



## Area Planning Committee (Central and East Durham)

**Date** Tuesday 10 January 2012  
**Time** 1.00 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Minutes of the Last Meeting held on 13 December 2011 (Pages 1 - 10)
2. Declarations of Interest, if any
3. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) 4/11/00599/OUT - Land at Langley Hall Farm, Brandon Lane, Durham (Pages 11 - 26)  
Outline application proposing residential development of up to 70 dwellinghouses seeking detailed approval of means of access only
  - b) 4/11/00930/FPA - Gordon Mount, 19 Crossgate Peth, Durham (Pages 27 - 36)  
Resubmission of planning application 11/00072/FPA for the erection of a detached garage and store to rear of property
  - c) 4/11/00897/FPA - 165 Gilesgate, Durham (Pages 37 - 44)  
Proposed demolition of existing single storey flat roof area to rear and erection of single storey pitched roof extension to rear of existing dwelling
  - d) 4/11/00774/FPA - Land at Woodland Terrace and College View, Esh Winning, Durham (Pages 45 - 64)  
Erection of 30 no. dwellinghouses with formation of new access and closure of existing access (resubmission)
  - e) PL/5/2011/0443 - Seaton Nurseries, Seaton Lane, Seaton (Pages 65 - 74)  
Residential development (outline) (resubmission)

- f) PL/5/2011/401 and PL/5/2011/402 - Hardwicke Hall Manor Hotel, Hesleden Road, Hesleden (Pages 75 - 96)

PL/5/2011/401 – Four detached residential properties including private vehicular access road

PL/5/2011/402 – Partial demolition of Grade II listed garden wall and proposed repair of remainder, partial demolition of boundary wall and complete demolition of existing brick shed within curtilage of Grade II listed Hardwicke Hall Manor Hotel in association with residential development of 4 dwellings

4. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham

22 December 2011

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

Councillor C Walker (Chair)  
Councillor P Taylor (Vice-Chair)

Councillors J Bailey, A Bell, J Blakey, G Bleasdale, J Brown, P Charlton, D Freeman, S Iveson, A Laing, R Liddle, J Moran, J Robinson, K Thompson and B Wilson

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**DURHAM COUNTY COUNCIL**

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

At a Meeting of **Area Planning Committee (Central and East Durham)** held in Council Chamber, County Hall, Durham on **Tuesday 13 December 2011 at 1.00 pm**

**Present:**

**Councillor C Walker (Chair)**

**Members of the Committee:**

Councillors P Taylor (Vice-Chair), J Bailey, A Bell, J Blakey, G Bleasdale, P Charlton, D Freeman and A Laing

**Apologies:**

Apologies for absence were received from Councillors J Brown and J Robinson

**Also Present:**

J Taylor – Principal Planning Officer (Durham Area)

N Carter – Solicitor

N Thompson – Highways Officer

**1 Minutes of the Last Meeting held on 8 November 2011**

The Minutes of the Meeting held on 8 November 2011 were agreed as a correct record and signed by the Chair.

**2 Declarations of Interest, if any**

There were no declarations of interest received.

**3 Applications to be determined by the Area Planning Committee (Central & East Durham)**

**3a 4/11/00811 Tanners Hall Farm, Stockley Lane, Willington  
Erection of 70 Metre High Wind Turbine and Associated Meter Housing  
and Access Track**

Consideration was given to the report of the Principal Planning Officer (Durham Area) which recommended approval of the application.

The Principal Planning Officer gave a detailed presentation on the main issues outlined in the report, which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

He advised that since the report had been prepared six objections to the development had been received, together with six e-mails in support.

Councillor J Wilkinson, Member for Deerness Valley Division spoke against the application. His concerns related to the height of the turbine, its prominent location, impact on the landscape and the effect on the character and appearance of the countryside. He stated that whilst he was in agreement with the use of renewable energy the number of wind turbines in the area had reached capacity and any new application should have regard to cumulative effect. He considered that it would appear incongruous in the landscape as the other operational wind farms were a considerable distance away.

K Taylor, an objector addressed the Committee. He stated that there had been inadequate consultation on the application and that his concerns related to the height of the proposed wind turbine which would be visually dominant in open countryside, and the significant cumulative impact of an additional turbine in an area that was already saturated with wind farms. Due to the situation of residential properties to the east of the site, their amenity would be affected in terms of noise, vibration, shadow flicker and light reflection. He was also concerned about the potential impact on protected species, despite DCC's ecologist raising no objections, and he reiterated the views of Councillor Wilkinson that it would not 'blend in' with the operational wind farms at Tow Law and Broomhill. Access to the site would be from the B6299 which was a busy and dangerous road and he asked that this be taken into account in considering the application. Turbines had been known to catch fire which raised health and safety concerns.

C Picking, objector reiterated K Taylor's views in relation to consultation and stated that a public meeting should have been held with residents. He was against the proposed wind turbine due to its size and location. He considered it unfair to those who lived in the village of Stanley Crook and he felt that it would prevent people from moving into the area.

Mr Layfield, the applicant advised that the purpose of the application was to diversify his family business and he provided Members with details. Fuel costs had risen dramatically over recent years and moving from the use of fossil fuels to a wind turbine would not only increase the viability of his business but would contribute towards Government energy targets. The location of the turbine had been carefully considered to limit any impact on his neighbours.

Mr Neary, the applicant's agent stated that they had consulted the Council's landscape section on the proposed location of the wind turbine and Planning Officers considered that the scheme was acceptable in terms of national, regional and local planning policy. With regard to concerns raised about noise, it was considered that, given the distance to neighbouring properties, the likelihood of nuisance would be low. The Council's ecologist was of the view that it would not impact on protected species. Due to the orientation of dwellings in Stanley Crook which screened each other, there would not be a significant impact on views from public areas within the village or from individual properties.

In responding to the issues raised, the Principal Planning Officer stated that he was satisfied that the application had been widely consulted upon. Consultation letters were sent to 31 properties and site notices had been erected.

Ecologists had looked at the potential impact on protected species and had raised no concerns. Other species would be unaffected once construction was completed.

With regard to the concerns about the potential for wind turbines to catch fire, he advised that this was rare but was not a planning consideration.

He acknowledged that there were traffic issues in relation to the B6299 but the works involved in erecting the turbine would not be lengthy, and therefore he did not envisage that it would add to the traffic problems experienced on this road.

Whilst the wind turbine would be prominent it was not considered to be harmful to the visual appearance of the area because of its location. Open views were curtailed by adjacent woodland and the separation distance was such that residents would not be affected by noise or shadow flicker.

Page 12, paragraph 43 in the report which referred to a community contribution from the applicant was not a material planning consideration, was not requested by the Local Planning Authority and should be disregarded in any decision.

In considering the application Councillor Bailey referred to a letter submitted by Councillor B Myers in objection to the application on the grounds of protection of surrounding countryside, the scale and elevation of the wind turbine and health and safety of residents. His constituents who lived closest to the wind turbine had to contend with views of an opencast site for many years and were now enjoying the countryside as it recovered from these works. If approved the wind turbine would have a significant impact on residential amenity.

Councillor Bailey reiterated all the comments made stating that his concerns related to the location of the wind turbine which was adjacent to a large wooded area and the impact it would have on wildlife and the countryside. The nearest turbine was 1 and a half miles away, the scheme would not create local employment, and he concurred with the concerns expressed by residents in terms of shadow flicker, noise, consultation and the risk of fire, especially in view of its position near to woodland.

Members discussed the application and a comment was made that in view of the scale and size of the wind turbine it was considered that the application had been made for commercial gain, and that its location at the entrance to the village was not appropriate.

Members acknowledged that the cumulative impact of wind turbines in an area that had reached capacity should be considered but that this had to be balanced with the need to support the use of renewable energy.

Following discussion it was **RESOLVED**

That the application be approved subject to the conditions outlined in the report, together with an extra condition for traffic routing and an amendment to condition 2 for adherence with traffic report.

**3b 4/11/00776 Land North of 67 Front Street, Pity Me, Durham  
Erection of 1 No. Dwelling House**

Consideration was given to the report of the Principal Planning Officer (Durham Area) which recommended approval of the application.

The Principal Planning Officer gave a detailed presentation on the main issues outlined in the report, which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

He advised that since the report had been prepared, two further objections had been received.

Councillor Wilkes, local Member stated that this development was not an extension to the Smithfield development as implied in the Planning Officer's report. The site was situated on the other side of the farm track and had a different access. Until 2010 a number of mature trees, including an old oak tree had been felled, and since their removal the site had been poorly managed by the developers.

In terms of planning policy he believed that the application contravened National Policy 8 and Local Plan Policy H13, and should therefore be refused on these grounds. The dwelling would be in a prominent location at the entrance to Pity Me and the design was unsuitable. Neighbouring residents did not have any objections to a property being developed on this site but to the contemporary design. He was also concerned about surface water drainage and land stability. If the application was approved he asked that a condition be included to restrict hours of working.

S Grant, the applicant's agent stated that in-depth discussions had taken place with Planning Officers which had resulted in the submission of a revised scheme. The contemporary design of the dwelling was considered to be acceptable by Planning Officers. There would be no problems with land stability as the dwelling would be a retaining structure on site. The trees that had been removed were not the subject of a TPO but had been felled following discussion with DCC. A Management Plan was put in place but he accepted that this had failed. There was a defined need for executive dwellings in Durham and this building had been designed to showcase this. Notwithstanding the contemporary nature of the building, the developers had ensured that the design was sympathetic to the adjacent terraced properties in terms of materials used.

The Principal Planning Officer, in responding to the issues raised acknowledged that the proposed scheme was very different to the Smithfield development. He also accepted that the replanting scheme had failed, although the trees that were removed were not protected, nor were they in a Conservation Area. Landscaping was integral to the application and would be maintained for 5 years following

planting. With regard to permitted development rights, he considered that it was reasonable to remove classes B, C and D, from condition 7, still leaving A and E (pt 2), as requested by the applicant. Councillor Wilkes considered that some control should be retained.

In determining the application Members considered that the proposed development would tidy an unsightly plot of land and 'finish off' the area. However they considered that the concerns of Councillor Wilkes in relation to surface water drainage and a restriction on working hours should be conditioned.

## **RESOLVED**

That the application be approved as outlined in the report, subject to the following additional conditions:-

- (i) Scheme for the dispersal of surface water shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.
- (ii) Hours of construction be conditioned.

### **3c 4/11/00789/FPA Former PPA Building, Green Lane, Durham Erection of Student Accommodation Building Comprising of 112 Studio Flats**

Consideration was given to the report of the Principal Planning Officer (Durham Area) which recommended approval of the application.

The Principal Planning Officer gave a detailed presentation on the main issues outlined in the report, which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

He advised that since the report had been prepared, one further objection had been received which reiterated concerns received. In addition Local Plans Officers had responded that the development was considered to be acceptable in principle, and that it had the potential to alleviate pressure on existing housing areas with strong student rent market.

Mr Hayton of Whinney Hill Community Group addressed the Committee and expanded on the issues which were outlined in their letter of objection and were summarised in the report. He was concerned that if approved the proposed development would exacerbate parking problems and traffic congestion in the area of Whinney Hill. He was also concerned that the design of the building was not sympathetic to surrounding properties which were historical, and that the site was close to the World Heritage Site. He disagreed with Planning Officers that Whinney Hill residents would not be affected by the scheme because of their proximity to Green Lane. He was also of the opinion that it would exacerbate the housing problems in the City, that the development would increase the number of temporary residents and contribute to the exodus of permanent residents from the City.

Mr Parkinson, the applicant stated that they had worked closely with Planning Officers to create a development which would meet their requirements in terms of scale, design and massing. The scheme would make a positive contribution to the City by re-developing a site that had stood unused for some time.

The proposed scheme would not harm the existing local community or highway safety, and was in accordance with local, regional and national planning policy.

The Highways Officer stated that as the scheme was to provide student accommodation, high level parking was not required and there was cycle provision on site. The surrounding streets were either pay and display or had parking restrictions imposed, and no resident parking permits were issued. This was a former commercial building and if brought back into commercial use would be more likely to generate parking problems and traffic congestion than the scheme proposed.

The Principal Planning Officer responded to the issues raised and concurred with the objector that there were historic buildings around the site, however Green Lane did not contain a uniformity of architectural styles, and could therefore accommodate a contemporary design. Whilst the site was close to Whinney Hill it was sufficiently detached from it that the amenities of residents would not be adversely affected.

Councillor Freeman stated that he accepted that limited parking was designed to discourage students to use cars but he was concerned that this would not be a deterrent and as a consequence vehicles would park in the residential streets. He also had concerns regarding the size of the development, the visual impact it would have and the amount of student accommodation in the City, of which more was proposed.

Members determined the application and reference was made to design of the prison building which was not in keeping with the historical buildings and was located in the Whinney Hill area. It was considered that this type of student accommodation may help to alleviate the housing problems in the City that had been referred to. The building was in keeping with the new development next door and had been designed to mitigate the effects of massing. However Members expressed concern at the use of white rendering to the front and were advised that condition 3 required details of materials, including colour to be submitted to and approved in writing by the Local Planning Authority. It was suggested that local Members be consulted on the colour of the proposed rendering.

## **RESOLVED**

That the application be approved subject to the conditions outlined in the report and to the following additional condition:-

- (i) Notwithstanding the details shown on submitted plans no development shall commence until precise details of the design and extent of the proposed section of parapet wall atop of second floor have been submitted to and approved in writing by the Local Planning Authority.



Thereafter, the development shall be implemented in accordance with approved details.

Reason: In the interests of visual amenity having regard to Policies E6, E22 AND H16 of the City of Durham Local Plan 2004.

**3d 4/11/00748/FPA Plot 5N and Plot 5S Bishopgate, 48 North End, Durham Demolition of Existing Bungalow and Erection of 2 No. Dwelling Houses**

Consideration was given to the report of the Principal Planning Officer (Durham Area) which recommended approval of the above application.

The Principal Planning Officer gave a detailed presentation on the main issues outlined in the report, which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

He advised that since the report had been prepared, two further objections had been received, together with comments from the Tree Officer who considered that the trees within the site were of little merit and not worthy of TPO, and that protective fencing must be erected to protect trees to be retained. The Officer also raised concerns over the impact upon the cherry tree numbered TO2.

He also advised of a slight change to condition 9 to remove the reference to sewer diversion as it was not relevant.

Councillor G Holland, local Member spoke on behalf of local residents. He referred to the considerable planning history in relation to this site which he believed had affected public confidence.

Whilst residents accepted that this was a brownfield site they were concerned that unless there was mature screening they would face onto large areas of brickwork. The proposed scheme did not fit with the styles of other properties in the area and at 6 and 7 bedrooms the buildings would dwarf the modest houses nearby. They were also conflicting in style and size, and he made specific reference to the flat dormer roofs and the aluminium cladding. The distances between the boundaries of existing properties and the development had been queried previously because inaccurate plans had been provided, making it difficult to determine exact measurements.

The Principal Planning Officer responded to the issues raised stating that he appreciated the concerns expressed relating to the accuracy of plans provided previously but assured the Member that this had been resolved and residents concerns taken on board. With regard to the protection of privacy a condition had been included requiring the submission of a detailed landscaping scheme and residents could be consulted on this. The proposed properties were in keeping with the surrounding area and the flat dormer roofs were sympathetic to the traditional style. He confirmed that the proposed aluminium cladding was to be changed by the developers. Northumbrian Water had advised that surface water drainage on site was adequate but a scheme would be agreed with the developer.

## **RESOLVED**

That the application be approved subject to the conditions outlined in the report and to the removal of the reference to the sewer diversion scheme from condition 9.

### **4 Appeals Update**

#### **PLANNING REF: PL/2/2011/0249**

#### **Site at 118 Wordsworth Avenue, Wheatley Hill, Durham**

An appeal was lodged against the Council's refusal for the retrospective erection of a 1.53m high boundary fence at the above site.

The appeal was allowed subject to conditions relating to staining the fencing and tree planting at the site.

## **RESOLVED**

That the report, be noted.

#### **PLANNING ref: 4/11/00551/FPA**

#### **Site at 4 Wanless Terrace, Durham**

An appeal was lodged against the Council's refusal of the erection of a single storey pitched roof extension to rear, erection of dormer roof extension to rear, insertion of a window to front elevation and the insertion of 1 no. rooflight to front of existing dwelling.

The appeal was dealt with via written representations and was allowed.

## **RESOLVED**

That the report be noted.

### **5 Decision Update**

#### **PLANNING ref: PL/5/2011/0215**

#### **Land Rear of 1 Grange Terrace, Shotton Colliery**

Consideration was given to the decision update in relation to the above application which was considered at the meeting on 6<sup>th</sup> September 2011. The submitted plans indicated that the full length of the rear lane which led to the application site would be tarmaced by the applicant. At the meeting, the applicant's agent also indicated that this would be the case. It was resolved that the application be approved subject to conditions, two of which required the rear lane to be resurfaced and for appropriate drainage to be installed.

Since this meeting the applicant had indicated that the rear back lane would not be tarmaced as indicated on the approved plans. It was now the applicants intention to

fill potholes with dolomite and cover part of the rear lane with a 50mm covering of chippings.

The resurfacing of the road, as now proposed, although not to the standard indicated previously, was considered acceptable to Highways Officers, and is satisfactory to discharge the planning condition.

**RESOLVED**

That the information given, be noted.

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## Planning Services

# COMMITTEE REPORT

### AGENDA ITEM NUMBER:

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	4/11/00599/OUT
<b>FULL APPLICATION DESCRIPTION</b>	Outline application proposing residential development of up to 70 dwellinghouses seeking detailed approval of means of access only
<b>NAME OF APPLICANT</b>	Harris Developments
<b>SITE ADDRESS</b>	Land at Langley Hall Farm, Brandon Lane, Durham, DH7 8LQL
<b>ELECTORAL DIVISION</b>	Brandon
<b>CASE OFFICER</b>	Barry Gavillet 0191 5270501 planningeasington@durham.gov.uk

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### 1.0 DESCRIPTION OF THE SITE AND PROPOSALS

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#### 1.1.1 The site

1.1.2 This application site is located to the north of Langley Moor and is adjacent to the settlement boundary which runs along Brandon Lane; as such the site is classed as being in the countryside, albeit abutting the settlement. The site is approximately 1.9 hectares and is roughly triangular in shape, it is bounded by the Brandon to Bishop Auckland right of way and woodland to the north and west, Brandon Lane to the south and a mix of open space, residential properties and workshops to the east. The site is previously undeveloped, agricultural land.

#### 1.2.1 The proposal

1.2.2 This application seeks outline planning permission for up to 70 dwellinghouses seeking detailed approval for means of access only, all other matters including appearance, landscaping, layout and scale would be subject to a further application for reserved matters should this application be approved. The main vehicular access point would be taken off Brandon Lane at the south west corner of the site. The applicant's have submitted indicative plans which show a mixture of house types and garages along with private front and rear gardens. Pedestrian links would be created to the Brandon to Bishop Auckland footpath which bounds the north west of the site. The proposal would have a housing density of approximately 37 dwellings per hectare.

1.2.3 The application is being reported to committee as it is a major housing development.

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### 2.0 PLANNING HISTORY

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2.1.1 None relevant to the site.

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## **3.0 PLANNING POLICY**

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### **3.1 NATIONAL POLICY:**

- 3.1.1 *National Planning Policy Framework (NPPF)* - In July 2011 The Government published the NPPF in its draft form. The draft framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. The presumption means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the development should not be allowed if it would undermine the key principles for sustainability in the Framework. Being in draft format and a consultation document it is subject to potential amendment. It can be considered a material consideration, although the weight to be attributed to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.
- 3.1.2 *Planning Policy Statement 1: Delivering Sustainable Development* - sets out the Government's overarching planning policies on the delivery of sustainable development through the planning System.
- 3.1.3 *Planning Policy Statement 3: Housing* - PPS3 underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.
- 3.1.4 *Planning Policy Statement 7: Sustainable Development in Rural Areas* - sets out the Government's planning policies for rural areas, which local authorities should have regard to when preparing local development documents, and when taking planning decisions.
- 3.1.5 *Planning Policy Guidance 13: Transport* - objectives are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.
- 3.1.6 *Planning Policy Statement 9: Biodiversity and Geological Conservation* - sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy
- 3.1.7 *Planning Policy Guidance 16: Archaeology and Planning* - sets out the government's policy on archaeological remains on land and how they should be preserved or recorded both in an urban setting and in the countryside. It gives advice on the handling of archaeological remains and discoveries through the development plan and development control systems, including the weight to be given to them in planning decisions and planning conditions.

- 3.1.8 *Planning Policy Statement 22: Renewable Energy* - sets out the Government's planning policies for renewable energy, which planning authorities should have regard to when preparing local development documents and when taking planning decisions.
- 3.1.9 *Planning Policy Statement 23: Planning and Pollution Control* - The policies in this statement and the advice in the accompanying Annexes (Annex 1: Pollution Control, Air and Water Quality and Annex 2: Development on Land Affected by Contamination) should be taken into account by Regional Planning Bodies (RPBs) and Local Planning Authorities (LPAs) in preparing Regional Spatial Strategies (RSSs) and Local Development Documents (LDDs) - referred to in this Statement as "development plans".
- 3.1.10 *Planning Policy Statement 25: Development and Flood Risk* - explains how flood risk should be considered at all stages of the planning and development process. It sets out the importance of the management and reduction of flood risk in planning, acting on a precautionary basis and taking account of climate change.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

## **3.2 REGIONAL POLICY:**

- 3.2.1 *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS)* - was published in mid-July 2008 in its finalised format and forms part of the Development Plan. The RSS has a vision to ensure that the North East will be a Region where present and future generations have a high quality of life. Central to the RSS is a key principle of delivering sustainable communities. Of particular relevance are the following policies;
- 3.2.2 However, The Secretary of State for Communities and Local Government's letter dated 27<sup>th</sup> May 2010 announced the Government's intention to abolish Regional Strategies and return decision making powers on housing and planning to local councils. This intended future abolition must also be given material weight in planning decision making.
- 3.2.3 *Policy 1 (Strategies, plans and programmes)* - should support a renaissance throughout the North East
- 3.2.4 *Policy 2 (Sustainable Development)* - Seeks to embed sustainable criteria through out the development process and influence the way in which people take about where to live and work; how to travel; how to dispose of waste; and how to use energy and other natural resources efficiently.
- 3.2.5 *Policy 4 (The Sequential Approach to Development)* - National advice and the first RSS for the North East advocated a sequential approach to the identification of sites for development, recognising the need to make the best use of land and optimize the development of previously developed land and buildings in sustainable locations.
- 3.2.6 *Policy 6 – (Plans, strategies and programmes)* - should support and incorporate the locational strategy to maximise the major assets and opportunities available in the North East and to regenerate those areas affected by social, economic and environmental problems.

- 3.2.7 *Policy 7 (Connectivity and Accessibility)* - Seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.
- 3.2.8 *Policy 8 (Protecting and Enhancing the Environment)* - Seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.
- 3.2.9 *Policy 24 (Delivering Sustainable Communities)* - establishes that all development should be designed and located to deliver sustainable communities. Development should be assessed against a wide range of criteria with sustainability in mind including the locational requirements of the development, the need to concentrate development in urban areas, links with infrastructure and impacts of a development upon the social cohesion of local communities.
- 3.2.10 *Policy 28 (Gross and Net Dwelling Provision)* - Advises that Local Development Frameworks should make provision for the following average annual level of total dwelling construction in the period 2004-2021.
- 3.2.11 *Policy 29 (Delivering and Managing Housing Supply)* - Advises that Local Development Frameworks and/or planning proposals shall deliver and manage housing supply
- 3.2.12 *Policy 30 (Improving Inclusivity and Affordability)* - Advises that in preparation for future reviews of housing within RSS, Strategic Housing Market Assessments will inform a review of the regional approach to addressing affordable housing needs, including an affordable housing target for the Region and each housing market area.
- 3.2.13 *Policy 32 (Historic Environment)* - requires planning proposals to conserve and enhance the historic environment.
- 3.2.14 *Policy 33 (Biodiversity and Geodiversity)* - Requires planning proposals to ensure that the Region's ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels.
- 3.2.15 *Policy 35 (Flood Risk)* - promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.
- 3.2.16 *Policy 38 (Sustainable Construction)* - seeks to promote development which minimises energy consumption and promotes energy efficiency. On major development proposals 10% of their energy supply should come from decentralised and renewable or low-carbon sources.

### 3.3 LOCAL PLAN POLICY:

- 3.3.1 *Policy E7 (Development in the Countryside)* - advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable such as agricultural workers dwellings.



- 3.3.2 *Policy E16 (Protection and Promotion of Nature Conservation)* - is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
- 3.3.3 *Policy E24 (Ancient Monuments and Archaeological Remains)* - sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
- 3.3.4 *Policy H3 (New Housing Development within the Villages)* - allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.
- 3.3.5 *Policy H5 (New Housing the Countryside)* - sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
- 3.3.6 *Policy H12 (Affordable Housing)* - seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. The associated Supplementary Planning Document approved (December 2006) advises that 30% of all dwellings on a site providing over 25 dwellings should be provided as affordable units in perpetuity. Affordable Housing is defined in PPS3 as being housing which includes social rented and intermediate housing, nominated to specified eligible households whose needs are not met by the market. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
- 3.3.7 *Policy H13 (Residential Areas – Impact upon Character and Amenity)* - states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
- 3.3.8 *Policy R2 (Provision of Open Space – New Residential Development)* - states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
- 3.3.9 *Policy T1 (Traffic – General)* - states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to

highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

- 3.3.10 *Policy T10 (Parking – General Provision)* - states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
- 3.3.11 *Policies Q1 and Q2 (General Principles Designing for People and Accessibility)* - states that the layout and design of all new development should take into account the requirements of all users.
- 3.3.12 *Policy Q4 (Pedestrian Areas)* - requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
- 3.3.13 *Policy Q5 (Landscaping General Provision)* - sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
- 3.3.14 *Policy Q8 (Layout and Design – Residential Development)* - sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
- 3.3.15 *Policy U8a (Disposal of Foul and Surface Water)* - requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
- 3.3.16 *Policy U11 (Development on Contaminated Land)* - sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

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*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>*

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## **4.0 CONSULTATION AND PUBLICITY RESPONSES**

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### **4.1 STATUTORY RESPONSES:**

4.1.1 *The Coal Authority* – no objections

4.1.2 *Natural England* – no objections

4.1.3 *Environment Agency* – no response

4.1.4 *Highways Officer* – no objections subject to conditions relating to junction radii and footway details

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

- 4.2.1 *Archaeology Officer* – no objections subject to a programme of archaeological works conditioned;
- 4.2.2 *Ecology Officer* – no objections subject to mitigation being conditioned;
- 4.2.3 *Environmental Health* – no objections;
- 4.2.4 *Landscape Officer* – no objections subject to a landscaping scheme.

### **4.3 PUBLIC RESPONSES:**

- 4.3.1 The application has been advertised by way of a press notice, site notice and individual letters to surrounding residents.
- 4.3.2 Seventeen letters were received to the consultation of which ten were objections, six comments/observations and one letter of support. The main reasons for objection are as follows:
- The site is in the countryside and the proposal would create urban sprawl
  - The proposal would create traffic congestion and would lead to traffic accidents
  - Schools and doctors do not have enough places
  - There is enough affordable housing in the area
  - The field is beautiful and is an important aspect in the village
- 4.3.3 The City of Durham Trust has commented that the site is outside the settlement boundary but not in Green Belt or in an Area of High Landscape Value. They considered that there may be merit to the scheme.

### **4.4 APPLICANTS STATEMENT:**

- 4.4.1 Our analysis demonstrates that the development would make an important contribution to meeting local housing needs, and in addition it would generate significant local economic and environment benefits including:
- Employment impacts during construction would be equivalent to 49 years of construction industry employment, together with 58 years of FTE indirect/induced employment as a result of construction related expenditure
  - Attraction of economically active households to the area
  - Total gross expenditure potential of £1.04m per annum gross
  - New Homes Bonus payment to Durham County Council over the 6 year period of approximately £537,500
  - An increase in Council Tax revenues of more than £89,500
  - Local environmental improvements
- 4.2.2 The development will also provide financial contributions towards improvements to play and amenity space and provision of public art, streetscape and other community benefits in Langley Moor
- 4.4.3 The design of new development should evolve from the special local character. By Design talks about the need to create a place with its own character. These

principles are embedded within our outline proposals creating a varied scale and building character, existing in 'harmony' with the village, and defining a distinct sense of place.

- 4.4.4 Our proposals have been developed to ensure that with regard to the site's natural context, it could be a place that meets the needs of existing and future residents. While only 'outline' this statement provides assurance that the expected quality is deliverable.

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*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at [http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_detailview.aspx?caseno=LP3NPWBN02O00](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=LP3NPWBN02O00). Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below*

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## **5.0 PLANNING CONSIDERATIONS AND ASSESSMENT**

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- 5.1.1 As this application is outline with access being the only detailed matter seeking approval, the main planning considerations are the principle of the development and highways issues.

### 5.2 Principle of development

### 5.3 Compliance with the City of Durham Local Plan

- 5.3.1 This site is unallocated greenfield land that is located just outside of the existing settlement boundary for Langley Moor. Policy H3 permits housing development on previously-developed sites within the settlement boundary provided that there is no conflict with environmental, open space or design objectives. As the application sites falls outside of the designated boundary, this proposal would not be assessed against Policy H3.

- 5.3.2 Sites located outside of settlement boundaries are to be treated against 'countryside' policies and objectives (Policy H5), and there is a general presumption against allowing housing development beyond a settlement boundary unless it is required to fulfil an employment role. In view of this, it is considered that this proposal is in conflict with the City of Durham Local Plan element of the development plan and the applicant in their submission accepts this position.

- 5.3.3 The site is however located on the edge of the settlement boundary close to community facilities, shops, schools and public transport links and is therefore considered to be in a sustainable location for residential development.

- 5.3.4 The applicant seeks to argue that the Local Plan is "demonstrably out-of-date in relation to housing" on account that it was only intended to provide guidance up to 2006. Whilst it is acknowledged that the Local Plan was adopted in 2004 and is now 7 years old, it considered that this does not necessarily make it out of date. The key test is whether the strategy/aims of the Local Plan are out of kilter or in conflict with other elements of the development plan including the Regional Spatial Strategy (RSS) and national advice on housing contained within Planning Policy Statement 3 – Housing (PPS3). In relation to these two aspects, it is considered that the Local Plan strategy is not patently inconsistent with either the RSS or PPS3, and consequently considerable weight can be attributed to the Local Plan and its policies.

- 5.3.5 In addition to the above the emerging policy in the governments draft NPPF should be considered. This policy advises that there should be a presumption in favour of sustainable development. The presumption makes clear that where plans are not in place or up-to-date, development should be allowed unless this would compromise the key principles for sustainability in the Framework. However, the emerging policy in the draft NPPF has limited weight at this time.
- 5.3.6 The applicant seeks to attach considerable weight to the emerging County Durham Plan and the indicative housing distribution for Langley Moor, Brandon and Meadowfield of 550 dwellings. Weight can be attached to this housing figure at this stage. But it must be recognised that these figures could be subject to change. In addition, the final figures will also be required to undergo an examination in public, as will any forthcoming housing allocations. Notwithstanding this indicative housing allocation, it is not considered that the development of up to 70 dwellings on the application site would prejudice the long term aims of the emerging County Durham Plan considering the proposed large 550 unit allocation for this area.
- 5.4 Compliance with the Regional Spatial Strategy
- 5.4.1 The RSS sets out the broad development strategy to 2021 and beyond. It identifies broad strategic locations for new housing developments so that the need and demand for housing can be addressed in a way that reflects sustainable development principles.
- 5.4.2 The locational strategy for the NE region, enshrined in Policy 6 of RSS, aims to support the development and redevelopment of the two city regions (Tyne & Wear and Tees Valley). This will be achieved by concentrating the majority of new development and house building in the conurbations, main settlements and regeneration towns, whilst allowing development appropriate in scale within secondary settlements. The locational strategy acknowledges the need to ensure the success of the region's housing market restructuring initiatives, the reuse of previously developed land and a reduction in the need to travel to access work, services, and facilities.
- 5.4.3 The RSS recognises that in County Durham, the towns in the regeneration areas continue to be the main focus for development and recognises the importance of ensuring that the function and vitality of these places is protected and enhanced.
- 5.4.4 As part of the on-going production of the 'The County Durham Plan', a 'Settlement Study' has been carried out. This study looks at the amenities possessed by the settlements across County Durham, including public transport, public and private services, and access to jobs. The findings indicate that Langley Moor is a secondary settlement. The conclusion which can be drawn from this is that the village is generally well served by services and facilities, greatly contributing to its sustainability.
- 5.4.5 In identifying land for development, Local Planning Authorities should adopt a sequential approach to the identification of land for development. This approach is enshrined in Policy 4 of the RSS. Together with policies 6, 10 and 29 the focus should be on increasing housing development within urban areas and the priority should be suitable previously-developed sites and buildings in urban areas ahead of greenfield sites.

- 5.4.6 Whilst this policy is primarily aimed at plan-making, it is considered that the principles can equally be applied to planning proposals, particularly in instances when developers are submitting applications before there is an opportunity to consider different sites on a level playing field though the development of the plan.
- 5.4.7 The applicant's "Planning, Economic and Affordable Housing Statement" examines alternative Strategic Housing Land Availability Assessment (SHLAA) sites within Langley Moor, Brandon and Meadowfield. The conclusion which the applicant draws is that the Langley Hall Farm site is the most suitable and sequentially preferable site in this area. The nearby Brandon Football Club site is also sustainable and could come forward.
- 5.4.8 Overall, with respect to the Local Plan and the RSS, it is considered that there is conflict with the City of Durham Local Plan and RSS on account that housing development is proposed beyond the settlement boundary in the countryside. The development also raises conflict with the RSS on account that the site does not utilise previously developed land. However, as mentioned previously it is considered that the site is in a sustainable location for residential development and that Local Plan and RSS policies must be weighed against the aims of the draft NPPF.
- 5.5 Compliance with Planning Policy Statement 3 – Housing (PPS3)
- 5.5.1 PPS3 clarifies that in support of its objective of creating mixed and sustainable communities, the Government's policy is to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure.
- 5.5.2 Housing Policy 28 of RSS for the North East seeks an annual average provision of 1,615 dwellings in County Durham up to 2021, with the adequacy of this level of provision being reviewed by future monitoring and revisions of the RSS. In due course, the County Durham Plan will set its own housing targets for the period up to 2030, however, until the figures contained within the "Policy Directions" document are firmed up and tested through examination, the RSS remains relevant to development proposals until such time as it is revoked under the Localism Bill.
- 5.5.3 The RSS requires the (former) Durham City district to provide 3,800 net new dwellings from 2004–2021 at an average of 225 units per annum (250 for the period 2004-11, 220 for 2011-16 and 190 for 2016-21). This figure should be treated as a floor target, so represents the minimum number of dwellings which must be provided.
- 5.5.4 PPS3 makes clear that Local Planning Authorities are to maintain an up to date 5-year supply of housing sites. On this final issue, it is considered that there is a 5-year supply of housing within the (former) Durham City area. As such, there is no overriding requirement to release this land for housing imminently unless there are significant benefits to the scheme. PPS3 also advises that releasing sites prematurely should not be a reason to refuse planning permission.
- 5.5.5 To conclude, it is considered that due to the site being located on the edge of the settlement boundary close to community facilities, shops, schools and public transport links, it is considered to be in a sustainable location for residential development. With regard to the applicants suggestion that the Local Plan is out of date, it is considered that the Local Plan strategy is not patently inconsistent with either the RSS or PPS3, and consequently considerable weight can be attributed to

the Local Plan and its policies. However, the governments draft NPPF should also be considered. This policy advises that there should be a presumption in favour of sustainable development such as the one proposed. The presumption makes clear that where plans are not in place or up-to-date, development should be allowed unless this would compromise the key principles for sustainability in the Framework. In terms of the indicative housing allocation for the Langley Moor area of 550, it is not considered that the development of up to 70 dwellings on the application site would prejudice the long term aims of the emerging County Durham Plan. In addition, PPS3 advises that releasing sites prematurely should not be a reason to refuse planning permission. Officers therefore consider the principle of bringing this site for residential development is acceptable.

## 5.6 Affordable Housing

5.6.1 The provision of affordable housing where a need has been identified is encouraged through PPS3, and Policy 30 of the RSS requires a range of dwelling types and sizes, including affordable housing and alternative forms of tenure, to meet the needs of all sectors of the community.

5.6.2 The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2008 and supplies the evidence base for 30% affordable housing across the former Durham City area, while PPS3 (Para 29) makes plain the importance of the SHMA in setting targets. Where a developer puts forward an offer of less than 30%, a financial appraisal of the scheme must be undertaken to ensure that the maximum amount of affordable housing is achieved whilst ensuring the scheme remains viable.

5.6.3 The applicants consider that the inclusion of 30% affordable housing will make their scheme unviable. The Council's Estates Team has undertaken its own analysis of house prices in the Langley Moor area, and inputting this information into a development appraisal, is of the opinion that the scheme is able to bare a significant level of affordable housing, but agrees with the applicants financial appraisal, that 30% would make the scheme unviable. This stance has been conveyed to the applicant's agent, and following protracted negotiations an agreement has been reached. They have now agreed to provide 23% affordable housing as part of their scheme, 80% of this affordable housing would be in the form of social rent and 20% would be an intermediate product.

5.6.4 It is considered that the contribution this scheme will make toward meeting the housing needs of all sectors of the community and bringing a sustainable site forward should be afforded weight in the determination of this application.

## 5.7 Other community benefits

5.7.1 In addition to the provision of affordable housing on the site, the applicant has also agreed to make a financial contribution of £70,000 towards recreational facilities in the Langley Moor area along with a £40,000 contribution toward public art in accordance with the City of Durham Local Plan.

## 5.8 Highways issues

5.8.1 The Highways Officer has noted that there are concerns regarding additional traffic and its impact on the highway network, however it is concluded that the proposal is relatively modest in terms of the existing dwellings already served by Brandon Lane

and that the level of traffic flows which would be created by the proposal are not considered to be unacceptable. The Highways Officer has no objections to the proposed access subject to conditions relating to the junction radii and a footway link being provided to the bus stop to the east of the site. Therefore the proposals are considered to accord with Local Plan Policies T1 and T10.

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## 6.0 CONCLUSION

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6.1.1 In summary, the application site is adjacent to the settlement boundary it is in a sustainable location for residential development given its proximity to community facilities, shops, schools and public transport. It is also considered that the provision of affordable housing in close proximity to Durham City and financial contributions toward recreational facilities and public art are of community benefit. Overall it is considered that this proposal will help ensure the creation of sustainable communities, and development, which meets the housing needs of all sectors of the community. For these reasons, and taking into account the governments draft NPPF, it is considered that these benefits represent the material considerations to justify determining this application not in strict accordance with the development plan bringing a premature a premature site forward ahead of the 'new' Local Plan.

6.1.2 The development is thereby recommended for approval.

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## 7.0 RECOMMENDATION

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7.1.1 That the application be **Approved** subject to the following conditions;

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

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

2. Application for approval of reserved matters shall be made to the Local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

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

3. The development hereby permitted shall not be commenced until:

a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment. Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority if identified as being required following the completion of the desk-top study.



- b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority.
- c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority.
- d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme.
- e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material shall be agreed with the Local Planning Authority

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with PPS 23 and policy U11 of the City of Durham Local Plan.*

4. No development shall take place unless in accordance with the mitigation detailed within Sections D4 and D5 of the ecology report 'An extended phase 1 and protected species survey of land at Langley Moor, Co. Durham ' carried out by E3 Ecology Ltd, revision dated 10th June 2011

*Reason: In the interests of preserving protected species in accordance with PPS9 and policy E16 of the City of Durham Local Plan.*

5. Prior to submission of the reserved matters/full planning application the developer must undertake an agreed programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record within 6 months of the date of completion of the scheme hereby approved by this permission. The strategy shall include details of the following:

- a) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with a brief issued by the County Durham Archaeology Section; the evaluation is to be undertaken following the approval of planning permission,
- b) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;
- c) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
- d) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (a) and (c) above is completed prior to the commencement of permitted development in the area of archaeological interest; and

e) notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

*Reason: In the interests of the historic environment and to comply with PPS 5, RSS policy 32 and policy E24 of the City of Durham Local Plan.*

6. Prior to the commencement of development, full engineering details of a connecting footway link on the northern side of Brandon Lane, connecting with the eastbound bus stop to the east of the site, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed footway shall be constructed and made available for use before the occupation of any dwellings.

*Reason: In the interests of highway safety and to comply with policy T1 of the City of Durham Local Plan.*

7. Notwithstanding the submitted access details, the junction entrance radii with Brandon Lane must be 10 metres.

*Reason: In the interests of highway safety and to comply with policy T1 of the City of Durham Local Plan.*

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## **8.0 REASONS FOR THE RECOMMENDATION**

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8.1.1 The proposed development has been assessed against the following policies:

*National Policy* – Draft NPPF, PPS1, PPS3, PPS7, PPS9, PPS16, PPS22, PPS23, PPS25

*Regional Policy* – 1, 2, 4, 6, 7, 8, 24, 28, 29, 30, 32, 33, 35, 38

*Local Plan Policy* - E7, E16, E24, H3, H5, H12, H13, R2, T1, T10, Q1, Policy Q2, Q4, Q5, Q8, U8a, U11

8.1.2 In summary, officers are of the opinion that on balance, the benefits of the proposals along with the sustainable location of the proposed development are sufficient to outweigh any policy concerns. The application site is adjacent to the settlement boundary and is in a sustainable location for residential development given its proximity to community facilities, shops, schools and public transport. It is also considered that the provision of affordable housing in close proximity to Durham City and financial contributions toward recreational facilities and public art are of community benefit. It is considered that this proposal will help ensure the creation of sustainable communities, and development, which meets the housing needs of all sectors of the community.

8.1.3 The governments emerging draft NPPF also supports the proposals. This framework advises that there should be a presumption in favour of sustainable development such as the one proposed. The presumption makes clear that where plans are not in place or up-to-date, development should be allowed unless this would compromise the key principles for sustainability in the Framework. In terms of the indicative housing allocation for the Langley Moor area of 550, it is not considered that the development of up to 70 dwellings on the application site would prejudice the long term aims of the emerging County Durham Plan. In addition, PPS3 advises that

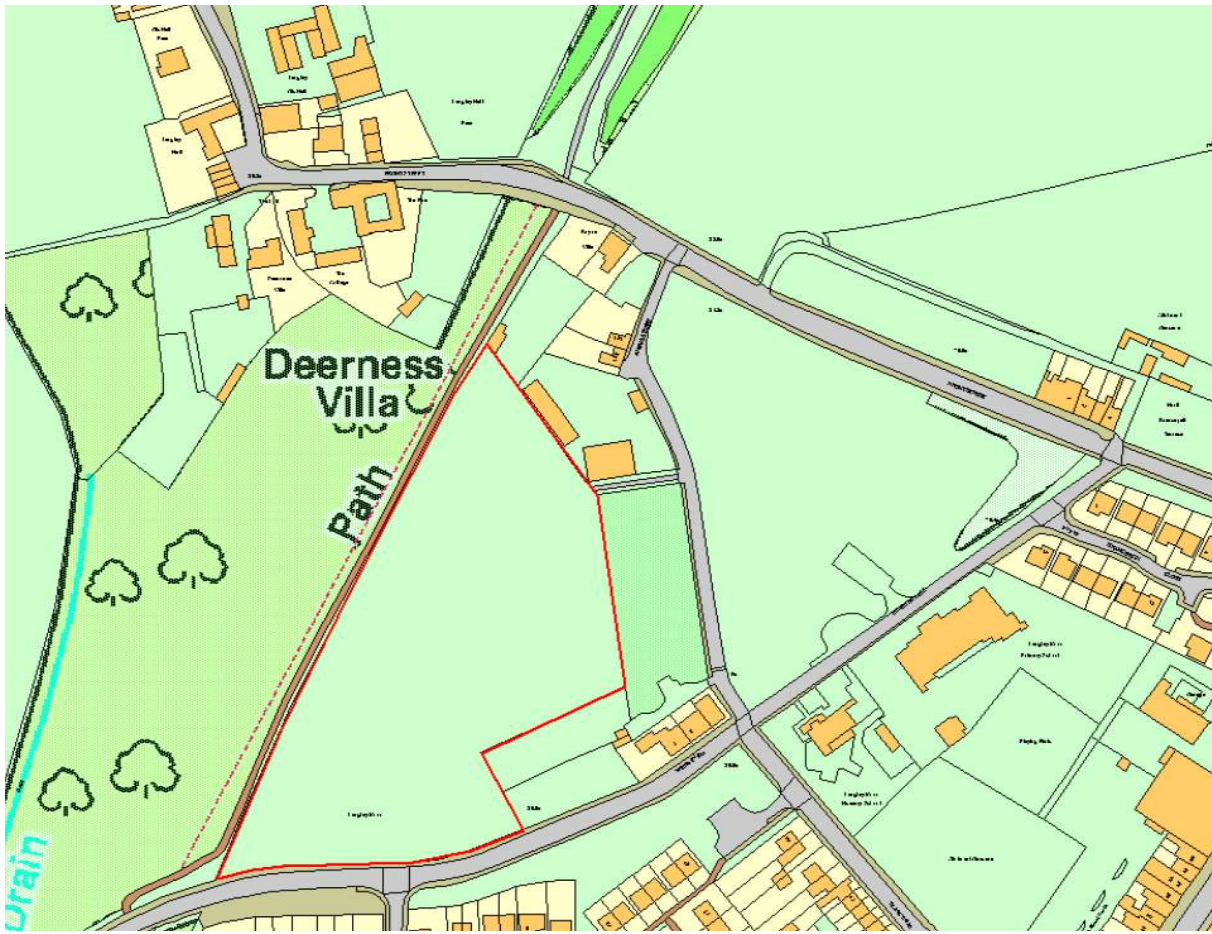
releasing sites prematurely should not be a reason to refuse planning permission. Officers therefore consider the principle of bringing this site for residential development is acceptable.

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## **9.0 BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- City of Durham Local Plan May 2004
- Planning Policy Statements / Guidance
- Draft National Planning Policy Framework
- Consultation Responses



**Planning Services**

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**Comments**

**Date** 10 January 2012

**Scale**

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	4/11/00930/FPA
FULL APPLICATION DESCRIPTION:	Resubmission of planning application 11/00072/FPA, for the erection of a detached garage and store to rear of property.
NAME OF APPLICANT:	Mr D Carter
ADDRESS:	Gordon Mount, 19 Crossgate Peth, Durham, DH1 4PZ
ELECTORAL DIVISION:	Neville's Cross Steven Pilkington Planning Officer
CASE OFFICER:	0191 3018712 <a href="mailto:steven.pilkington@durham.gov.uk">steven.pilkington@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site consist of a large semi detached dwelling situated on Crossgate Peth, within the Durham City Conservation Area, the site is also subject to an article 4(2) Direction. The property itself is two storey, constructed from brick with a slate roof and dates from the early 20<sup>th</sup> Century.
2. To the rear of the dwelling a large garden is present measuring some 30m in length, a level change of 2-3m is evident between the dwelling house and down to highway to the rear of the site, The Avenue. At present to the rear of the property, adjacent the highway, a hard standing area and a boundary/retaining wall measuring 0.9m - 1.8m in height is present. This replaced a detached garage and an approximately 1.4m high boundary wall.

### The Proposal

3. Planning permission is sought for the erection of a detached workshop/store and store to the rear of the property, set back from the highway by 6.8m. The building will measure 6m in length by 4.20m in width and will be sited at an elevated level in the garden, 1.8m above the road height of The Avenue. Given this elevated height and the mono pitched roof, the total height of the building will measure a maximum of 4.7m. A storage area will be located between the void of the floor level and elevated ground level. It is proposed that the garage will be clad in timber boards with windows located in the south eastern elevation and an access door in the south western elevation.
4. In addition to the garage a 2m high brick boundary wall and wooden access gates are proposed, these will form the boundary treatments to The Avenue. The boundary and retaining wall along, with the hardstanding and the demolition of the previous boundary wall would have required planning permission and therefore these

elements form part of this planning application and should be considered retrospectively.

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## **PLANNING HISTORY**

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5. Members of the Planning Committee have refused an application for a similar development on site in April 2011. It was considered that the level of detail and quality of the submitted plans were insufficient to determine whether the proposed development would preserve or enhance the character and appearance of Durham (City Centre) Conservation Area.
6. Prior to the submission of this application a previous detached garage and boundary wall was demolished on site. A new boundary wall and retaining wall has subsequently been erected on site while forming enlarged hardstanding. In order to facilitate the increased hardstanding and retaining wall vegetation has been removed from the site, including at least one tree.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. *Planning Policy Statement 1: (PPS1) Delivering Sustainable Development* sets out the Government's overarching planning policies on the delivery of sustainable development through the planning System.
8. *Planning Policy Statement 5: (PPS5) Planning and the Historic Environment*. Sets out the Government's planning policies on the conservation of the historic environment with a key aim of conserving heritage assets in a manner appropriate to their significance.

### **REGIONAL PLANNING POLICY**

9. *Policy 1: North-east Renaissance* seeks to deliver sustainable and inclusive economic prosperity and growth, and sustainable communities, capitalising on the Region's diverse natural and built environments, heritage and culture.
10. *Policy 8: Protecting and Enhancing the Environment* seeks to promote measures such as high quality design in all development and promoting development that is sympathetic to its surroundings.
11. *Policy 32: Historic Environment*: Seeks to preserve and enhance the historic environment

### **LOCAL PLAN POLICY:**

12. *Saved Policy E6- Durham City Centre Conservation Area* - states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
13. *Saved Policy E14 – Trees and Hedgerows* – sets out that development proposals should retain important trees and hedgerows wherever possible.

14. *Saved policy E21 – Historic Environment* - requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site; and requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site
15. *Saved Policy E22 - Conservation Areas* - seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
16. *Saved Policy H13 – The Character of Residential Areas* – Sets out that planning permissions will not be granted for new developments which have an adverse affect on the character or appearance of residential areas.
17. *Saved Policy T1 - Traffic Generation – General* - states that planning permission will not be granted for development which would be detrimental to highway safety
18. *Saved Policy T10 - Parking – General Provision* - states that parking provided as part of a development should be limited in amount so as to promote sustainable transport choices.
19. *Saved Policy Q9 - Alterations and Extensions to Residential Property* - states that states that proposals for residential extensions should have a scale, design and materials sympathetic to the character and appearance of the area, whilst ensuring no adverse impact upon residential amenity for adjacent occupiers.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

20. *The Highways Authority* – Offers no objections to the scheme providing that the wooden gates open inwards.

### **INTERNAL CONSULTEE RESPONSES:**

21. *Design and Conservation* – Consider that the garage remains subordinate to the main dwelling, and the setback from the street scene lessens its impact. However the design and detailing of the scheme are key to its success, conditions should be attached to any approval requiring further details of the materials and finishing of the timber boards and the materials and coping used in the boundary walls.

### **PUBLIC RESPONSES:**

22. Neighbouring residents have been notified by individual notification letters, site notice and press notice to date two objections have been received, along with one letter of representation as summarised below:-
  - Retrospective nature to some of the work
  - Reduction in the amount of green/garden space
  - Loss of trees
  - Inappropriate size of development, including height and footprint



- Site will be used for commercial operations
- In appropriate development in the Conservation Area
- Scale of boundary treatments
- Level of detail is not sufficient
- Development would not preserve or enhance the Conservation Area
- Application has been prejudged
- Loss of privacy for neighbouring properties
- Boundary treatments should be increased in height to screen the development

#### **APPLICANTS STATEMENT:**

23. The aim of this proposal is to provide parking and storage for the needs of my family and for the proposal to blend to the better elements of The Avenue. The combination of brick and timber is in keeping with the main theme of The Avenue. The garage will aim to add value to the local area and improve the rear of our house which was unsafe and of poor visual condition.

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

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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24. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the following represent the principle material planning considerations raised.

#### Impact on Visual Amenity of Conservation Area

25. As identified above members have previously refused an application on this site, principally as it was considered that the submitted plans are insufficient to determine whether the proposed development would preserve or enhance the character and appearance of the Conservation Area. The applicant has sought to address this by redrawing the plans and amending the scheme. Although a Heritage Statement has not been submitted along side that application, it is considered that the sufficient information has now been submitted for the Authority to fully appreciate and consider the impact of the development, in line with the proportionate approach identified in the Councils Validation Checklist.
26. Planning Policy Statement 5: Planning for the Historic Environment requires that The Authority considers development proposals in relation to the significance of the Heritage Assets. In this instance the Heritage Assets are the Durham City Conservation Area and the street of Cross Gate Peth which is afforded further protection under an Article 4 direction removing certain permitted development rights.
27. Cross Gate Peth is principally defined by a number of large terraced, semi detached and detached properties fronting out onto the A690. The properties, although previously extended retain their original character and appearance and overall provide a positive element to the surrounding street and wider area. Given that the proposed garage will be located to the rear of the terrace where that due to the level changes and vegetation there is not a strong relationship with the principle elevations and character of Crossgate Peth. It is therefore considered that the



development will have no significant impact on the reasons for the Article 4 direction of Cross Gate Peth and the character of the main elevation.

28. The principle impact is therefore considered to be on the street scene of The Avenue and the resultant impact of the wider Durham Conservation Area. Saved policies E6, E21 and E22 of the Local Plan seeks to preserve the setting, appearance and character of conservation areas, particularly Durham City Centre. This is replicated at a Regional Level in policy 32 of the RSS identifying that developments should seek to preserve and enhance the historic environment. The character of the Durham City Conservation Area in the immediate area is defined by two storey terraced properties lining the Northern Side of The Avenue adjacent the site. Although these buildings have been altered through the provision of dormer windows, differing boundary treatments and more modern properties, this side of the street is considered to significantly contribute to the character of the area. The opposite side, including the application site, consists of the rear gardens of Cross Gate Peth, to which some are at an elevated level, with brick, stone walling and fencing form the boundary treatments of the site, extending up to approximately 2.4m in height. The visual impact of these boundaries are softened by mature trees and shrubs, a number of detached garages are located on this side of the street, all of which have minimal architectural quality.
29. In assessing the impact of the proposed development, including the retrospective works undertaken against the above planning policies and the Heritage Assets identified, while taking into account representations received, it is considered that the scheme would not detract from the character or appearance of the street scene or Conservation Area. This is because the proposed boundary treatments are considered commensurate in scale and appearance (subject controlling the materials to be used) to other boundary treatments on the south eastern side of the street of The Avenue. In addition to this given that the building will set back a minimum of 6.8m from these boundary treatments, where despite its raised height from street level it would not create a particularly prominent feature. Screening would also be afforded from adjacent gardens, walls and buildings which would again reduce its prominence within the street scene.
30. Amendments to the previous scheme include the reorientation of the building so that the elevation with the lower eave height faces out onto The Avenue this helps to further reduce the amount of development that would be visible from street level, particularly when viewed from a perspective. However as advised by the councils Design Officer, the success of the scheme rests on the quality and detailing of the finishing material of not only of the building but of the boundary fence and stone wall. Accordingly it is recommended that conditions be attached to any approval further detailing these to ensure the contemporary design of the building is achieved. The design officer recommends amendments to the windows proportions, however these would face towards the existing property and will have no impact on the street scene, the windows will also be screened by existing vegetation on site.
31. Objections have been received from local residents in relation to the proposed boundary treatments regarding both their excessive height and conversely the limited screening of the development they provide. In balancing these two issues it is considered the proposed boundary treatments offer a compromise in the prominence in the street scene while screening the workshop. Although higher boundary treatments are present within the street it is considered they form a slightly incongruous feature, namely at 15 Crossgate Peth. The impact of other boundary treatments are also mitigated through the erection of fencing on top of walls set back slightly into the garden. However this is not achievable in this instance given the land levels of the site.

32. Overall in considering the impact of the development on the street scene of The Avenue and the wider Conservation Area against the above planning policies and representations received, it is considered that due to the recess from the road frontage the development would have an acceptable impact. The scale and massing of the building is also considered commensurate with other outbuildings within the street and the existing dwelling. Subject to appropriate conditions regarding the materials to be used in the development and a mitigating landscape scheme the development is considered acceptable, preserving the character of the Conservation Area in line with policies E6, E21 and E22 of the Local Plan.

#### Impact on Amenity of Neighbouring Land Users

33. Objections have been raised regarding the potential to adversely impact on the amenity of neighbouring residents through a loss of privacy. Saved policy Q9 of the Local Plan requires development associated with residential properties to give consideration to the privacy and amenity of neighbouring residents.
34. In considering this issue, given that no windows will be located in the rear elevation of the building (facing the Avenue) a loss of privacy would not arise. Furthermore given the use of the building and the distance to other dwellings, no loss of privacy is considered to arise from the proposed windows looking back towards the Cross Gate Peth and towards the garden of no.20.
35. A separation distance of approximately 19m will be evident between the proposed building and the properties lining the Avenue, this is considered sufficient to prevent a loss of amenity arising.
36. Policy H13 of the Local Plan seeks to ensure that developments protect the character of residential areas. Concerns have been raised in relation to this issue particularly as the objector owns a large campervan and trailer which potentially be visible over the fencing and from the window of residents lining the Avenue. While it is appreciated that the parking of a larger vehicle may give the part impression of a commercial use, it is considered that it would be unreasonable to restrict the development on this matter, due to the wider issues above particularly given the residential use of the building and the site. Further planning approval would be required should a commercial operation be run from the site.

#### Trees

37. Saved Policy E14 of the Local Plan requires development proposals to protect adjacent vegetation, practically in relation to significant trees. It is alleged that the applicant removed a number of shrubs and trees to carry out the development to date. If these trees had a trunk over 75mm in diameter at a height of 1.5m at ground level they would have been protected automatically as they were located in a conservation area. After reviewing historic photographs of the site it is apparent that one notable tree has been removed. It is questionable whether this tree would have met the tests necessary to serve a Tree Preservation Order to secure its continued protection. However notwithstanding this it is considered that its loss could be compensated for through a scheme of landscaping, which would also further screen the development. This is recommended to be attached as a condition.

#### Impact on Highway Safety

38. Prior to its demolition, the existing dwelling was served by a single detached garage providing 1 in-curtilage parking space for the property. This scheme will retain this in-

curtilage space and therefore the Highways Authority offer no objections to the development providing the gates open inwards to the site. It is recommended to attach a condition to this effect.

## Other Issues

39. Objections have been raised in relation to the part retrospective nature of this application and the work that has been undertaken to date on site. However provision is made within the Planning System to apply retrospectively, although this is not advised or encouraged. In this instance officers were of the opinion that based on the work undertaken to date it would not be expedient to take formal enforcement action as the development had the potential to be regularised through the submission of a planning application.
40. Concerns have also been raised regarding the pre application discussions held with the applicant which may have pre judged the application. However member will appreciate that the pre application advice is an important facility within the planning service, helping developers, and members of the public frame their development proposals and move towards more suitable schemes. However this process is based on officers individual informal opinions and does not prejudice the council to the outcome of any subsequent planning application, as set out in the Councils Pre Application Protocol.

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## CONCLUSION

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41. The proposed development has been considered against the above policies and is considered to have an acceptable impact on the street scene of The Avenue while protecting the character, appearance and setting the wider Durham City Conservation Area, subject the conditions set out below. The scheme is also considered to protect the privacy and amenity of neighbouring residents and highways.
42. There are no material considerations which indicate a decision should be otherwise and therefore the application is recommended for approval

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## RECOMMENDATION

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

### Approved Plans

1. The development hereby approved shall be carried out in strict accordance with the following approved plans:-
  - Site Location Plan, Received 8<sup>th</sup> November 2011
  - Proposed Site Layout, Received 22<sup>nd</sup> November 2011
  - Proposed Elevations, Received 22<sup>nd</sup> November 2011

Reason:- In order to define the consent and ensure that a satisfactory form of development is obtained to protect the character and setting Durham City Conservation Area, and to accord with policies, E6, E14, E21, E22, H13, Q9 , T1 and T10 of the Durham City Local Plan and Policies 1, 8 and 32 of the Regional Spatial Strategy for the North East of England.

### Materials

2. Notwithstanding any description of the materials in the application, no development of the boundary wall, gates or building hereby approved shall be commenced until samples or

precise details of the materials to be used in the construction of these elements of development have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity of the Durham City Conservation Area and in accordance with the provisions polices E6, E14, E21, E22 and Q9 of the Durham City Local Plan and Policy 32 (Historic Environment) of the North East of England Regional Spatial Strategy.

#### Landscaping

3. No development of any hard standing shall commence and/or the building hereby approved shall not be brought into use development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include accurate plan based details of the following:

The provision of details of a soft landscaping including planting species, sizes, layout, densities, numbers to assist the screening of the development.

Details of the provision of trees to relocate those previously removed

Details of planting procedures or specification.

Full details of the materials and finishing to be used in any hardstanding

All planting, and hard surfacing 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. 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.

Reason: In order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity of the Durham City Conservation Area and to mitigate the loss of existing trees on site in accordance with the provisions polices E6, E14, E21, E22 and Q9 of the Durham City Local Plan and Policy 32 (Historic Environment) of the North East of England Regional Spatial Strategy

#### Access Gates.

4. The access gates depicted on the submitted plans shall open inwards, only not onto the public highway.

Reason: In the interests of highway safety and in accordance with policy T1 of the Durham City local Plan.

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## **REASONS FOR THE RECOMMENDATION**

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The proposed development has been assessed against polices E6, E14, E21, E22, H13, Q9 , T1 and T10 of the Durham City Local Plan and Polices 1, 8 and 32 of the Regional Spatial Strategy for the North East of England and is considered acceptable particularly in relation to the principle material considerations relation the impact of the development on the character appearance and setting of the Durham City Conservation Area, amenity of adjacent landusers and highway safety.

In relation to the objections received from neighbouring residents, in this instance these were not considered sufficient to justify approval of the application given the residential nature of eth development and its location and screening afforded from the street scene.

There are no material considerations which indicate a decision should be otherwise and therefore the application is recommended for approval. A copy of the officers Committee Report is available on request.

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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans

Design and Access Statement

North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008

City of Durham Local Plan 2004

Planning Policy Statements 1 and 5

Response from Highway Authority

Response from Design and Historic Environment Section

Public Consultation Responses



19 Crossgate Peth



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**Comments**

**Date** 20<sup>th</sup> December 2011

**Scale** 1:1250

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	4/11/00897/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Proposed demolition of existing single storey flat roof area to rear and erection of single storey pitched roof extension to rear of existing dwelling
<b>NAME OF APPLICANT:</b>	Mr J Orr
<b>ADDRESS:</b>	165 Gilesgate, Durham
<b>ELECTORAL DIVISION:</b>	Gilesgate
<b>CASE OFFICER:</b>	Stephen Potter Assistant Planning Officer spotter@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site lies to the southern side of Gilesgate Bank, a predominately residential area of terraced streets forming part of the principal approach into the city from the east and is within the Durham City Centre Conservation Area.

### The Proposal

2. The application proposes the demolition of existing single storey flat roof extensions to the rear elevation and the erection of a single storey pitched roof extension to the rear elevation of the dwelling, a proposed projection of 3.8 metres a width of 6.2 metres and a height of 3.95 metres incorporating a pitched roof profile.

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## PLANNING HISTORY

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3. No relevant history for the application site.

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## PLANNING POLICY

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### NATIONAL POLICY

4. In July 2011 The government published the National Planning Policy Framework in its draft form. The draft framework is based on the policy of sustainable development and establishes a presumption in favor of sustainable development. The presumption means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the development should not be allowed if it would undermine the key principals for sustainability in the framework. Being in draft format and a consultation document it is subject to potential amendment. It can be a

matter for the decision maker in each particular case. The Current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

#### PPS1 Delivering Sustainable Development

5. PPS1 sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. This PPS replaces Planning Policy Guidance Note 1, General Policies and Principles, published in February 1997.

#### REGIONAL PLANNING POLICY

6. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS)* was published in mid-July 2008 in its finalised format and forms part of the Development Plan. The RSS has a vision to ensure that the North East will be a Region where present and future generations have a high quality of life. Central to the RSS is a key principle of delivering sustainable communities. Of particular relevance are the following
7. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the forthcoming Local Government Bill becomes law. Both the RSS and the stated intention to abolish are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. Policies of particular relevance to this application are as follows:
8. *Policy 8 Protecting and Enhancing the Environment* - seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.
9. *Policy 32 - Historic Environment:*  
Seeks to preserve and enhance the historic environment

#### LOCAL PLAN POLICY: (City of Durham Local plan 2004)

10. *Policy E6 – Durham City Conservation Area* – Sets out the Councils aim to preserve the especial character, appearance and setting of the Durham City Conservation Area by ensuring a high quality design
11. *Policy E21- Protection of the Historic Environment* – requires development proposals to minimize adverse impacts on significant features of historic interest.
12. *Policy Q9 – Alterations and Extensions.* – Sets out that extensions to residential properties will be permitted where the design, scale and materials are sympathetic to the character and appearance of the area, respects the character of the area and amenity of adjoining occupiers and properties.
13. *Policy T1 – General Transport Policy* – Requires all developments to protect highway safety and/or have significant affect on the amenity of occupiers of neighbouring properties



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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

14. None

### **INTERNAL CONSULTEE RESPONSES:**

15. *Design & Historic Environment* considered that the proposed extension would not have any detrimental affect upon the character or appearance of the building or the surrounding Conservation Area.

### **PUBLIC RESPONSES:**

16. None

### **APPLICANTS STATEMENT:**

17. The applicant considers that the proposed extension would be consistent with other extensions to properties in the area and that the scale of the proposal would nor appear our of keeping within its surroundings and would not detract from the appearance of the property and surrounding properties.

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

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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18. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, layout and design, impact upon its surroundings, landscape and ecology, and highway safety and the loss of playing fields
19. National Planning Policy Statement 1 promotes high quality design and development that is sympathetic to its surroundings, this is reinforced in Planning Policy Statement 5 which seeks to preserve and enhance heritage assets. This approach is replicated in policies 8 and 32 of the Regional Spatial Strategy of the North East of England which requires that all developments are sympathetic to its surroundings while seeking to preserve and enhance conservation areas.
20. Polices E6 and E22 of the City of Durham Local Plan also seek to preserve the setting, appearance and character of conservation areas, particularly Durham City Centre. Policy Q9 also identifies that extensions to residential properties will not considered acceptable where they have an adverse effect on the character of the surrounding area and main dwelling.

21. Impact upon Visual Amenity and the Character and Appearance of the Area
22. The proposed extension would be positioned on the rear of the property and therefore screened from many public vantage points and would incorporate a pitched profile roof. The application would see the demolition of 2no. single storey flat roof extensions to the existing rear elevation and due to the modest scale of the proposed extension would appear subservient in relation to the host dwelling.
23. Design & Historic Environment have assessed the development and considered that the proposed extension would not have any detrimental affect upon the character or appearance of the building or the surrounding Conservation Area.
24. The design of the extension is considered acceptable with no harm caused to the character or appearance of the host property or local area.
25. Impact upon Residential Amenity
26. The proposed extension would project from the rear of the existing dwelling by 3.8 metres and would be set in from the shared boundary with 164 Gilesgate by 1 metre. The rear elevation of No. 164 houses a two storey pitched roof extension, the side elevation of which contains a ground floor access door, no windows are present in the side elevation. The original rear elevation of No. 164 contains windows to habitable rooms, a clear glazed window is proposed in the flanking elevation however a high level of screening is provided by a 2 metre high close boarded fence located on the shared boundary therefore no privacy concerns are raised.
27. To the west of the application site is the adjoining property of No.166 Gilesgate. No windows are proposed to the west elevation of the extension and given the presence of an existing 2.5 metre high boundary wall no concerns with regards to the creation of an overbearing impact or a loss of light or privacy for the adjacent occupiers.
28. No properties are situated to the rear of the application site with the property benefitting from a substantial rear garden space.
29. No letters of objection have been received in response the Councils consultation exercise. The proposed extension is not considered to cause any harm to the residential amenity of neighbouring occupiers in accordance with policy Q9 of the Local Plan.

#### Highway Safety

30. The existing dwelling does not benefit from in-curtilage parking; current parking arrangements consist of on street parking to the front of the property. Policy Q9 of the Local Plan states that additional parking provision may be required where there is an increase in bedroom accommodation. The proposed extension would not provide additional bedroom accommodation and as a result no harm to highway safety considered to occur in accordance with policies Q9 and T1 of the Local Plan.

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#### **CONCLUSION**

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31. The proposal is considered to accord with relevant development plan policies. The design of the extension is considered acceptable with no harm caused to the character or appearance of the host property or local area. The proposed extension is not considered to cause any harm to the residential amenity of neighbouring occupiers with

no objections raised with regards to other material planning considerations and approval is therefore recommended.

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## **RECOMMENDATION**

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and details Plans and elevations as received 31<sup>st</sup> October 2011

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies Q9 and T1 of the City of Durham Local Plan 2004.*

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

*Reason: In the interests of the appearance of the area and to comply with Policy Q9 of the City of Durham Local Plan 2004.*

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## **REASONS FOR THE RECOMMENDATION**

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1. The proposed development is considered to be an acceptable development in principle with no harm caused to the character or appearance of the area, the amenities of neighbouring occupiers or upon highway safety in accordance with Policies Q9, E6, E21, E22, and T1 of the City of Durham Local Plan 2004.

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 and the City of Durham Local Plan 2004 which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

In particular the development was considered to cause no harm to the character or appearance of the Conservation Area or upon the residential amenity of neighbouring occupiers

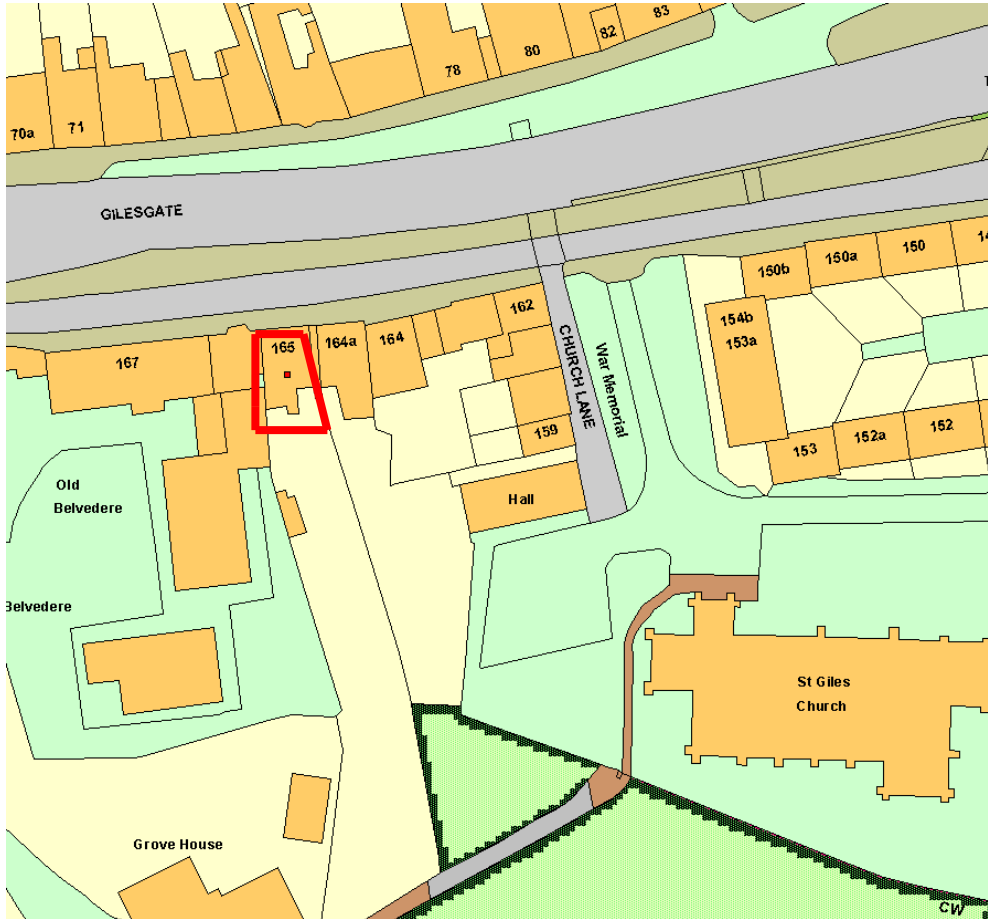
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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
Planning Policy Statements PPS1 and PPS5  
North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008





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**Comments**

165 Gilesgate  
Durham  
DH1 1QH

**Date** 10<sup>th</sup> January 2011

**Scale** 1:1250

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	4/11/00774/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 30 no. dwellinghouses with formation of new access and closure of existing access (resubmission)
<b>NAME OF APPLICANT:</b>	Durham Villages Regeneration Company
<b>ADDRESS:</b>	Land at Woodland Terrace and College View, Esh Winning, Durham
<b>ELECTORAL DIVISION:</b>	Deerness Valley
<b>CASE OFFICER:</b>	Henry Jones Senior Planning Officer 0191 3018739 henry.jones@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises of an enclosed parcel of land containing grassland and a hardsurfaced access track situated adjacent to the existing Esh Winning Primary School at the junction of Woodland Terrace and College View.
2. The site contains a small grouping of trees adjacent to the gable end of No. 47 College View with further trees located just beyond but adjacent to the site at the neighbouring school.
3. The site has residential properties on College View located to its north and west. On the opposite side of Woodland Terrace there lies a cemetery and adjacent to this a library and community centre. To the south of the site is the existing primary school, a new school site is currently being constructed beyond. A bus stop is situated on Woodland Terrace immediately adjacent to the site.
4. The main village centre of Esh Winning is located nearby, around 315m to the east of the application site.

#### The Proposal

5. This application seeks planning permission for the erection of 30 no. dwellings. A mixture of 2 and 3 bed properties are proposed and these comprise of two storey and

two and a half storey semi-detached properties, terraced properties and linked bungalows.

6. Properties on Woodland Terrace, which is adjacent to the site, would be orientated to address the road, similarly properties would face onto College View with the exception of the gable end at plot 11.
7. Access is proposed at the northern end of the site from College View with the internal road providing access to the majority of properties within the development. Plots 1 to 6 would gain access directly from Woodland Terrace to parking spaces and garages.
8. Each property would be served by its own private garden space and each property would have private parking. Visitor spaces are shown throughout the development site.
9. Of the proposed 30 no. dwellings, 22 are to be HCA backed affordable homes transferred to a registered social landlord. The application is accompanied by a S106 agreement to this end.
10. As part of the proposed works it is proposed for the existing bus stop to be moved marginally (around 5m) to the north west, speed humps on Woodland Terrace are also proposed for relocation so that the accesses to plots 1 to 6 can be achieved.
11. This application is a resubmission of a previous proposal for 31 dwellings on the site by Durham Villages Regeneration Company (DVRC).
12. The application is being presented to Committee as it comprises a major development.

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## **PLANNING HISTORY**

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13. An outline planning application for a residential development was submitted in 2000 but later withdrawn.
14. In the Esh Winning Village Appraisal (2006) part of the site was identified for being suitable for a small scale residential development. A Masterplanning exercise subsequently undertaken in 2007 for the village identified the site as an opportunity for development.
15. In 2009 an application was submitted for the erection of 31 dwellings on the site. At Planning Committee in March 2009 members resolved to approve the application subject to the signing of a S106 agreement. However, a challenge that the site could be claimed as village green ensued and that planning permission was never issued and the application later withdrawn. However, the land was not successfully claimed as village green.
16. This application is a revised and resubmitted application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

17. In July 2011 The Government published the National Planning Policy Framework in its draft form. The draft framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. The presumption means that where local plans are not up-to-date, or not a clear basis for decisions,



development should be allowed. However, the development should not be allowed if it would undermine the key principles for sustainability in the Framework. Being in draft format and a consultation document it is subject to potential amendment. It can be considered a material consideration, although the weight to be attributed to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

18. *Planning Policy Statement 1 (PPS1): Delivering Sustainable Development* - sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
19. *Planning Policy Statement 3 (PPS3): Housing* - underpins the delivery of the Government's strategic housing policy objectives and the goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.
20. *Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation*, sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.
21. *Planning Policy Guidance Note 13 (PPG13): Transport* - seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight. It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car.
22. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, accommodate housing principally within urban areas and recognise that provision for movement by walking, cycling and public transport are important but may be less achievable in some rural areas.
23. *Planning Policy Guidance Note 17(PPG17): Sport and Recreation* - describes the role of the planning system in assessing opportunities and needs for sport and recreation provision and safeguarding open space which has recreational value.
24. The guidance observes that it is part of the function of the planning system to ensure that through the preparation of development plans adequate land and water resources are allocated for organised sport and informal recreation.
25. It says that local planning authorities should take account of the community's need for recreational space, having regard to current levels of provision and deficiencies and resisting pressures for development of open space which conflict with the wider public interest.
26. It discusses the role of all levels of plan, planning agreements, and the use of local authority land and compulsory purchase powers. It discusses provision in urban areas, the urban fringe, the Green Belts, and the countryside and particular sports including football stadia, water sports and golf.
27. *Planning Policy Statement 23 (PPS23): Planning and Pollution Control* - sets out the planning approach to pollution control, the location of polluting development and where possible ensures new development is not affected by pollution.

28. *Planning Policy Statement (PPS25): Development and Flood Risk* explains how flood risk should be considered at all stages of the planning and development process. It sets out the importance of the management and reduction of flood risk in planning, acting on a precautionary basis and taking account of climate change.
29. Flood risk should be considered on a catchment-wide basis and where necessary across administrative boundaries, assuming the use of flood plains for their natural purpose rather than for inappropriate development.
30. The PPS says that susceptibility of land to flooding is a material planning consideration that the Environment Agency has the lead role in providing advice on flood issues and that developers should fund flood defences, where they are required because of the development.

## REGIONAL PLANNING POLICY

31. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
32. In July 2010 the Local Government Secretary signaled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the forthcoming Local Government Bill becomes law. Both the RSS and the stated intention to abolish are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. Policies of particular relevance to this application are as follows:
33. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
34. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
35. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
36. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
37. *Policy 24 - Delivering Sustainable Communities* states that planning proposals should seek through design to promote social cohesion, reduce inequalities as well as meeting sustainable development objectives.
38. *Policy 30 - Improving Inclusivity and Affordability* sets out that developments should provide a range of housing types and sizes responding to the needs of all members of the community as well as addressing affordability issues.

39. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.
40. *Policy 38 - Sustainable Construction* seeks to promote development which minimises energy consumption and promotes energy efficiency. On major development proposals 10% of their energy supply should come from decentralised and renewable or low-carbon sources.

**LOCAL PLAN POLICY:** (City of Durham Local Plan 2004)

41. *Policy E5a - Open Spaces within Settlement Boundaries* does not permit proposals which would detract from the functional, visual and environmental attributes they possess.
42. *Policy E14 - Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
43. *Policy E16 - Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
44. *Policy H3 - New Housing Development within the Villages* allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units. Exceptionally, the limited development of small greenfield sites will be permitted in the coalfield villages most in need of regeneration provided
45. *Policy H12 - Affordable Housing* seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. The associated Cabinet approved (December 2006) Supplementary Planning Document advises that 30% of all dwellings on a site providing over 25 dwellings should be provided as affordable units in perpetuity. Affordable Housing is defined in PPS3 as being housing which includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
46. *Policy H13 - Residential Areas – Impact upon Character and Amenity* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

47. *Policy H14 - Improving & Creating More Attractive Residential Areas* seeks to improve the environment of existing residential areas and their housing stock
48. *Policy T1 - Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
49. *Policy T10 - Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
50. *Policy R2 - Provision of Open Space – New Residential Development* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
51. *Policy Q3 - External Parking Areas* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
52. *Policy Q5 - Landscaping General Provision* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
53. *Policy Q8 - Layout and Design – Residential Development* sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
54. *Policy Q15 - Art in Design* states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
55. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
56. *Policy U8a - Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
57. *Policy U11 - Development on Contaminated Land* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
58. *Policy U13 - Development on Unstable Land* will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.

59. *Policy U14 - Energy Conservation – General* states that the energy efficient materials and construction techniques will be encouraged.

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

<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

60. The *Highway Authority* initially raised objection to the development as the proposed accesses to Woodland Terrace for plots 1-4 would conflict with an existing bus stop and traffic regulation order. Following further negotiation between the applicant and Highway Authority it is considered that a very slight movement of the bus stop by approximately 5m would remove the conflict with the proposed accesses and said objection has been withdrawn by the Highway Authority. The scheme would also require the relocation of speed humps on Woodland Terrace. It is understood that approval of this relocation would have to occur via Highways Committee.
61. Parking provision proposed within the site is considered acceptable. The internal road layout is considered suitable for adoption subject to improved pedestrian facilities comprising of a delineated footpath on both sides of the road being provided. Some concern is raised over a fence situated adjacent to No. 46 College View that restricts visibility.
62. *The Coal Authority* have raised no objections to the proposed development.
63. *Northumbrian Water* have requested conditions on any approval with regards to details of surface water discharge and a scheme proposing an adequate sewer diversion.

### **INTERNAL CONSULTEE RESPONSES:**

64. *Public Rights of Way* have raised no objections to the proposal.
65. *Environmental Health* have raised no objections but recommendations are made with regards to limiting working hours on site, dust suppression, reducing noise and vibration during the construction and prevention of burning materials on site.
66. *Landscape* have raised no objections to the development as such but several requests for additional information and clarity are sought in relation to impact upon existing trees and details with regards to the proposed planting plan.
67. *Ecology* have raised no objections to the development but recommend that the mitigation measures within the submitted protected species report are conditioned on any approval and if possible the ecological enhancements suggested within the Code for Sustainable Homes Assessment also conditioned.
68. *The Councils Senior Low Carbon Officer* considers that standard 10% energy reduction condition applies to the development, the application has not included detail demonstrating that this has been achieved.

### **PUBLIC RESPONSES:**

69. Three letters of objection have been received with regards to the application.

70. Objection is raised to the loss of a parcel of open space used for play by children. Children are now forced to play in the street due to an absence of open space in the area. A query is raised as to how permission was granted for the fence which has been erected at the site. Concerns are raised over traffic. Objection is raised as to how the village green status of the land did not materialise.
71. As more houses have been built in Esh Winning it is considered that there is an absence of additional community facilities, services and provision for children.
72. Objection is raised at the presence of housing on the site and the loss of views of the forest in the background beyond.
73. It was understood that as part of the Esh Winning Masterplan the housing on the site was meant for the occupiers of The Oaks but those residents have been rehoused elsewhere. The houses should be built at The Oaks and on Pine Tree when those houses are demolished.

#### **APPLICANTS STATEMENT:**

74. The application has been accompanied by a design and access statement in support of the proposal. This supporting statement considers that the proposed layout of the development provides strong visual frontages to Woodland Terrace and College View. The number and form of the proposed dwellings is considered suitable to the site and the local area.
75. The scale of the proposed dwellings is considered appropriate given neighbouring properties. The density of the development deemed to accord with PPS3.
76. The proposed access and internal road are to be provided to adoptable standard. A landscaping scheme is proposed in the interests of visual amenity with native species chosen.
77. Within the Durham City area 30% affordable housing is sought on residential estates, this proposal would provide 73% affordable housing. The development of this site would serve as a catalyst for other redevelopment proposals within Esh Winning.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*

*<http://217.23.233.227/WAM/showCaseFile.do?action=show&appType=planning&appNumber=11/00774/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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78. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact upon the character and appearance of the area, the provision of affordable housing, impact upon the amenity of nearby occupiers, impact upon trees, highway safety and protected species.

#### **Principle of the Development**

79. The application site, comprising a parcel of grassland with only a section of hardsurfaced track must be considered to be predominantly greenfield land.

80. Local Plan Policy H3 relates to residential development in the Durham villages and states that residential development on previously developed land is acceptable in principle. Exceptionally, the development of greenfield parcels of land can be accepted in some instances where no more than 10 units are proposed and the developable area is no greater than 0.33ha. This application proposes 30 units and the site area exceeds 0.33ha. As a result, this application represents a departure from the adopted Local Plan.
81. National guidance contained within PPS3 supported by Policy 4 of the RSS also states that previously developed land is sequentially preferable for development. This national and regional policy guidance is more recently published and up to date than the Local Plan. PPS3 does not state that all residential developments must be on previously developed but rather establishes a target of 60% of development being on previously developed land. PPS3 emphasises the need for housing to be located in sustainable locations close to services, community facilities and a range of transport modes.
82. The application is located in a sustainable location, a new school is being built on Woodland Terrace itself, on the opposite side of Woodland Terrace there is a community centre and library and the main village centre a short walk away. Immediately adjacent to the site is a bus stop with service to Durham.
83. The draft National Planning Policy Framework, recently published has some material weight and establishes a presumption in favour of sustainable development.
84. The development seeks to provide 22 affordable homes to be let by a registered social landlord. Such a proportion of affordable homes is well above both national and local requirements for this scale of residential development. The development forms part of a wider Esh Winning Masterplan with future new development proposed close by, such as Ridding Road to regenerate parts of the village. The value of the provision of such a proportion of affordable homes, particularly in the current economic climate should be given significant weight.
85. Some public objection to the development objects to the loss of a parcel of open space which could be used for recreational purposes and there has, in the past, been a claim that the land be designated village green, though this was not successful. Policy E5a of the Local Plan does seek to protect those parcels of open space of particular value to an area. Further objection is raised that there is an absence of facilities and services for the new housing within Esh Winning.
86. The application site has been fenced off and inaccessible for approximately 2 years and in this regard cannot be considered to have been used recreationally for a significant length of time. Local residents concerns of a loss of a local area for play is appreciated.
87. This must be balanced against the potential benefits of the scheme, most notably the provision of affordable housing and potential catalyst for further investment and development in the local area.
88. A large parcel of open space and playspace area is located at nearby Newhouse Road. The Esh Winning Masterplan also contains a commitment to the enhancement of recreational spaces within Esh Winning.
89. On balance, officers consider that the principle of the development is acceptable. This site forms part of wider proposals for newbuild and regeneration within Esh Winning. The site is well situated, adjacent to school facilities and close to community facilities and local services. The development proposes a high proportion of affordable housing at a time when many sites struggle to bring forward such housing due to problems of viability. The loss of greenfield land and a parcel of land once used for informal

recreation would result but this must be balanced against the aforementioned broad benefits of the proposal.

90. The draft National Planning Policy Framework establishes a principle in favour of sustainable development and officers consider that this development would represent such a development.
91. Although the planning application was ultimately withdrawn it must also be noted that at the Planning Committee in March 2009 Members of the then Durham City Council resolved to grant planning permission for 31 dwellings of the site.
92. Officers therefore accept the principle of residential development on the land.

#### Impact upon Visual Amenity and the Character and Appearance of the Area

93. A key consideration in the determination of this application is the suitability of the design, scale and massing of the proposal and in turn its impact upon the character and appearance of this part of the village.
94. PPS1 and PPS3 promote high quality design and development that is sympathetic to its surroundings. This approach is replicated in Policy 8 of the Regional Spatial Strategy of the North East of England which requires that all developments are sympathetic to their surroundings.
95. Policies H3, H13, Q8 of the Local Plan also identify that development will not be considered acceptable where it would have an adverse effect on the character of the surrounding area whilst Policy E14 seeks to retain trees and hedges of value where possible and replace those which are lost to development.
96. The local area is predominantly residential, characterised by Local Authority housing stock of brick built semi-detached properties and bungalows. This application proposes a mixture of single, two and two and a half storey properties arranged as semi-detached properties or in small groupings of attached properties of up to four in number. Properties are orientated in such a manner that they address the main public vantage points of Woodland Terrace and College View.
97. As a proposed Durham Villages Regeneration Company scheme in partnership with Keepmoat Homes the proposed house types and appearances relate and indeed in some cases are identical to those approved elsewhere within the village in recent planning applications such as nearby Ridding Road.
98. A mix of brick and roofing materials are proposed for the development to provide differentiation and interest to the estate. Similarly the internal access road proposes a mix of materials and colours to provide visual relief to hardsurfaces. Means of enclosures are restricted to rear and side curtilages leaving fronts of the properties with an open feel and a condition to retain control over front enclosures is recommended for attachment on any approval.
99. Overall the proposed dwellings and layout are considered to be acceptable. The dwelling types are commensurate with and would assimilate successfully into the local area.
100. The site generally comprises grassland but there are trees within the site and also others adjacent to the site. A grouping of trees within the site, close to No. 47 College View would be lost to the development. None of these trees, however, are worthy of



protection. Trees outside of the site are to be protected during development works. A landscape scheme is proposed as part of the development with compensatory planting of replacement native species trees. The Councils Landscape Architect has commented on the application and no objections are raised as such but further clarity and information is provided with regards to elements of the landscape proposals. Further details have since been submitted with regards to landscaping proposals and a thorough landscaping scheme submitted. A condition can be attached to any approval requiring the protection of those trees to be retained.

101. Overall the proposed development would cause no harm to the character or appearance of the area with appropriate house types sought, a layout that appropriately addresses the main public vantage points and a suitable choice of external materials and finishes. The development in respects to its impacts upon the character and appearance of the area is considered to accord with Policies E14, H3, H13, Q3, Q5 and Q8 of the Local Plan.

#### Impact upon Residential Amenity

102. Policies H3, Q8 and H13 of the Local Plan seek to ensure that the amenities of neighbouring residents and land users are preserved through new developments.
103. No objections from local residents have been received with regards to matters of privacy or amenity.
104. Policy Q8 of the Local Plan provides advice on the layout of residential development and provides separation distances guidance seeking to ensure that the residential amenity of all occupiers is retained within a development. This guidance states that from a window to a single storey gable 6m separation should be maintained and to a two storey gable 13m should be maintained. This is to ensure that adequate outlook is retained for occupiers and that one development is not too overbearing upon another. In terms of privacy Policy Q8 advises that 21m should remain between the main facing windows.
105. The largest dwellings proposed are two and half storey properties with a ridge height of 9m. These properties are to front Woodland Terrace and are sited away from existing properties and face towards the cemetery towards the north east. These larger properties will not cause any loss of amenity for nearby residents.
106. The siting, orientation and separation of properties both within the site and with existing properties beyond is considered appropriate with no significant harm caused to amenity. There are certain specific relationships which have required most careful consideration. The gable end of No. 47 College View contains a first floor window and this is understood to be to a bedroom. The properties proposed adjacent to this gable are bungalows rather than two storey properties reducing concern with regards to a loss of privacy and amenity. The proposed plot 6 property is orientated towards and sited from No. 46 College View by around 19m. This distance is slightly less than the separation recommended within Policy Q8. However, the separation is not so significantly below the guidance as to be deemed particularly harmful. No objection has been received from the occupiers of No. 46 College View. Other relationships between properties both within and beyond the application site accord or exceed the recommendations of Policy Q8 of the Local Plan.
107. To ensure that relationships between properties remain acceptable in the future, officers do recommend that some permitted development rights with regards to extensions are removed.

108. On balance officers consider that the impacts of the development upon residential amenity are acceptable and do not consider that such demonstrable harm to adjacent occupiers would occur that would warrant refusal of the application on amenity grounds.

### Highways Issues

109. Policy T1 of the Local Plan seeks to ensure that new developments are not harmful to highway safety whilst Policy T10 seeks to limit parking provision to encourage alternative modes and transport and reduce the land take of development.
110. Some public objection has been raised over concerns with regards to highway safety, more specifically concerns over children playing in the street.
111. The Highway Authority initially raised objection to the development as the proposed accesses to Woodland Terrace for plots 1-4 would conflict with an existing bus stop and traffic regulation order. Following further negotiation between the applicant and Highway Authority it is considered that a very slight movement of the bus stop by approximately 5m would remove the conflict with the proposed accesses and said objection has been withdrawn by the Highway Authority. The scheme would also require the relocation of speed humps on Woodland Terrace. It is understood that approval of this relocation would have to occur via Highways Committee.
112. Parking provision proposed within the site is considered acceptable. The internal road layout is considered suitable for adoption subject to improved pedestrian facilities comprising of a delineated footpath on both sides of the road being provided and this can be conditioned. Some concern is raised over a fence situated adjacent to No. 46 College View. Being outside the site, this fence is beyond the control of the applicant and they are unable to revise this relationship. The impact of this fence is not considered to be so significantly detrimental to highway safety to warrant refusal of the application.
113. As a result officers do not raise objection to the proposal on the grounds of harm to highway safety in accordance with Policies T1 and T10 of the Local Plan. However, the development will require the agreement of the Highway Authority with regards to bus and speed hump relocation.

### Impact upon Protected Species

114. The application has been accompanied by a phase 1 habitats survey and protected species survey. This report considers that the site is of low ecological value. The site is not considered to support protected species with the trees on site unsuitable for use at bat roosts and the potential for great crested newts, badgers, reptiles and otters ruled out due to specific site conditions. There is, however, the potential for nesting birds to be present in trees.
115. Mitigation measures are proposed within the report seeking to ensure that the felling of trees occurs outwith of the bird breeding season unless they are specifically checked and that there is an adequate replacement planting scheme using native species.
116. The Councils Ecologist has been consulted on the application and no objections are raised. The mitigation measures proposed within the submitted report can be conditioned.

117. No objections are therefore raised to the development with regards to the impact upon protected species in accordance with Policy E16 of the Local Plan, Policy 33 of the RSS and PPS9 and having full regards to the requirements the species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats etc) Regulations 1994 (as amended).

#### Other Issues

118. Some public objection to the development is concerned with regards to a loss of a view of the forest hillside beyond. Limited weight can be attributed to the loss of a private view, a view is only considered a material planning consideration where that view is of wider public value, officers do not consider that such a view of wider public value would be lost to the development.
119. Objection is raised by one local resident that the proposed development was understood to house the residents of The Oaks but they have been rehoused and that the new dwellings should be located at the site of The Oaks. The arrangements for rehousing residents in Local Authority homes is ultimately a matter for the housing department. Officers from housing are a key stakeholder in the Durham Villages Regeneration Company, fully up to date on planning applications. No objections have been raised from colleagues in housing. It is also understood that future redevelopment of the Oaks and Pine Tree is planned as part of the wider regeneration proposals in Esh Winning.
120. Public objection has queried how the village green claim was not successful. Matters surrounding village green legislation and claims are separate legal matters beyond the remit of the Local Planning Authority. Another query is raised as to how the fence enclosing the land could be erected. Having viewed the siting and height of the fence officers consider that it was erected under permitted development rights, planning permission not being required.
121. PPS23 relates to pollution control in planning and Local Plan Policy U11 relates to contaminated land on development sites. The application has been accompanied by a geo-environmental assessment. No comments have been received from Environmental Health with regards to the specific content of the report, however. It is therefore considered appropriate that a condition be attached to any approval requiring that a scheme to deal with any potential site contaminants is agreed at a later date.
122. Environmental health do consider that there is the potential for noise disturbance during works and it is recommended that a condition restricting working hours is attached to any permission. The working methods and use of plant and machinery should be in accordance with BS5228 Noise and Vibration Control on Construction and Open Sites. It is also recommended that a condition be attached requiring the submission of a dust assessment and controlling methods. All waste material must be disposed of in the correct and proper manner and the burning of any materials on site shall be prohibited.
123. Officers consider that a condition could be attached to any approval limiting the hours at which works can occur, this is standard condition of larger scale developments.
124. Policy 38 of the RSS seeks to ensure that within all major development proposals a 10% energy efficiency reduction is achieved. The submitted application does not include information that such energy reduction can be achieved, a matter raised by the Councils Senior Low Carbon Officer. A condition is recommended for requiring the submission of a scheme to ensure energy reduction measures are incorporated into the development.
125. With regards to matters of flood prevention, the site does not lie within flood zones 2 or 3 and given the size of the site a flood risk assessment is not essential to support the

development although the applicant has submitted a flood risk assessment irrespective of this. This flood risk assessment concludes that the risk of flooding at the site is low.

126. Northumbrian Water have been consulted on the application and have requested that conditions are attached with regards to surface water discharge and to agree a scheme of sewer diversion which crosses the site.
127. Such conditions can be attached to any approval and officers raise no objections with regards to flood risk or surface and foul water discharge in accordance with PPS25, Policy 35 of the RSS and Policy U8A of the Local Plan.
128. The Coal Authority have been consulted on the application and no objections have been raised.
129. With regards to planning obligations, as discussed earlier in the report the proposal seeks the provision of 22 affordable homes for transfer to a registered provider. A S106 agreement has been submitted to ensure this provision. The provision of affordable housing constitutes over 70% of the development and this is significantly higher than the 30% proportion that would ordinarily be sought on a development site.
130. Financial contributions via a S106 agreement have not been submitted with regards to public art or playspace facilities. However, officers consider that this must be considered and offset against the context of such a high proportion of affordable housing provision being proposed by the developer and with this in mind officers do not object to the proposal on the basis of the absence of further financial contributions. It should also be noted that the development is largely funded by the HCA who provide funding for affordable homes. This funding would not extend to financial contributions such as the provision of improved play equipment or public art facilities.

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## **CONCLUSION**

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131. This proposal seeks a residential development within a sustainable location within the settlement boundary of Esh Winning. The site is close to local services, a school and public transport links.
132. The development proposes the erection of 30 dwellings, 22 of which would be affordable, ensured by way of a S106 agreement. Such provision of affordable housing is very high, particularly within the existing economic climate and represents a significant benefit of the scheme. The development proposed comprises of part of a wider regeneration and development scheme within Esh Winning, informed by a Masterplan finalised in 2007. Considering the benefits of the scheme officers accept the loss of the parcel of greenfield land and accept the principle of the development.
133. The layout and design of the development is considered to be acceptable in the area both in terms of impact upon visual amenity and upon the amenity of residents.
134. Highway safety is considered to be preserved though the location of accesses to Woodland Terrace will require the separate agreement of the Highway Authority with regards to bus stop and speed hump relocation.
135. Matters of ecology, impact on upon trees, land contamination and flood risk have been adequately addressed or could be resolved through the attachment of suitably worded conditions on any approval.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions and subject to the entering into of a Section 106 agreement to secure:

The provision of 22 affordable housing units

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

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

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

QD231-P-30  
QD231-95-02  
QD231-860-01 received 3<sup>rd</sup> October 2011  
QD599-04-01 received 11<sup>th</sup> October 2011  
QD231-1011-01  
QD231-828-01  
QD231-763B-01  
QD231-945-01  
QD231-P-20  
QD231-665-01 received 14<sup>th</sup> October 2011  
0004888 received 1<sup>st</sup> November 2011  
QD599-95-01 received 16<sup>th</sup> November 2011  
QD599-675-01A  
C-782-01 Rev C  
QD599-01-01 B received 12<sup>th</sup> December 2011

*Reason: To define the consent and ensure a satisfactory form of development having regards to Policies E5a, E14, E16, H3, H12, H13, H14, T1, T10, R2, Q3, Q5, Q8, Q15, U8A, U11, U13 and U14 of the City of Durham Local Plan 2004.*

3. Notwithstanding the details shown on the approved plans, all windows shall set in reveal by a minimum of 75mm.

*Reason: In the interests of visual amenity having regards to Policy Q8 of the City of Durham Local Plan 2004.*

4. The hereby approved development shall be carried out in accordance the landscaping scheme detailed on plan received and landscaping management details received 12<sup>th</sup> December 2011. The landscaping works shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 yrs following planting. 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.

*Reason: In the interests of the provision of an adequate landscaping scheme in accordance with Policy Q5 of the City of Durham Local Plan 2004.*

5. Prior to the commencement of development the trees identified as group G2 within the submitted tree report by Batson Environment received shall be protected with protective fencing erected in accordance with BS.5837:2005. The trees shall be protected for the entirety of the development works.

*Reason: In the interests of the protection of trees and visual amenity having regards to Policy E14 of the City of Durham Local Plan.*

6. Prior to the commencement of development full details of all hardsurfaced areas shall be submitted and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.

*Reason: In the interests of visual amenity having regards to Policies Q3 and Q8 of the City of Durham Local Plan 2004.*

7. No development approved by this permission shall be commenced until:
  - a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the Local Planning Authority;
  - b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the Local Planning Authority;
  - c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
  - d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the Local Planning Authority; and
  - e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

*Reason – To remove the potential harm of contamination in accordance with Policy U11 of the City of Durham Local Plan 2004.*

8. No development shall take place unless in accordance with the mitigation detailed within section D4 of the extended phase 1 and protected species survey by E3 Ecology received .

*Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004.*

9. No development works shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am to 12 noon on a Saturday with no development to take place on a Sunday or Bank Holiday.

*Reason: In the interests of residential amenity having regards to Policy H13 and Q8 of the City of Durham Local Plan 2004.*

10. Prior to the commencement of development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to the first occupation and retained so in perpetuity.

*Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policy U14 of the City of Durham Local Plan and Policy 38 of the Regional Spatial Strategy for the North East.*

11. Prior to the commencement of development full details of a clearly delineated footway to adoptable standard to both sides of the entirety of the internal road must be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed details.

*Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004.*

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no fences, gates, walls or other means of enclosure shall be erected forward of the forwardmost part of any dwelling facing the highway.

*Reason: In the interests of visual amenity having regards to Policy Q8 of the City of Durham Local Plan 2004.*

13. No development shall commence until a scheme for the provision of surface water drainage works and the diversion of the sewer that crosses the site has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water

*Reason: In the interests of satisfactory drainage having regards to Policy U8A of the City of Durham Local Plan 2004.*

14. The dwellinghouses hereby approved shall not be occupied until the bus stop adjacent to the site and speed humps on Woodland Terrace have been relocated in accordance with a scheme that shall first be submitted and approved by the Local Planning Authority.

*Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004.*

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## **REASONS FOR THE RECOMMENDATION**

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The development hereby proposed is considered to accord with policies E5a, E14, E16, H3, H12, H13, H14, T1, T10, Q8, Q5, Q3, U5, U8a, U11 and U14 of the City of Durham Local Plan. Policies 2, 4, 7, 8, 24, 30, 35 and 38 of the Regional Spatial Strategy and Planning Policy Statements 1, 3, 9, 13, 17, 23 and 25.

It is considered that the residential development of a sustainable site close to existing facilities and transport links should be supported, as it contributes significantly to the wider regeneration of Esh Winning and will provide for 22 out of 30 affordable homes which will be built out shortly using HCA backing. Whilst the contributions to art and amenity space are not forthcoming in this scheme the wider masterplan sites will make provision for these in future phases. The presumption in favour of sustainable economic development in the draft NPPF albeit of limited weight at this time also supports this development. Overall the overarching benefits of bringing forward a large tranche of affordable housing that will get built out by the DVRC overrides any of the negatives to look favourably on this proposal.

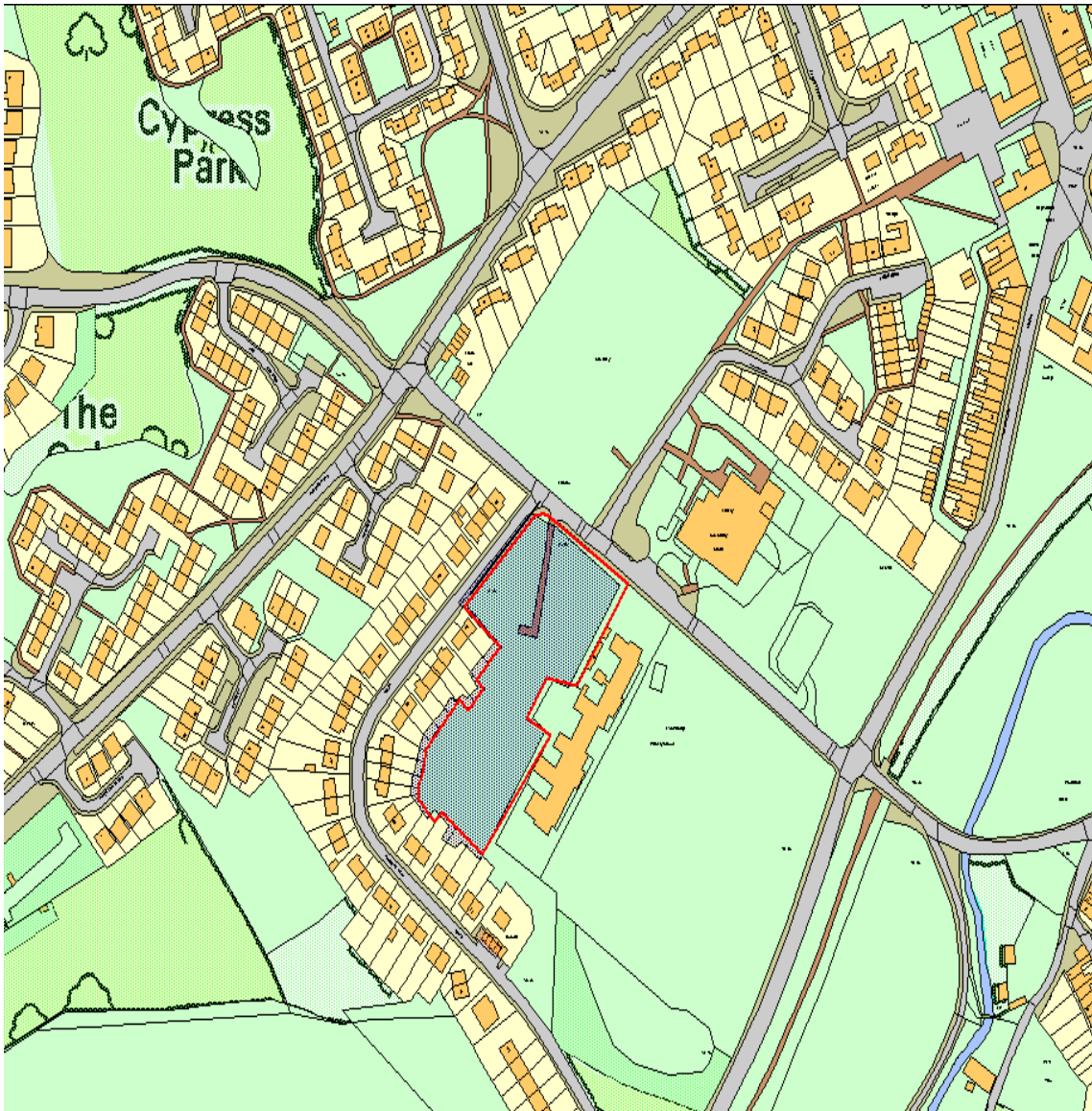
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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans and supporting documentation  
Submitted Design and Access Statement  
City of Durham Local Plan 2004  
Regional Spatial Strategy  
Planning Policy Statements 1, 3, 9, 23 and 25 and Planning Policy Guidance Notes 13 and 17  
Responses from The Highway Authority, Coal Authority and Northumbrian Water  
Internal consultee responses  
Public responses  
Planning Circulars 11/95  
Draft National Planning Policy Framework





**Planning Services**

Erection of 30 no. dwellinghouses with formation of new access and closure of existing access (resubmission)

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**Comments**

**Date** 10<sup>th</sup> January 2012

**Scale** 1:2500

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## Planning Services

**COMMITTEE REPORT****APPLICATION DETAILS**

<b>APPLICATION NO:</b>	<b>PL/5/2011/0443</b>
<b>FULL APPLICATION DESCRIPTION</b>	<b>RESIDENTIAL DEVELOPMENT (OUTLINE) (RESUBMISSION)</b>
<b>NAME OF APPLICANT</b>	<b>MR D MIDDLEMISS</b>
<b>SITE ADDRESS</b>	<b>SEATON NURSERIES, SEATON LANE, SEATON, SR7 0LT</b>
<b>ELECTORAL DIVISION</b>	<b>SEAHAM</b>
<b>CASE OFFICER</b>	<b>BARRY GAVILLET 03000291958 barry.gavillet@durham.gov.uk</b>

**DESCRIPTION OF THE SITE AND PROPOSAL**

## Site:

- 1 This application site is located outside of the settlement boundary of Seaton, to the west of the Village. The site is triangular in shape and is approximately 1.7 hectares in size. The site is currently used for caravan and container storage, car repairs and a garden centre. To the north, west and south of the site there are agricultural fields and to the east there are residential properties. The main road which runs through Seaton Village bounds the site to the north whilst a disused railway line, currently used by walkers and cyclists bounds the site to the east.

## Proposal:

- 2 The application seeks to establish the principle of residential development on the site, it is an outline application with all detailed matters reserved. The applicant however, has submitted indicative plans, which show that the site could accommodate 6 bungalow units in total along with a substantial landscaping scheme. The application is a resubmission of a previously refused scheme that proposed 33 two-storey dwellings and was dismissed at a subsequent appeal.
- 3 This application is being reported to committee as it is classed as a major development.

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## PLANNING HISTORY

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80/521 – Caravan storage. Approved  
81/287 – Erection of dwelling. Refused  
81/288 – Change of use from nursery to garden centre with extended car park. Approved  
81/289 – Change of use to allow sale and storage of private caravans. Refused  
92/031 – Extension of garden centre. Approved  
01/738 – Storage of caravans, vehicles, boats and containers. Approved  
PL/5/2010/0306 – Residential Development (Outline). Refused & Dismissed at Appeal

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## PLANNING POLICY

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### NATIONAL POLICY:

- 4 Planning Policy Statement 1: Delivering Sustainable Development sets out the Government's overarching planning policies on the delivery of sustainable development through the planning System.
- 5 Planning Policy Statement 3: Housing (PPS3) underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.
- 6 Planning Policy Statement 7 (PPS7) sets out the Government's planning policies for rural areas, including country towns and villages and the wider, largely undeveloped countryside up to the fringes of larger urban areas.
- 7 Planning Policy Statement 9 (PPS9) sets out planning policies on protection of biodiversity and geological conservation through the planning system.
- 8 The emerging National Planning Policy Framework (NPPF), currently in draft form, is a material consideration in the determination of planning applications, and advances a presumption in favour of sustainable development to encourage economic growth.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### REGIONAL PLAN POLICY:

- 9 *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.*
- 10 In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial

Strategies when Localism Act 2011 is brought into force, Both the RSS and the abolition provisions of the Localism Act are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this, having regard to the evidence base which informs the RSS. Policies of particular relevance to these applications include the following:

- 11 Policy 2 - Seeks to embed sustainable criteria through out the development process and influence the way in which people take about where to live and work; how to travel; how to dispose of waste; and how to use energy and other natural resources efficiently.
- 12 Policy 4 - National advice and the first RSS for the North East advocated a sequential approach to the identification of sites for development, recognising the need to make the best use of land and optimize the development of previously developed land and buildings in sustainable locations.
- 13 Policy 7 - Seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.
- 14 Policy 24 - Refers to the need to concentrate the majority of the Region's new development within the defined urban areas, and the need to utilise previously developed land wherever possible.

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

##### District of Easington Local Plan

- 15 Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
- 16 Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other polices.
- 17 Policy 17 - Development which adversely affects a wildlife corridor/link will only be approved where compensatory features are provided.
- 18 Policy 18 - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
- 19 Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
- 20 Policy 67 - Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal

is of appropriate scale and character and does not conflict with other policies in the plan.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

- 21 Parish Council – objection. The majority of residents oppose further development in the village and wish to retain its traditional nature.
- 22 Ramblers Association – no objection
- 23 Environment Agency – no objections subject to contaminated land, drainage and flood risk conditions
- 24 Natural England – no objections. Informal advice offered.
- 25 Northumbrian Water – no objections subject to conditions
- 26 Durham Bat Group – Surveys considered inadequate

### **INTERNAL CONSULTEE RESPONSES:**

- 27 Highways Officer – no objection subject to conditions
- 28 Tree Officer – no objections subject to conditions
- 29 Design Officer – the reduction in number of dwellings is welcomed but the principle of development remains an issue
- 30 Policy Officer – no significant change since original refusal. Objection. The site is outside the settlement boundary in an unsustainable location.
- 31 Ecology Officer - Ecology surveys are out of date - objection
- 32 Archaeology Officer - no objections

### **PUBLIC RESPONSES:**

- 33 The application has been advertised by way of a press notice, site notice and individual letters to nearby residents.
- 34 One letter of objection has been received, the main concern relates to the development being outside the settlement boundary.

### **APPLICANTS STATEMENT:**

- 35 This application proposes significantly less development on the site than the previous scheme, both in the number of dwellings and the height/size of those dwellings. This will significantly reduce the impact of the proposed development. At the appeal the Inspector accepted that there was not a 5-year housing land supply and therefore

the proposal should be treated favourably, this situation still remains. This is a brownfield site which should be developed in preference to greenfield sites on the edge of Seaham and elsewhere. There is a footpath to the south side of the flyover the A19, removing the need for cyclists and pedestrians to negotiate the wide junctions that provide the access onto the A19. Consequently, the site is as sustainable as greenfield sites on the edge of Seaham.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=116300>*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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- 36 This application is for outline approval only, with all matters reserved and it is the principle of residential development which must be assessed. As such, issues relating to design, scale, access and layout would be assessed at reserved matters stage should the application be approved. Accordance with planning policy is therefore the main planning consideration. Other relevant planning issues are discussed below including the previous Inspectors decision, protected species, archaeology and representations made by the Parish Council and local residents.

### **National Planning Policy**

- 37 Planning Policy Statement Note 3: Housing (PPS3) is the national planning guidance relating to housing development. Government policy in PPS3 is to maximise the re-use of previously developed land, and requires a sequential approach to the identification of housing sites, which prioritises the development of previously developed land in urban areas. As the proposal relates to a site outside the settlement limits as outlined in the Local Plan it is not considered to accord with the advice contained within Planning Policy Statement Note 3: Housing.
- 38 Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) is the national planning guidance relating to development in the countryside. PPS7 states that Local Planning Authorities should strictly control new house building in the countryside, outside established settlements or areas allocated for housing in development plans. It continues by making it clear that new houses in the countryside will require special justification for planning permission to be granted. Special justification could, for example, relate to the essential need for a worker to live permanently at or near their place of work in the countryside, or to the exceptional quality and innovative nature of the design of a proposed dwelling. One of the main aims of PPS7 is to promote sustainable patterns of development within rural areas. The document identifies the need to strictly control new house building in the countryside, away from established settlements. The proposal is not considered to accord with the advice contained within Planning Policy Statement 7: Sustainable Development in Rural Areas as a possible exception to policy.

### **Regional Spatial Strategy**

- 39 The RSS sets out the broad development strategy to 2021 and beyond. It identifies broad strategic locations for new housing developments so that the need and demand for housing can be addressed in a way that reflects sustainable development principles.



- 40 The RSS recognises that in County Durham, the towns in the regeneration areas continue to be the main focus for development, and recognises the importance of ensuring that the function and vitality of these places is protected and enhanced.
- 41 In identifying land for development, Local Planning Authorities should adopt a sequential approach to the identification of land for development. This approach is enshrined in Policy 4 of the RSS. The aim of this policy is to increase housing development within urban areas and the priority should be suitable previously-developed sites and buildings in urban areas ahead of greenfield sites.
- 42 Whilst this policy is primarily aimed at plan-making, it is considered that the principles can equally be applied to planning proposals. Overall, with respect to the RSS, it is considered that there is significant conflict on account that housing development is proposed beyond the settlement boundary in the countryside and that better sites are available when utilising a sequential approach to development.

### **District of Easington Local Plan**

- 43 The former District Council considered that housing development should normally only be approved on sites within the towns and villages of the former District, this is reflected in the saved Local Plan Policies. There are a number of reasons for this: firstly, new development within the settlements helps to maintain the compact and coherent village form, which is most appropriate for the support of shops and facilities. Redevelopment of “Brownfield” sites within settlement boundaries should take priority over sites that are outside the village boundary such as the current proposal. Indeed, development of sites outside of the settlement boundary can undermine the regeneration of the villages, as such developments can lead to sprawl and the de-lineation of the urban form.
- 44 Policy 67 of the Local Plan states that housing development will be approved on previously developed sites within settlement boundaries of established towns and villages. The application site is situated outside the village of Seaton and is considered to be contrary to policy 67 of the Local Plan.
- 45 Local Plan Policy 3 severely restricts development in the countryside. Policy 3 deals with development in the countryside in general and states that it will not be approved. It is therefore considered that the proposal is contrary to the relevant development plan policies.
- 46 In addition to the above policies, the Council has undertaken a settlement study of villages and towns across the County. Although the current Settlement Study draft assesses Seaton as part of the Seaham settlement, the final study will assess Seaton separately. It is likely that Seaton will be assessed as a lower order settlement, meaning that it is not suitable for additional housing development as it is not served well by community facilities, shops and public transport and is therefore unsustainable. Furthermore, it is the intention of the Council that other localities such as Murton will be the key locations for future housing development within the North & East Durham delivery area.
- 47 As mentioned earlier, the site is separated from the existing settlement by a disused railway line and is therefore not well related to the existing development pattern. This poor relationship would be exacerbated by the fact that the site is in a very prominent location when approaching the entrance to the village from the west. The



proposal would also lead to the loss of employment land and a local business. The planning policy team have objected to the proposals on the basis that they do not accord with the above relevant policies.

### **Inspectors decision**

- 48 An application for development on the same site was refused in 2010 and subsequently dismissed at appeal. The inspector summed up his decision as follows: "Despite the benefits of the development in terms of the provision of housing, where a 5 year housing land supply does not exist, and the significant weight to be given to the job creation benefits, the development would compromise key sustainable development principles set out in PPS1 and PPS3. The harm that would be caused to the principles of sustainable development and to the character and appearance of the countryside are of over-riding concern in this appeal and lead me to conclude that the development would be unacceptable."
- 49 Although the current application proposes fewer dwellings than the previous application, the proposal still seeks to establish the principle of residential development on the same site. In these circumstances, planning concerns remain the same as there have been no significant changes to planning policy since the application was refused and dismissed at appeal.

### **Other relevant issues**

- 50 Government guidance states that the presence and extent to which protected species will be affected must be established before planning permission is granted. Natural England and the Council's Ecology Officer have been consulted on the application and objections have been raised to the current proposal on the basis that the ecology surveys are now out of date. The ecology report submitted with the application contains data from 2010. The report states that if no development occurs before 2010 then confirming surveys are required and mitigation should be conditioned. As this application was submitted in November 2011 it should have contained further survey data from the 2011 season to inform the resubmission. This site may have changed significantly since the 2010 survey and may now be suitable for bat use. Consequently, the information submitted is insufficient to enable the LPA to discharge its duty under the Conservation of Habitats and Species Regulations 2010
- 51 Archaeology and Highways Officers also have no objections to the scheme, subject to conditions being imposed should be application be approved.

### **Objections from residents and the Parish Council**

- 52 The main reasons for objection from the Parish Council and resident relate to the site being outside the settlement boundary and that it would harm the traditional character of the village.
- 53 It is agreed that the proposal represents development outside of the settlement boundary, in the countryside, and as such is contrary to policy. Also, given the relatively compact nature of the village, and taking into account that the proposed development site is separated from the village by the disused railway line and embankment, it is considered that the proposed development would harm the character of the existing form of the village and would lead to sprawl into the countryside.

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## CONCLUSION

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- 54 The proposed development of residential properties on the application site clearly contravenes relevant national, regional and local policies and in principle planning permission should be refused.
- 55 The applicant has submitted information in support of the proposals, including a suggested reduction in the number of dwellings that could be provided, but this does not outweigh the fundamental objection to the development of an inappropriate site. The Council's policy is to prioritise the development of previously developed land within existing settlements for residential development. The current proposal relates to an application outside the established settlement boundaries and therefore should not be supported.

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## RECOMMENDATION

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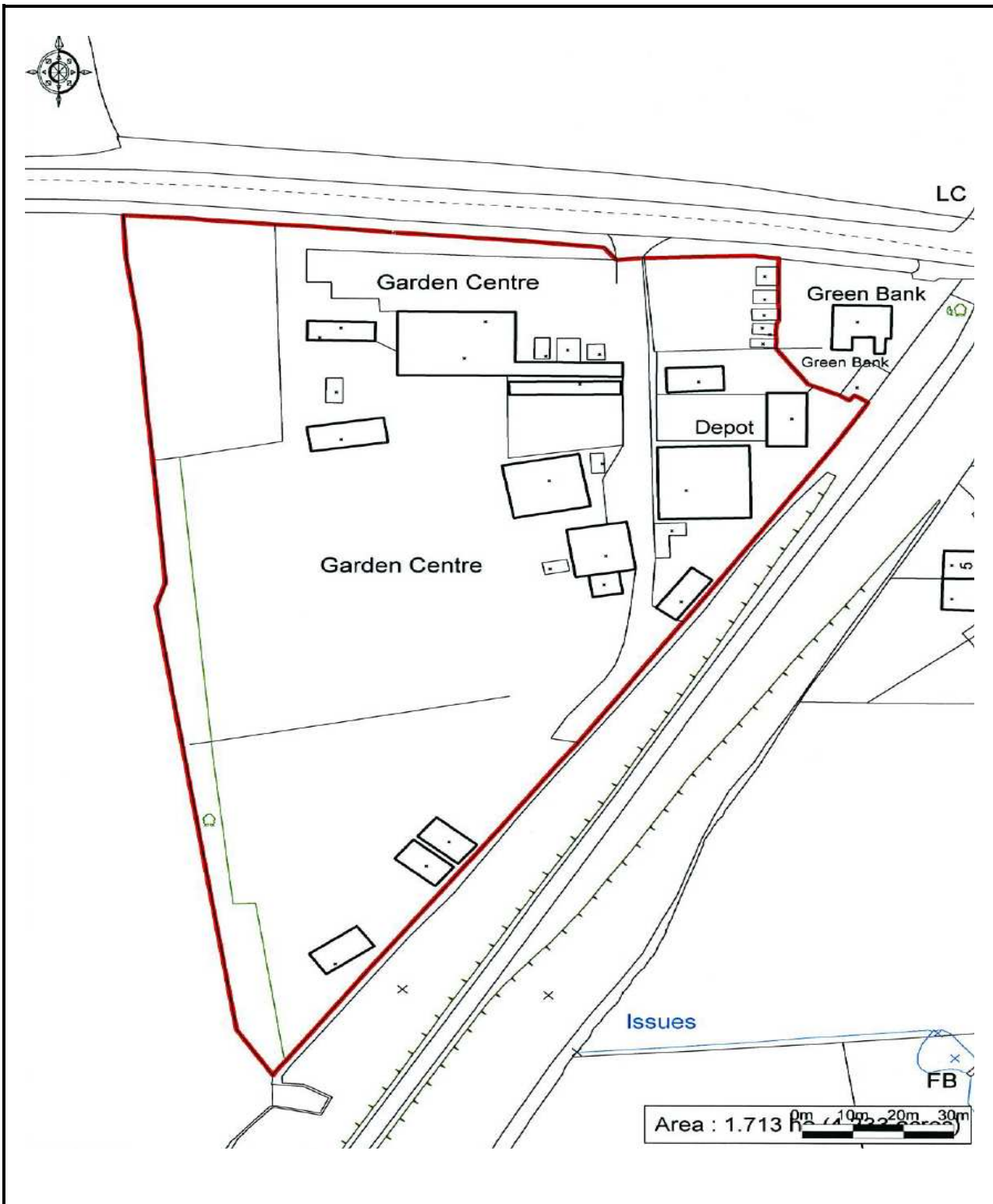
- 56 That the application be **REFUSED** for the following reasons;
1. The proposal would result in residential development outside the established settlement boundaries as identified in the District of Easington Local Plan and has limited access to community facilities, shops and public transport. The proposal is therefore considered to be in an unsustainable location, contrary to national planning guidance contained within Planning Policy Statements 1, 3 and 7, Regional Spatial Strategy Policies 2, 4, 7 and 24, and saved policies 1, 3, 35, and 67 of the District of Easington Local Plan.
  2. The information supplied in the submitted Wildlife Survey of Seaton Nurseries by E3 Ecology Ltd is out of date and does not fully detail the extent that the protected species (bats) may be affected by the proposed development. This information is required before any planning permission is granted, to enable the Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2010 and the Habitats Directive. Due to insufficient information, the proposal would be in conflict with advice in PPS9 and saved District of Easington Local Plan Policy 18.


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## BACKGROUND PAPERS

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- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- Planning Policy Statements / Guidance, PPS1, PPS3, PPS7, PPS9
- Consultation Responses



 <p><b>Durham</b> County Council</p> <p><b>Planning Services</b></p>	<p><b>Proposed RESIDENTIAL DEVELOPMENT (OUTLINE)(RESUBMISSION) at SEATON NURSERIES SEATON LANE, SEATON SR7 0LT PL/5/2011/0443</b></p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p><b>Comments</b></p>	
	<p><b>Date</b> 10 January 2012</p>	<p><b>Scale</b> 1:1250</p>

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	PL/5/2011/401 and PL/5/2011/402
<b>FULL APPLICATION DESCRIPTION:</b>	PL/5/2011/401 - Four detached residential properties including private vehicular access road PL/5/2011/402 – Partial demolition of Grade II listed garden wall and proposed repair of remainder, partial demolition of boundary wall and complete demolition of existing brick shed within curtilage of Grade II listed Hardwicke Hall Manor Hotel in association with residential development of 4 dwellings
<b>NAME OF APPLICANT:</b>	Mr A & D Bradley
<b>ADDRESS:</b>	Hardwicke Hall Manor Hotel, Hesleden Road, Hesleden, TS27 4PA
<b>ELECTORAL DIVISION:</b>	Blackhall
<b>CASE OFFICER:</b>	Henry Jones Senior Planning Officer 0191 3018739 henry.jones@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The site relates to the walled garden and immediate surrounds associated with the Grade II listed Hardwicke Hall Manor Hotel located off Hesleden Road, Hesleden. Hardwicke Hall Manor was originally a residential country house with the original principal building understood to have been constructed in the early to mid 1800's. The hotel is accessed via a private road located off Hesleden Road within a countryside location to the west of Blackhall and north east of Hesleden. The site is designated as being within an Area of High Landscape Value within the Local Plan. The private road which provides access to the hotel also serves Hardwick Hall Farm and the residential properties 1-5 Hardwicke Court, Four Winds and Wood Cottage.

2. The applications propose development within the walled garden, the wall itself is grade II listed, situated approximately 60m south of the hotel. The wall layout is oval shaped enclosing an overgrown space containing trees. Trees are also located beyond the walled garden on the periphery of the application site. The trees are covered by a tree preservation order, TPO 8 Hardwick Hall 1983.
3. Beyond the walled garden to the west lies a boundary wall and a brick outbuilding in some state of disrepair.

### The Proposal

4. These applications seek planning permission and listed building consent for the erection of 4 no. two storey dwellinghouses within the walled garden with associated formation of access, demolition and repair to the walled garden.
5. The proposed dwellings exhibit simple traditional design with pitched roofs with natural slate roof covering, brick elevations and timber windows. The dwellings are each three bed and each dwelling has a width of 9m, maximum length of 10.6m with a ridge height of 7.6m.
6. The proposed dwellings are arranged in a semi-circular pattern set around a central courtyard, each property with 2 no. parking spaces to the front. Access would be formed via a new access road from the private road to the west. This access road would involve the demolition of a section of boundary wall, a section of the wall forming the walled garden itself and the demolition of a brick outbuilding.
7. The applicant proposes some repairs to the listed garden wall and although a clear and precise schedule of works is not submitted, the submitted structural survey proposes repointing, repair of buttresses, repair of copings and some localised rebuild.
8. The application is being reported to Committee at the request of the local ward councillor.

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## **PLANNING HISTORY**

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9. In 1998 planning permission and listed building consent for a major extension to Hardwicke Hall was approved. In 2005 planning permission was granted for a conference facilities building and managed apartments building.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

10. In July 2011 The Government published the National Planning Policy Framework in its draft form. The draft framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. The presumption means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the development should not be allowed if it would undermine the key principles for sustainability in the Framework. Being in draft format and a consultation document it is subject to potential amendment. It can be considered a material consideration, although the weight to be attributed to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

11. *Planning Policy Statement 1 (PPS1): Delivering Sustainable Development* - sets out the Government's overarching planning policies on the delivery of sustainable development through the planning System.
12. *Planning Policy Statement 3 (PPS3): Housing* - underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.
13. *Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Development* proposes a responsive and flexible approach to planning which provides sufficient employment land and makes better use of market information. The PPS is designed to establish a national planning policy framework for economic development at regional, sub regional and local levels for both urban and rural areas.
14. *Planning Policy Statement 5 (PPS5): Planning for the Historic Environment* replaces PPG15 but once again lays out government policies for the identification and protection of historic buildings, conservation areas, and other elements of the historic environment. It explains the role of the planning system in their protection. The PPS introduces the categorising of all features of the historic environment as heritage assets.
15. *Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas* sets out the Government's planning policies for rural areas, which local authorities should have regard to when preparing local development documents, and when taking planning decisions.
16. *Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation*, sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.
17. *Planning Policy Guidance Note 13 (PPG13): Transport* - seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight. It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car.
18. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, accommodate housing principally within urban areas and recognise that provision for movement by walking, cycling and public transport are important but may be less achievable in some rural areas.
19. *Planning Policy Statement 23 (PPS23): Planning and Pollution Control* - sets out the planning approach to pollution control, the location of polluting development and where possible ensure new development is not affected by pollution.
20. *Good Practice Guide on Planning for Tourism*: This guidance, to be read alongside national planning policies, is designed to ensure that planners understand the importance of tourism and take this fully into account when preparing development plans and taking planning decisions; ensure that those involved in the tourism industry understand the principles of national planning policy as they apply to tourism and how these can be applied when preparing individual planning applications; and, ensure that planners and the tourism industry work together effectively to facilitate, promote and deliver new tourism development in a sustainable way.

21. *Enabling Development and the Conservation of Significant Places (2008)* published by English Heritage sets out a number of principles for assessing appropriate enabling development prepared in relation to development in the context of a historic place or building; however, it is considered that there are a number of principles arising which would apply equally to any enabling development. Such principles include, that the amount of enabling development is the minimum necessary, and that financial assistance is not available from any other source.

## REGIONAL PLANNING POLICY

22. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
23. In July 2010 the Local Government Secretary signaled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the Localism Act 2011 is brought into force. Both the RSS and the abolition provisions of the Localism Act are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this, having regard to the evidence base which informs the RSS. Policies of particular relevance to these applications include the following:
24. *Policy 1 - North East Renaissance* seeks to achieve and maintain a high quality of life for all, both now and in the future, requiring a major economic, social and environmental renaissance throughout the Region.
25. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
26. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
27. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
28. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
29. *Policy 11 - Rural Areas* sets out that planning proposals should support the development of a vibrant rural economy that makes a positive contribution to regional prosperity, whilst protecting the Region's environmental assets from inappropriate development.
30. *Policy 16 - Culture and Tourism* seeks, amongst other things to ensure that new tourism facilities benefit the local economy, people and environment without diminishing the attractiveness of the place visited.



31. *Policy 24 - Delivering Sustainable Communities* planning proposals should seek through design to promote social cohesion, reduce inequalities as well as meeting sustainable development objectives.
32. *Policy 32 - Historic Environment* requires planning proposals to conserve and enhance the historic environment.
33. *Policy 33 - Biodiversity and Geodiversity* requires planning proposals to ensure that the Region's ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels.
34. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.

**LOCAL PLAN POLICY:** (District of Easington Local Plan 2001)

35. *Policy 1 – General Principles of Development* - Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
36. *Policy 3 – Protection of the Countryside* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
37. *Policy 7 – Protection of Areas of High Landscape Value* - Development which adversely affects the character, quality or appearance of Areas of High Landscape Value (AHLV) will only be allowed if the need outweighs the value of the landscape and there is no alternative location within the County.
38. *Policy 18 – Species and Habitat Protection* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
39. *Policy 24 – Protection of Listed Buildings* - Development which adversely affects the character, appearance, special architectural features or setting of a listed building will not be approved. The retention of architectural or historic features will be encouraged. Demolition of a listed building will be only be allowed in exceptional circumstances.
40. *Policy 35 – Design and Layout of Development* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
41. *Policy 36 – Design for Access and Means Travel* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
42. *Policy 37 – Design for Parking* - The design and layout of new development should seek to minimise the level of parking provision (other than for cyclists and disabled

people) which, other than in exceptional circumstances, should not exceed the maximum levels guidance

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

<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

43. The *Highway Authority* understand that the existing private access road serves up to 9 properties, as a result objection is not raised to the prospect of a further 4 no. properties using the access. However, a widening of the access road would be required and an existing speed hump relocated. The applicant should also commit to regular maintenance of the roadside vegetation on the B1281 either side of the existing road junction to ensure an adequate visibility splay.
44. *Northumbrian Water* have raised no objections.
45. *Natural England* have raised no objections.
46. *English Heritage* have stated that the applications do not fall into one of the relevant categories for which they require notification.
47. *The Environment Agency* has objected to the proposed development as submitted because it involves the use of a non-mains foul drainage system but no assessment of the risks of pollution to the water environment has been provided by the applicant. Refusal of the planning application is therefore recommended.

### **INTERNAL CONSULTEE RESPONSES:**

48. *The Council's Senior Landscape Architect* considers that the development would reduce the extent of the countryside between the built settlement of Blackhall Colliery and the cluster of dwellings along the B1281. The development is considered to harm the setting of the heritage assets. The proposed two storey dwellings will be prominent on the approach to the hall itself and will impact upon the setting of the hall and listed walled garden.
49. Building within the walled garden space will by its nature harm this space. The value of the garden wall heavily depends upon the retention of the internal space. The garden wall itself is unusual due to its oval shape and substantial size. The positive benefits of the repairs to the wall will be outweighed by the negative impacts of the introduction of buildings, loss of garden space and breach of the wall. The development will harm the area of high landscape value and the appearance of the countryside.
50. *The Council's Senior Structural Engineer* has assessed the submitted structural report with regards to the listed wall and considers the proposed remedial work to be appropriate.
51. *Design and Conservation* have raised strong objections to the proposals. The proposed development is considered to constitute a departure from Local Plan Policy 3. The development of 4 dwellings within the listed walled garden would cause demonstrable harm to the setting of that walled garden. A strong enabling argument

in accordance with the advice within PPS5 and English Heritage guidance would have to accompany the applications to justify the departure from the Local Plan and the harm to the setting of the listed structure.

52. A thorough and convincing enabling argument has not been submitted. The advice on enabling development is considered to be clear that new development to secure the future of a heritage asset should only be accepted where it will not harm the heritage values of the place or setting and is necessary to resolve the problems arising from the inherent needs of the place rather than the circumstances of the present owner. The heritage values of the walled garden would be harmed and the applicant has failed to demonstrate that the harm is necessary to secure the long term future of the either the hall or the garden.
53. The development is proposed to address the debts of the business and not to secure the heritage assets contrary to English Heritage enabling development policy.
54. With regards to the demolition works proposed the amount of wall sought for demolition would appear larger than is necessary for an access for 4 dwellings. The brick outbuilding is also protected by virtue of being a curtilage listed structure, no justification as to why it is sought for demolition has been submitted.
55. With regards to the repairs to the listed wall a full schedule of works has not been submitted and it is therefore not possible to assess the impact on the special interest of the listed structure.
56. *Archaeology* have objected to the applications, the views of Design and Conservation are echoed and it is also considered that the proposed development would have an impact on the setting of the listed hall and not just the walled garden. It is considered that there is strong evidence of a medieval presence in the vicinity of the manor/hall. The submitted desk based archaeological assessment highlights the possibility of the Medieval manor complex extending into the development, the County archaeologist also considers that there is evidence of medieval period earthwork features to the south west of the hall and it is considered that the settlement in that period extended beyond the existing complex. The submitted desk based archaeological assessment recommends that trial trenching is required and it is considered that this should occur and be evaluated before planning permission is granted.
57. *The Council's Senior Tree Officer* states that the site is protected by a Tree Preservation Order. The submitted tree report fails to clearly demonstrate which trees are to be removed as a result of the developments.

#### **PUBLIC RESPONSES:**

58. Three responses have been received to the Council's consultation exercise. The East Durham Business Service support the proposals.
59. Cllr Cox supports the proposals on the grounds of the benefits to the future success of the business, the service it provides to the local community and clients from all over the country and worldwide. A request is made that the application be heard at Planning Committee.
60. A further request that the application be heard at Committee has been made by Cllr Crute.

#### **APPLICANTS STATEMENT:**

61. The applicant has submitted a Design and Access statement, Heritage Statement and Planning Statement in support of the proposals.
62. The supporting documentation explains that the main purpose behind the development is to allow for the market sale of 4 no. properties which would generate a significant injection of capital in order to secure the long-term future of the hotel business.
63. The supporting documents state that Hardwicke Hall Manor Hotel is one of only three hotel enterprises operating in the east Durham area. The business employs 14 full time and 13 part time staff. In recent years the business has suffered and an urgent capital injection is required.
64. The development is considered to have been designed to a high standard so as to not harm the area or listed status of the wall it lies within at Hardwicke Hall Manor.
65. Arguments are put forward with regards to the planning policy merits of the proposal considering that support can be found with the national, regional and local policy framework. The supporting documents consider that many key planning considerations are met through the development including its contribution to sustainable economic development; constituting an exceptional case to rural restraint policies; contribution to the provision of needed executive housing; conservation of the listed wall. Most emphasis, however, is placed on the contribution the development would make to the sustaining of the existing hotel business and the benefits of this to the local community, economy, employment and conservation of the listed building and wall themselves.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*

[HTTP://PLANNING.EASINGTON.GOV.UK/PORTAL/SERVLETS/APPLICATIONSEARCHSERVLET?PKID=115973](http://planning.easington.gov.uk/portal/servlets/applicationsearchservlet?pkid=115973)

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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66. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact upon the listed buildings and their setting, the existence of any special circumstances and justification for the development, impacts upon highway safety, protected species and archaeological assets.

## Principle of Residential Development

67. The application site lies beyond any settlement boundary as defined in the Easington Local Plan. Policy 3 of the Local Plan states that development outside the “settlement limits” will be considered as development in the countryside and unless specifically allowed for by other policies, such development will not be approved. The application site also lies within a designated area of high landscape value to which Policy 7 applies. The same development restraints on development in the countryside apply to areas of high landscape value but additional emphasis is placed on the special character, quality and appearance of the area. Policy 1 of the Local Plan relating to the general principles of development also states that development should be located within a defined settlement boundary unless other policies in the plan specifically allow that development.
68. The proposal seeks the erection of 4 no. dwellinghouses. Within the Local Plan, no saved policy relates to housing in the countryside. However, national guidance is provided by PPS3 and PPS7. PPS7 – Sustainable Development in Rural Areas contains a specific section on housing and seeks to strictly control new house building (including single dwellings) in the countryside, away from established settlements or from areas allocated for housing in development plans. Isolated new houses in the countryside will require special justification for planning permission to be granted, for example where the essential need for a worker to live permanently at or near their place of work in the countryside is demonstrated. In addition very occasionally the exceptional quality and innovative nature of the design of a proposed, isolated new house may provide this special justification for granting planning permission.
69. PPS3 – Housing states that housing developments should be in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure. PPS3 emphasises the need for an efficient and effective use of land, using previously developed land wherever possible.
70. Within the RSS, Policies 4 and 24 advocate a sequential approach to development and priority is given to previously developed land and buildings in the most sustainable locations.
71. The application site is defined by a saved policy of the Local Plan as being situated within the countryside. The application relates to the large and predominantly open curtilage of Hardwicke Hall Manor. Although located within relatively close proximity to settlements, particularly Blackhall, the application site very much feels detached from any settlement.
72. Officers therefore consider that the planning application proposes the erection of 4 no. dwellings within the open countryside. The application does not propose residential accommodation for an essential agricultural/forestry worker nor do the plans propose properties of exceptional quality or innovative nature. The proposed development would appear prominent in its setting and harm the openness of this particular part of the countryside and the Area of High Landscape Value. The proposals also represent development within a location which is not sustainable.
73. The proposed residential development is therefore considered to be unacceptable development in the countryside in principle, contrary to the Development Plan through failing to accord with the provisions of Policies 1, 3 and 7 of the Local Plan and Policies 4 and 24 of the RSS. Furthermore, the development is not considered

to constitute one of the exceptional circumstances where isolated residential development in the countryside is acceptable contrary to the guidance contained within PPS7.

#### Impact upon the Listed Buildings and their Setting

74. The Local Planning Authority has a statutory duty under sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
75. Hardwicke Hall Manor Hotel is a Grade II listed building. The wall enclosing the walled garden where the proposed dwellings would be sited is also individually Grade II listed. By virtue of being part of the curtilage of Hardwicke Hall Manor Hotel the boundary wall to the west of the walled garden and the brick outbuilding to the north of the proposed vehicular access are also covered by the listing.
76. Policy 24 of the Local Plan relates to listed buildings and states that development which adversely affects the character, appearance, special architectural features or setting of a listed building will not be approved. The retention of architectural or historic features will be encouraged. Demolition of a listed building will only be allowed in exceptional circumstances. The justification to the policy explains that the character of listed buildings and indeed their setting can be easily damaged and it is therefore important that their essential character is not adversely affected by alterations or new development.
77. National guidance is provided within PPS5 and Policy HE9 establishes a presumption in favour of the conservation of designated heritage assets. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.
78. The supporting documentation submitted by the applicant considers that the proposed development would have no discernable direct impact on the heritage asset and will preserve the setting of the grade II listed building.
79. The Council's Design and Conservation section have been consulted on the applications and they are a key consultee with regards to the proposed developments. Objections have been raised by Design and Conservation with regards to the impact of the proposed developments upon the listed structures and their setting. The Council's senior landscape architect and archaeologist have similarly raised objections with regards to the impact upon the listed structures and setting.
80. Officers concur with these concerns and objections. The proposed development seeks to locate 4 no. detached dwellings within the walled garden associated with Hardwicke Hall Manor. The value of the walled garden is in part characterised by the open space within the wall. Although in an overgrown state, the garden is currently open with no buildings sited therein. In the past the garden will have been a maintained yet similarly open space. Officers consider that the proposal would cause significant harm to the setting of the listed wall itself and in turn to the listed Hardwick Hall Manor Hotel as well. English Heritage published a guidance document "The Setting of Heritage Assets" in October. This document explains that the significance of a heritage asset derives not only from its physical presence and historic fabric but also from its setting – the surroundings in which it is experienced. An assessment of setting must include the physical surroundings of the asset, including its relationship with other heritage assets, the way in which the asset is appreciated and the asset's associations and patterns of use.

81. In this instance the walled garden has substantial physical presence within the grounds of the Hall and has an interrelated setting with the principal building. The walled garden can be appreciated from some considerable distance across the site and when approaching the Hall itself. The pattern of use of the walled garden will have always been that of an open amenity space. The proposed erection of 4 no. dwellings is considered harmful to the setting of both the Hall and garden wall, harming the physical surrounds of the assets themselves through appearing as dominant and obtrusive features and also harming the openness of the inside of the wall itself harming the associated patterns of use. The proposed large expanse of hardstand on the inside of the walled garden comprising of the resin bonded gravel courtyard that provides parking and manoeuvring space is also considered to have a detrimental impact upon the internal garden space within.
82. The development would require the partial demolition of the listed wall itself. At present the only access into the walled garden is via a narrow pedestrian access point at the north end where those travelling from the Hall itself (located to the north) would enter the garden. This proposed development would result in the partial demolition of the wall with a large vehicular opening of significant width being formed to meet the existing private access road to the Hall.
83. The degree of demolition and physical intervention into the wall which characterises the garden by being a brick enclosed space is considered to be harmful to the listed wall structure itself.
84. The brick outbuilding adjacent to the garden wall is proposed for demolition. This structure is protected by reason of being within the curtilage of the listed Hall. Policy 24 of the Local Plan explains that the demolition of a listed building will only be allowed in exceptional circumstances. Policy HE9 of PPS5 explains that loss affecting any designated heritage asset should require clear and convincing justification. No justification with regards to the demolition of this building has been submitted by the applicant.
85. Overall the proposed developments are considered harmful to the listed Hall and garden wall. The development is considered harmful to both the setting of the listed wall and Hardwicke Hall itself. The partial demolition of the listed wall and the complete demolition of a brick building without justification is also considered harmful to the listed wall and setting of the Hall itself.

#### Existence of Special Justification for the Development

86. As outlined above the proposed developments are considered contrary to the requirements of the Development Plan by reason of comprising residential development within the countryside and by reason of the harm to the listed structures and their setting.
87. It must be considered whether there are any special justifications or any enabling development case relating to the development proposals that may outweigh such harm and conflict with the Development Plan and warrant approval of the applications.
88. The application has been submitted with some supporting statements. The supporting documentation explains that the main purpose behind the development is to allow for the market sale of 4 no. properties which would generate a significant injection of capital in order to secure the long-term future of the hotel business.

89. Some support for the proposal has been received from two councillors and a response from the East Durham Business Service.
90. The supporting documents consider that many key planning considerations are met through the development including its contribution to sustainable economic development; constituting an exceptional case to rural restraint policies; contribution to the provision of needed executive housing; conservation of the listed wall. Most emphasis, however, is placed on the contribution the development would make to the sustaining of the existing hotel business and the benefits of this to the local community, economy, employment and conservation of the listed building and wall themselves.
91. The supporting documentation makes specific reference to some National, Regional and Local Plan guidance which the development is considered to accord with by the applicant. Most notably it is considered that the proposed residential development would secure the financial stability of the business which would accord with Policy EC7 of PPS4 which seeks to support local tourism and leisure facilities that benefit rural enterprise.
92. However, PPS4 specifically states that its content is not applicable to housing development. Furthermore Policy EC7 is defined within PPS4 as being a plan making policy, it is not one of the PPS4 policies that advises on Development Management decision making.
93. The supporting statements and documents make reference to the The Good Practice Guide – Planning for Tourism and it is acknowledged that this practice guide emphasises the important role tourism has with the many broad benefits that contribute to the economic and social well being of local communities as well as to individuals. However, it is considered by officers that this guidance once again relates more directly to tourism infrastructure and developments. Residential development is not in itself any form of tourist development.
94. The supporting documentation considers that the proposed development accords with the provisions PPS1 including representing development that protects and enhances the natural and historic environment. Given the harm to designated heritage assets officers do not consider that the development protects or enhances the historic environment.
95. The submission considers that the proposed development would seek to attract purchasers at the higher end of the housing market and the development would provide needed executive housing within the area. There is recognition within both the RSS and the 2008 Strategic Housing Market Assessment (SHMA) that there is in certain areas of the County a shortfall in the level of executive housing. However, officers would question whether the proposed development constitutes the provision of executive housing. The location within the grounds of a listed building is attractive, and the dwellings are detached. However, they are also modest 3 bedroom properties. Although a statutory definition of what constitutes executive housing does not exist, it is not considered that the modest 3 bed nature of the proposed dwellings with no garaging facilities and an absence of large outdoor amenity space could clearly be identified as being “executive”.
96. Officers do not consider that the supporting documents submitted demonstrate that there are wider benefits to the development which are of such weight or merit as to outweigh the harm caused to the designated heritage assets or harm to the openness of the countryside and the designated area of high landscape value.



97. Policy HE9 of PPS5 states that where an application will lead to substantial harm to or total loss of significance of a designated heritage asset local planning authorities should refuse consent unless it can be demonstrated that:
- (i) the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that harm or loss; or
  - (ii) (a) the nature of the heritage asset prevents all reasonable uses of the site; and (b) no viable use of the heritage asset itself can be found in the medium term that will enable its conservation; and
  - (c) conservation through grant-funding or some form of charitable or public ownership is not possible; and
  - (d) the harm to or loss of the heritage asset is outweighed by the benefits of bringing the site back into use
98. To be confident that no appropriate and viable use of the heritage asset can be found under policy HE9.2(ii) , PPS5 advises that local planning authorities should require the applicant to provide evidence that other potential owners or users of the site have been sought through appropriate marketing and that reasonable endeavours have been made to seek grant funding for the heritage asset's conservation and to find charitable or public authorities willing to take on the heritage asset. The applications have not been accompanied by any evidence that other potential owners or users of the site have been sought through an appropriate marketing exercise nor has evidence been submitted that reasonable endeavours to seek any grant funding for the heritage asset's conservation or to find charitable or public authorities willing to take on or contribute to the Hall.
99. The practice guide which accompanies PPS5 states that the demolition or destruction of a designated heritage asset on the grounds of keeping it in active use is very much a last resort after every option to secure a viable future for the asset has been exhausted. The fact that particular applicants or their advisers cannot conceive or achieve a viable use for the asset does not mean that there is no such use.
100. Officers do not consider that the submitted application has demonstrated that every option to secure a viable future for Harwicke Hall has been exhausted. The application has been accompanied by no alternative business models or solutions to the hotel's financial plight. The only option presented within the application is that of the residential development which would cause significant harm/destruction to the value of the heritage assets contrary to Policy HE9 of PPS5.
101. Regardless of the assessment of the merits of the proposed development against the provisions of Policy HE9 of PPS5 the development still constitutes the development of residential properties with a countryside location contrary to the requirements of Policies 1, 3 and 7 of the Local Plan and PPS7. The development is contrary to the requirements of the Development Plan and constitutes a departure from the Development Plan on these grounds alone.
102. The application and supporting documents do state that the conservation of the walled garden is integral to the proposed development and will be funded through the capital receipt of the development. In addition the supporting statements consider that if remaining funds are available then repairs to the Hall itself could also be undertaken although no details are provided as to which works to the Hall would occur and this cannot be considered as part of the development proposals. Consideration must therefore be given as to whether or not the development constitutes an enabling development and that this in turn provides the special justification for the development to be considered acceptable.

103. Enabling development is not a statutory term, but was confirmed as a legitimate planning tool in 1988 by the Court of Appeal. English Heritage within their guidance “Enabling Development and the Conservation of Significant Places” define enabling development as “development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out, and which could not otherwise be achieved.” It is an established and useful planning tool by which a community may be able to secure the long-term future of a place of heritage significance, and sometimes other public benefits, provided it is satisfied that the balance of public advantage lies in doing so.
104. Similarly Policy HE11 of PPS5 relates to enabling developments and considers that Local planning authorities should assess whether the benefits of an application for enabling development to secure the future conservation of a heritage asset outweigh the disbenefits of departing from the Development Plan.
105. Officers do not consider that the application demonstrates that the benefits of the development outweigh the disbenefits of departing from the Development Plan.
106. Detailed advice on the compiling of a suitable planning application proposing enabling development is provided by the English Heritage Guidance “Enabling Development and the Conservation of Significant Places”. The guidance establishes the information required within a submitted planning application to demonstrate an acceptable enabling development scheme and provides advice to Local Planning Authorities in determining those applications.
107. The English Heritage guidance makes it clear that the enabling development should not harm the place it seeks to sustain. This is fundamental to the acceptability of any enabling development scheme. Officers consider that the proposed development would harm the very heritage assets it is in turn also proposing to conserve. The proposed repairs to the listed wall and any potential repairs to the listed Hall (though none detailed) itself are not considered to outweigh the harm caused to the special character and setting of the listed Hall and garden wall resulting from the development. The presence of 4 no. dwellings within the walled garden and the proposed partial demolition of the listed wall itself are considered to be so harmful that the proposed conservation work to the listed wall would not adequately compensate. Furthermore the applications only include the submission of a structural survey proposing potential remedial works to the listed wall, a full and thorough schedule of works has not been submitted.
108. The applications as submitted do not contain the level of detail to demonstrate a genuine enabling development argument. It is fundamental to any enabling development that it must always be justified by the inherent lack of viability of the significant place, not an owner’s inability to fund a commercially viable scheme. The submitted applications and supporting documentation do not demonstrate that the significant place is unviable but merely that the present owner is unable to fund a commercially viable scheme.
109. The information supplied to support a proposal for enabling development should cover all financial aspects of the proposed enabling development, at a sufficient degree of detail to enable scrutiny by the Local Authority. This applies both to the definition of need of the enabling development – the condition of the place and the means and cost of addressing its problems and the definition of the scale of development necessary to meet that need. It must also be demonstrated that sufficient funds are not realistically available from any other source, particularly grant aid. No such financial justifications have accompanied the submitted applications. The only proposed works to the heritage assets applied for within the applications is

the repair of the listed wall likely involving localised rebuild and repointing works, although a clear schedule of works has not been submitted. Officers do not consider that such minimal works to the listed structure justify the scale of the development proposed. The erection of the 4 no. dwellings and associated works is not a level of development that can be considered the minimum necessary to secure the future conservation of the heritage asset. Indeed the applicant has indicated within the supporting documents that the vast majority of the proceeds from the development would be utilised to repay a loan debt and not be utilised directly upon the fabric of the heritage assets.

110. Before any enabling development is considered acceptable in principle the applicant needs to demonstrate that real efforts have been made, without success, to continue the present use or to find compatible alternative uses for the significant place. This would ordinarily entail marketing exercises for other uses, none of which have been submitted.
111. Officers do not consider that there are exceptional circumstances, special justifications or any enabling development case relating to the development proposals that may outweigh the clear harm to heritage assets and the countryside/area of high landscape value and conflict with the Development Plan which would warrant approval of the applications.

#### Impacts upon Archaeological Assets

112. The applications have been accompanied by an archaeological desk-based assessment. This assessment considers that there is the potential for impact upon the archaeological resource and recommends that this is further evaluated through excavating trial trenches across the application site.
113. The Council's Archaeologist has been consulted on the application and it is considered that there is strong evidence of a medieval presence in the vicinity of the Manor/Hall. The submitted desk based archaeological assessment highlights the possibility of the Medieval manor complex extending into the development, the Council's Archaeologist also considers that there is evidence of medieval period earthwork features to the south west of the hall and it is considered that the settlement in that period extended beyond the existing complex. The submitted desk based archaeological assessment recommends that trial trenching is required and it is considered that this should occur and be evaluated before planning permission is granted.
114. Policy HE6 of PPS5 advises on the information requirements affecting heritage assets and states that where an application site includes, or is considered to have the potential to include, heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where desk-based research is insufficient to properly assess the interest, a field evaluation.
115. Taking into consideration the content of PPS5 and the comments of the Councils Archaeologist it is considered that the submitted desk-based assessment is insufficient to properly assess the impacts of the development upon archaeological interests and further trial trenching should be undertaken before planning permission can be granted.

## Impacts Upon Trees

116. The application has been accompanied by a tree report, during the course of the application a plan identifying the trees has also been submitted. The application site itself is covered by a Tree Preservation Order.
117. The Council's senior tree officer considers that inadequate information has been submitted with the application to determine the precise works necessary as part of the development proposals. The submitted tree report considers the health of the trees and suggests possible work and monitoring arrangements for the trees. However, the tree report does not clearly demonstrate the impacts of the proposed development on the trees and which trees will be required to have works undertaken to them, or be removed to actually facilitate the building of the proposed dwellings and formation of the access route.
118. The submitted tree plan does not identify the proposed development works thereby not allowing for accurate assessment of the impact of the proposed access or dwellings upon the trees or their root protection areas.
119. The tree report does clearly identify and describe the health and condition of the trees however, and all trees are considered to be in either reasonable or poor condition or dead. No trees are described as being in good or excellent health/condition.

## Highway Safety

120. Policy 36 of the Local Plan requires all new developments to be served by a safe and adequate means of access whilst Policy 37 looks to limit the amount of dedicated parking space within new developments.
121. The Highway Authority has been consulted on the application and no objections are raised. However, a widening of the access road would be required and an existing speed hump relocated. The applicant would also be expected to commit to regular maintenance of the roadside vegetation on the B1281 either side of the existing road junction to ensure an adequate visibility splay. Such matters could be resolved through the attachment of suitably worded conditions or Section 106 obligation.

## Impacts upon the Amenity of Neighbouring Occupiers

122. Policy 35 of the Local Plan seeks to preserve the amenity of residents within the vicinity of the development.
123. The application site benefits from being rather detached from neighbouring property. The nearest property from the proposed residential dwellings would be the Hardwicke Hall Manor Hotel itself located approximately 60m to the north. The nearest residential property would be Wood Cottage located approximately 70m to the west. Taking into consideration the separation distances involved and the screening afforded to the proposed development by the listed wall and landscape features it is not considered that any detrimental impact upon the occupiers of neighbouring property would occur through the loss of privacy or amenity.

## Design and Layout of the Residential Development

124. Policy 35 of the Local Plan requires all development to reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials.
125. No objections are raised to the proposed dwellings themselves in terms of their appearance and design. The proposed dwellings comprise of a simple and traditional design. Quality materials are proposed with the use of slate to roof coverings and timber windows.
126. However, the proposed development and layout do cause harm to the listed buildings of the Hall and the garden wall and their setting as detailed within the "Impact upon the Listed Buildings and their Setting" section to this report. The scale of the development is also considered harmful to the countryside setting and the Area of High Landscape Value as discussed in the "Principle of Development" section of this report.

## Impact upon Protected Species

127. The application has been accompanied by a bat risk assessment which included survey work and external inspection of the listed garden wall. Bats are a protected species and the presence of protected species such as bats is a material planning consideration in accordance with Circular 06/05 to PPS9. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010. These regulations established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations, it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
128. The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2010 contain 3 no. "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm an European Protected Species (EPS). For development activities this licence is normally obtained after planning permission has been granted. The three derogation tests are as follows; the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety; there must be no satisfactory alternative and; favourable conservation status of the species must be maintained.
129. Notwithstanding the licensing regime the Local Planning Authority must discharge its duty under Regulations and also have in mind these three tests when deciding to grant planning permission for development where this is likely to result in disturbance to an EPS.
130. The submitted bat risk assessment found no evidence of bat usage, however, given the condition of the wall and presence of holes within its fabric there is the potential for the wall to provide roosting habitats. As a result a method statement has been prepared and proposes precautionary working methods and timings. Natural England have assessed the development against their standing advice and have raised no objections to the proposed development.

131. Officers consider that a suitably worded condition can be formulated to ensure that the proposed precautionary working methods within the submitted bat risk assessment are implemented on any approval.
132. Officers consider that subject to the proposed mitigation measures being implemented the impact of the development upon bats would be acceptable having regard to its duty under the Habitats Directive.
133. No objections are therefore raised to the development with regards to the impact upon protected species in accordance with Policy 18 of the Local Plan and Policy 33 of the RSS.

#### Other Issues

134. The submitted planning application form states that the foul sewage for the development would be disposed of through the use of a septic tank. However, the application also includes details of a Klargestor package treatment plant. It is therefore unclear as to how it is proposed to deal with the foul sewage disposal either through a septic tank or a package treatment plant. Disposal via the mains sewer is not proposed. PPS23 advises on the potential for polluting contaminants in development including those relating to water quality and whether adequate sewerage and drainage infrastructure is available for new development.
135. Circular 03/99 provides further advice with regards to development and non-mains sewerage. The Environment Agency have objected to the proposed development because it involves the use of a non-mains foul drainage system but no assessment of the risks of pollution to the water environment has been provided by the applicant. Refusal of the planning application is therefore recommended.
136. This circular advises that before deciding a planning application, the local planning authority needs to be satisfied that the sewerage arrangements are suitable. If the non-mains sewerage and sewage disposal proposals are assessed as being unsatisfactory, this would normally be sufficient to justify refusal of planning permission.
137. If, by taking into account the cost and/or practicability, it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, a package sewage treatment plant incorporating a combination of treatment processes should be considered. A septic tank should only be considered should a the mains sewer and a package treatment plant solution be unfeasible.
138. In this instance the applicant has not made it clear whether a package treatment plant or a septic tank is proposed to cater for the foul sewerage of the proposed development. There has been an absence of justification provided to the Environment Agency and Local Planning Authority for the use of non-mains drainage and in turn the application does not, therefore, provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development contrary to the requirements of PPS23.
139. The planning application has been accompanied by a contaminated land risk assessment. Comments on this have not been received from Environmental Health. However in the event of any approval it is considered that conditions could be attached to any approval requiring any necessary investigation and remedial works with regards to land contamination.

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## CONCLUSION

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140. The proposal seeks the erection of 4 no. dwellinghouses with associated vehicular access, demolition and conservation work to a listed wall.
141. The proposed erection of dwellinghouses in the countryside and an area of high landscape value is considered to be unacceptable development in principle contrary to the Development Plan.
142. The proposed works would cause harm to the special character and setting of the listed Hardwicke Hall Manor Hotel, a listed garden wall with complete demolition of outbuilding also protected by the listing with no justification submitted.
143. The supporting documents seek to demonstrate that the works are necessary to provide the capital injection to retain the hotel business with the benefits this brings to the local economy, local tourism and services and employment. Conservation works to the listed wall are also proposed. However, officers do not consider that any exceptional circumstances or form of enabling development have been demonstrated that would outweigh the demonstrable harm and conflict with the Development Plan.
144. Furthermore, the applications have failed to incorporate the necessary investigations into the impacts of the development upon potential archaeological assets and there is an absence of justification provided to the Environment Agency and Local Planning Authority for the use of non-mains drainage.
145. The applications are therefore recommended for refusal.

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## RECOMMENDATION

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That the applications be **REFUSED** for the following reasons;

PL5/2011/0401

1. The application proposes the erection of 4 no. dwellinghouses and associated works within the open countryside and within a designated area of high landscape value. Isolated residential development in such a location is unacceptable unless special circumstances have been demonstrated. No such special circumstances have been demonstrated within the application and the proposed development is considered harmful to this part of the countryside and area of high landscape value contrary to Policies 1, 3 and 7 of the District of Easington Local Plan, Policies 4 and 24 of the RSS and PPS7.
2. The proposed development by reason of its scale and prominence and location with a walled garden would be harmful to the special setting of the Grade II listed Hardwicke Hall Manor and Grade II listed garden wall contrary to the requirements of Policy 24 of the District of Easington Local Plan and PPS5.

3. The submitted application fails to adequately investigate the impact of the development proposal upon potential archaeological assets. The submitted desk based archaeological assessment recommends trial excavations to fully assess impact and such excavations have not been implemented. The development is therefore considered contrary to the requirements of PPS5.
4. The application has not been accompanied by adequate information or justification on the use of non-mains drainage and in turn the application does not, therefore provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development contrary to the requirements of PPS23.

PL/5/2011/402

1. The proposed development by reason of its scale and prominence and location within a walled garden would be harmful to the special setting of the Grade II listed Hardwicke Hall Manor and Grade II listed garden wall. The proposed partial demolition of the listed garden wall is considered harmful to the character and fabric of this listed structure. The proposed demolition of a brick outbuilding protected by virtue of being a structure within the curtilage of a listed building has been submitted with no justification for its loss. The proposals are therefore considered contrary to the requirements of Policy 24 of the District of Easington Local Plan and PPS5.

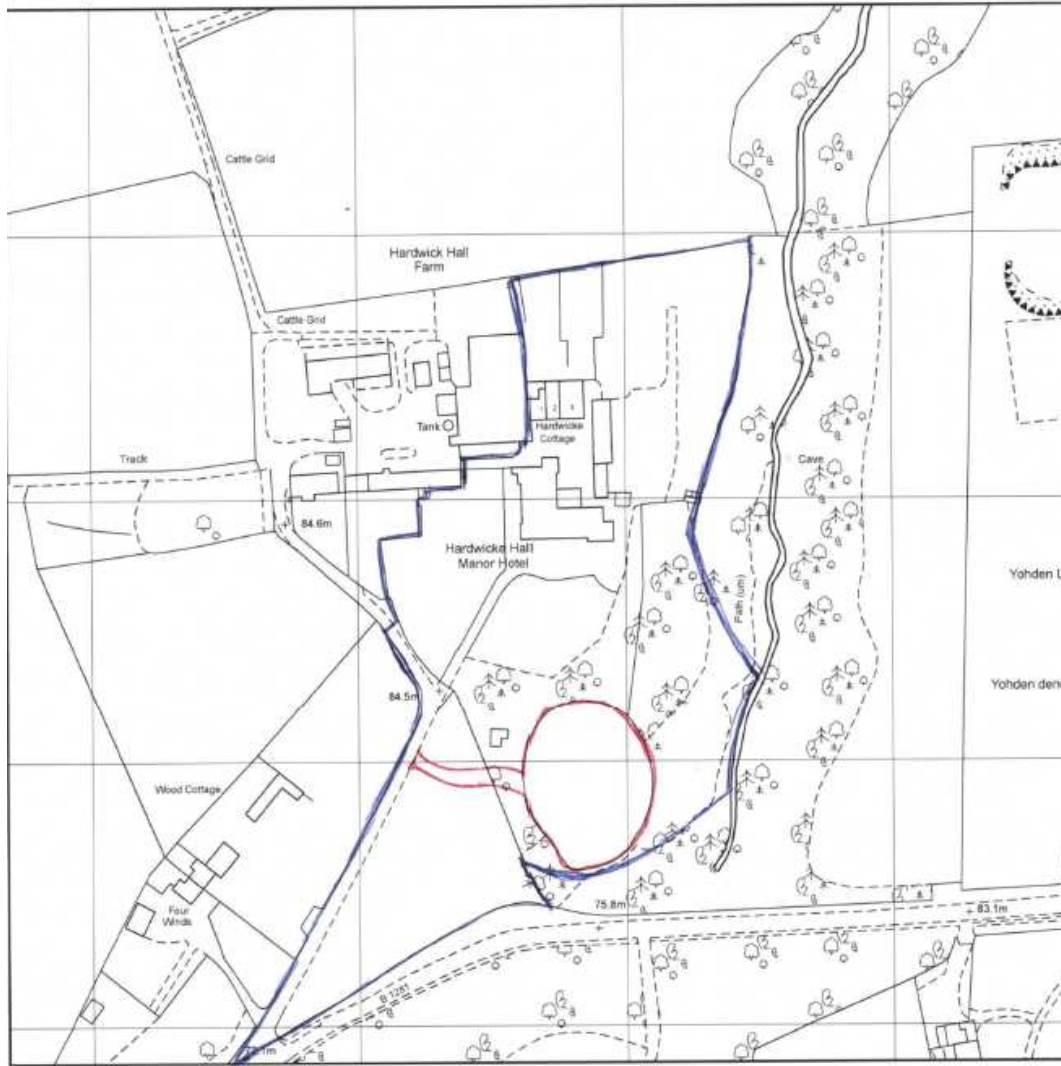
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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans  
Submitted Design and Access Statement, Heritage Statement and Supporting Statements  
District of Easington Local Plan 2001  
Regional Spatial Strategy  
Planning Policy Statements 1, 3, 4, 5, 7, 9 and 23 and Planning Policy Guidance Notes 13  
Good Practice Guide on Planning for Tourism  
English Heritage Guidance -Enabling Development and the Conservation of Significant Places (2008) and The Setting of Heritage Assets (2011)  
Response from Highway Authority  
Response from Northumbrian Water  
Response from Environment Agency  
Response from Natural England  
Response from English Heritage  
Internal consultee responses  
Planning Circulars 11/95 and 03/99





**Planning Services**

PL/5/2011/401 - Four detached residential properties including private vehicular access road

PL/5/2011/402 – Partial demolition of Grade II listed garden wall and proposed repair of remainder, partial demolition of boundary wall and complete demolition of existing brick shed within curtilage of Grade II listed Hardwicke Hall Manor Hotel in association with residential development of 4 dwellings

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**Comments**

**Date** 10<sup>th</sup> January 2012

**Scale** 1:2500

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