict adherence to the updated FRA.
87. Subject to the imposition of this condition, the proposals are considered to accord with the requirements set out in policy 35 and part 14 of the NPPF.

## Other Issues

88. 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.
89. Details were provided in relation to historic landfill use within a section of the application site. Contaminated land section reviewed the information provided and agreed with the findings, requiring a full suite of contaminated land conditions be applied to the scheme. Subject to this the proposals would accord with policy 32 in relation to land contamination.

---

## CONCLUSION

---

90. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. 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).
91. The proposals have been identified as forming part of essential ground stabilisation works associated with the east coast mainline railway and are considered acceptable in principle in line with policies 10, 20 and 24 of the CDP and Parts 9 and 13 of the NPPF. Impacts in terms of amenities and highway safety, as well as ecology and flood risk have also been considered and subject to conditions the proposals are considered to accord with policies 10, 24, 21, 29, 39 and 44 of the CDP and Parts 12, 14, 15 and 16 of the NPPF and requirements as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990.
92. The application has generated no public interest. Given the above considerations, it is considered that proposals are acceptable and the application is recommended for approval.

### Public Sector Equality Duty

93. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

---

## RECOMMENDATION

---

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

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

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

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

Plan	Drawing No.	Date Received
Flood Risk Technical Note Rev B02	W11365-PFZZZZ-RP-D-0001	27/04/22
Location Plan 1:2500	0055418	09/02/22
Location Plan 1:5000	0055418	09/02/22
Browney Curve Land Access Plan		09/02/22
Drainage Condition Plan with Proposed Remediation Sheet 1 of 2	DW11365G057 Rev D	09/02/22
Drainage Condition Plan with Proposed Remediation Sheet 2 of 2	DW11365G058 Rev D	09/02/22
General Arrangement Plan South Sheet 3 of 3	DW11365G123 Rev B	09/02/22
Drawing Cover Page	DW11365G120 Rev B	09/02/22
General Arrangement Plan Sheet 1 of 3	DW11365G121 Rev A	09/02/22
General Arrangement Plan North Sheet 2 of 3	DW11365G122 Rev A	09/02/22
General Arrangement Sections	DW11365G126 Rev A	
Tree Planting	DW11365G131 Rev A	
Additional Elements	DW11365G132 Rev A	
General Arrangement Proposed Site Access	DW11365G138 Rev P02	

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 10, 21, 24, 29, 39 and 43 of the County Durham Plan and Parts 9, 12, 14 and 15 of the National Planning Policy Framework.

3. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to, and agreed in writing by, the local planning authority and implemented as approved.

The CEMP plan shall include the mitigation recommendations made in the Environmental Impact Assessment Screening Report (Ref: ECM5 62.0934-62.1438), the Preliminary Ecological Appraisal (dated November 2020), the Flood Risk Technical Note and the Biodiversity Assessment (dated March 2021) and should include as a minimum:

- Sediment management and pollution prevention plan
- Protected species plan
- Biosecurity and invasive species management plan
- Habitat creation plan detailing the establishment and ongoing management of the woodland and meadow habitats to be created as detailed in the Biodiversity Assessment
- Landscape plan as referenced in the Environment Impact Assessment (EIA) (p.27)

Reason: To protect riparian habitats during construction and avoid detrimental ecological impact to the River Browney or the River Wear downstream in accordance with policies 35, 41 and 42 of the County Durham Plan and Paragraphs 174 and 180 of Part 15 of the NPPF.

4. No development should take place until a scheme detailing the proposed piling has been submitted to, and agreed in writing by, the local planning authority. The piling scheme shall include:

- o Confirmation of the method(s) of piling used;
- o The likely timing, duration and location(s) of the work; and
- o Details of the measures to be put in place to minimise any impacts on fish.

Reason: To protect migratory fish in accordance with policies 35, 41 and 42 of the County Durham Plan and Paragraphs 174 and 180 of Part 15 of the NPPF.

5. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

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

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

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

7. Within six months of commencement of development, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

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

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

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

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

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

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

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

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

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

Replacements will be subject to the same conditions.

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

9. Notwithstanding the details shown on the approved plans, no development shall commence in relation to the construction of the access to the south east of the site until precise details showing the improved access with the B6300 adopted highway, as well as details on surface materials are submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interest of highway safety and to comply with Policy 21 of the County Durham Plan.

10. Notwithstanding the details shown on the approved plans, no development shall commence in relation to the construction of the access to the north of the site until precise details showing the improved access with the B6300 adopted highway as well as details on surface materials are submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interest of highway safety and to comply with Policy 21 of the County Durham Plan.

11. The development hereby approved shall be carried out in accordance with the submitted flood risk assessment (titled: Flood Risk Technical Note; ref: W11365-PF-ZZ-ZZ-RP-D-0001; Rev B02; dated 27/04/22) and the following mitigation measures it details:

-There will be no ground raising within flood zones 2 or 3.

These mitigation measures shall be fully implemented in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent an increase in flooding elsewhere by ensuring that floodplain capacity is not reduced in accordance with Policy 35 of the County Durham Plan and Part 14 of the NPPF.

12. Within 6 months of commencement of development on site, details of bat boxes and their proposed location in line with recommendations outlined in section 5 of the Nocturnal Bat Activity Surveys - Final Report received 12 August 2022 shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented within one month of completion of stabilisation works.

Reason: To conserve protected species and their habitat in accordance with Policies 41 and 43 of the County Durham Plan and Section 15 of the NPPF.

13. No development shall take place unless in strict accordance with Section 5 Conclusion and Recommendations detailed within the Nocturnal Bat Activity Surveys -Final Report July 2022 by Story Contracting received 22 August 2022, including precautionary measures outlined and provision of compensatory roosting features including bat boxes.

Reason: To conserve protected species and their habitat in accordance with Policy 43 of the County Durham Plan and paragraph 175 of the NPPF.

14. No development shall take place unless in strict accordance with the Outline Construction Management Plan received 9 February 2022, including details on working hours, communication and Dust, Noise and Vibration.

Reason: In the interest of protecting amenities of nearby residents and to comply with Policies 29 and 31 of the County Durham Plan.

15. Notwithstanding any approved details within the landscape plan to be submitted as part of condition 7, within 3 months of beneficial completion of the wider railway maintenance works, the northern compound annotated within the red line application site boundary shall be removed and the land reinstated to its former condition.

Reason: in the interest of protecting the amenities of the area and to comply with policy 29 of the County Durham Plan.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

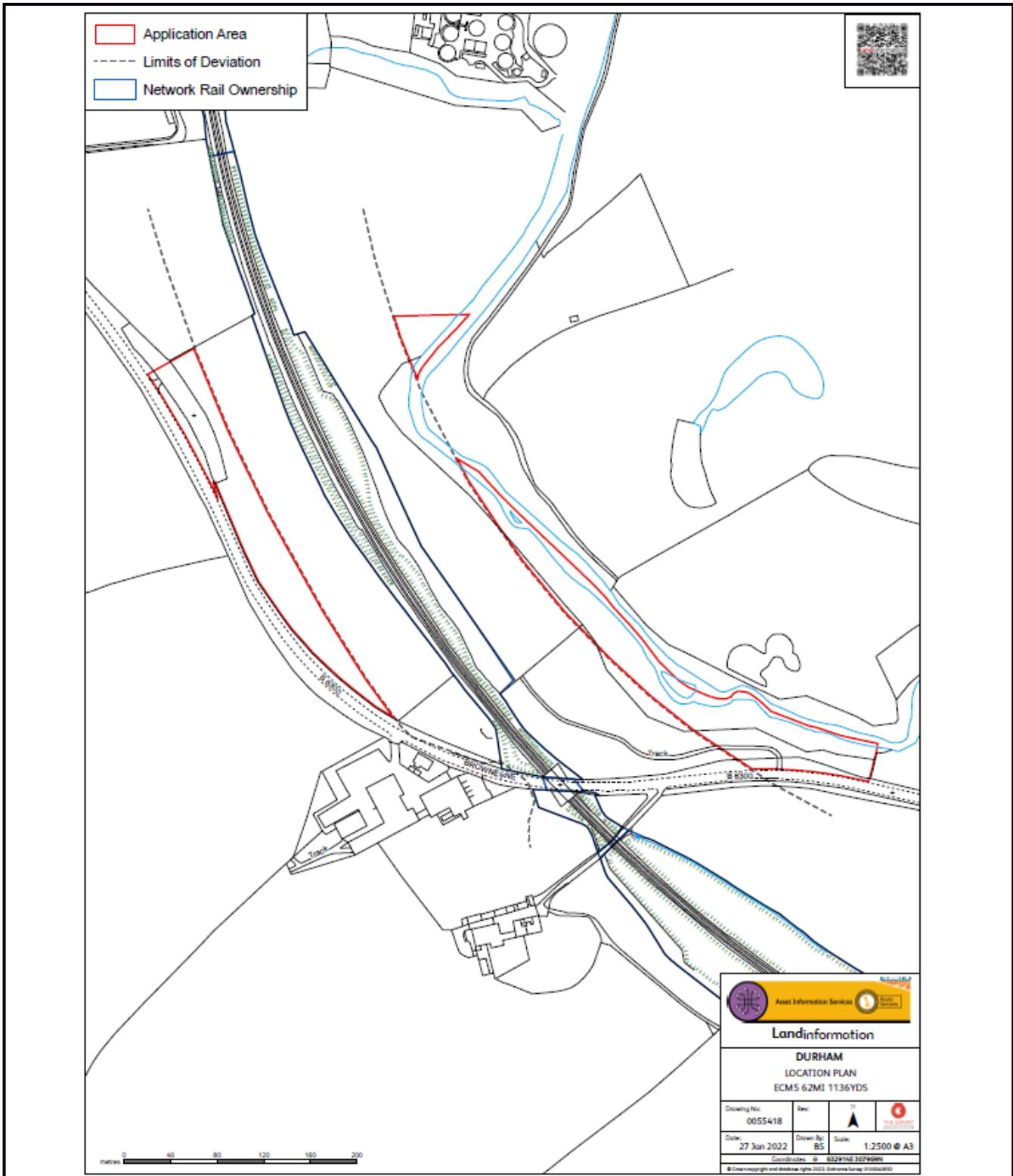
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

---

## **BACKGROUND PAPERS**

---

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses



**Planning Services**

Ground stabilisation works to support the East Coast Main Line comprising sheet & bored piling; drainage improvements; new headwalls to the River Browney; landscaping and new vehicular accesses from the B6300  
 Land North And East Of Burnigill Cottages, Burnigill Meadowfield DH6 5JJ  
 Ref: DM/22/00367/FPA

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

**Date** 11 October 2022

**Scale** Not to Scale