



Area Planning Committee (Central and East Durham)

Date Wednesday 12 September 2012
Time 1.00 pm
Venue Committee Room 2 - County Hall, Durham

Business

Part A

1. Declarations of Interest, if any
2. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) 4/12/00639/FPA - Potterhouse Substation, Front Street, Pity Me, Durham DH1 5BZ (Pages 1 - 10)
Telecommunications tower
 - b) 4/11/00805/OUT - The Pottery, Front Street, Coxhoe, Durham DH5 4AX (Pages 11 - 32)
Outline planning permission for the erection of 24 no. dwellings with detailed approval sought for means of access only.
 - c) 4/12/00727/VOC - Land at former Cape Site, Durham Road, Bowburn DH6 5AT (Pages 33 - 52)
Removal of condition 12 of planning application 06/00631/OUT (Outline application including details of means of access for employment use and residential development with associated play areas, landscaping, parking and access) relating to the provision of 30% affordable housing.
 - d) 4/12/00556/FPA - Brandon House, Grove Road, Brandon, Durham DH7 8BW (Pages 53 - 66)
20 no. apartments and 2 no. bungalows
 - e) 4/12/00557/FPA - Oversteads House, Skippers Meadow, Ushaw Moor, Durham DH7 7NJ (Pages 67 - 80)
16 no. apartments

3. 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

4 September 2012

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

Contact: Ian Croft

Tel: 0191 383 3489

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/12/00639/FPA
FULL APPLICATION DESCRIPTION:	Telecommunications Tower
NAME OF APPLICANT:	Northern Powergrid
ADDRESS:	Potterhouse Substation, Front Street, Pity Me, Durham, DH1 5BZ
ELECTORAL DIVISION:	Framwellgate Moor
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This application site is located adjacent to Front Street in Pity me and is known as Potterhouse Primary Substation. The substation site provides electricity supplies through Northern Powergrid's infrastructure to the immediate area and other settlements surrounding Pity Me. The site area of the substation is approximately 9509 square metres and has two access points onto Front Street. The site contains various control buildings, electrical transformers, a pylon, underground cables and other operational equipment of varying heights, all of which is scattered throughout the site.
2. To the east of the site a partially landscaped grass verge bounds the perimeter and serves to give limited screening of the site from Front Street. The north of the site is bounded by a public footpath and embankment which also serves to partially screen the site. To the south and west of the site there are residential properties which have different views across the site due to varying levels of landscaping and trees.

The Proposal

3. In order to safeguard the electrical infrastructure at Potterhouse Substation, it is proposed to install a 22 metre high galvanised steel lattice tower within the centre of the site in an area that is not affected by underground cables. The tower would be located on a 4.3 metre by 4.3 metre concrete base and would host two antennas and two transmission dishes. The tower would remain in its galvanised steel finish to reflect the surrounding equipment and adjacent electricity pylon.

4. The proposed tower is required to provide links to three other operational sites at Spennymoor, Manor House and Kepier, which will allow existing systems at Potterhouse to continue to work and provide protection at the other sites as part of a linked complete network. Such protection systems monitor and automatically control high voltage equipment at substations and switch or disconnect when required and in emergencies.
5. The proposed equipment to be installed at Potterhouse Substation would give Northern Powergrid the ability to control the high voltage electrical equipment when faults occur. Faults may be caused by mechanical breakdown, overload, weather or by third party interference with the equipment. The radio link would allow automatic remote switching and control to prevent faults becoming major issues in terms of safety and customer disruptions.
6. It is proposed that the telecommunication equipment would only be used for the operation of protection systems and would not be used to house any cellular equipment for mobile phone or other third party companies.
7. The application is being reported to committee due to a request from a local divisional member.

PLANNING HISTORY

8. None relevant

PLANNING POLICY

NATIONAL POLICY

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
11. The following elements are considered relevant to this proposal;
12. NPPF Part 1 – Building a Strong and Competitive Economy. The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
13. NPPF Part 5 – Supporting high quality communications infrastructure. Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services. Local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband.

14. NPPF Part 7 – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

REGIONAL PLANNING POLICY

15. *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.
16. 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:
17. 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.
18. 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.

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

19. Policy Q1 (New Development (General Principles)) states that the layout and design of all new development should take into account the requirements of users including the incorporation of personal safety and crime prevention.
20. 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.
21. Policy U1 (Telecommunications) states that when considering applications for telecommunications equipment, the Council will grant planning permission where the benefits arising from the development would outweigh any environmental damage.

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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

22. None received

INTERNAL CONSULTEE RESPONSES:

23. None received

PUBLIC RESPONSES:

24. The application has been advertised by way of a site notice and letters to individual residents.
25. Nine letters of objection and one letter which neither objects nor supports the proposal have been received.
26. The main objections to the proposals are that the residents of the nearby, recently built housing estate were told by the developers that the substation was due to be decommissioned. In addition the proposed mast would lead to a decrease in the value of their homes.
27. There are also concerns that the site is already unsightly and contains a large pylon and noisy transformer, it is stated that the proposed mast would also be unsightly and would lead to further detrimental impact including potential impact on the health of residents.
28. One resident has no objections to the proposed mast, but has concerns about the derelict building on the corner of the substation site which is described as being an eyesore.

APPLICANTS STATEMENT:

29. This proposed development at Potterhouse Primary substation is necessary as part of Northern Powergrid's wider network protection system. Protection equipment in high voltage transmission networks is required to protect plant, employees and the wider public, they enable remote switching and control both routinely and in emergencies such as overload or mechanical failure. Substations cannot operate without this equipment. The need for the proposed development has been brought about as a result of some significant technology changes being made by BT. BT under their 21st Century project (currently underway) will not be able to provide replacement systems that function at the required speed to ensure the safe operation of the protection equipment vital to electrical networks. Northern Powergrid, along with all of the regional Distribution Network Operators, are faced with the challenge of maintaining systems that adequately function prior to the BT switch-over. The telecommunication systems are a critical part of the electricity distribution operations, and therefore primary substations need to be linked into each other. Potterhouse, along with many other substations in the North East, requires a point-to-point line of sight link into the wider network to ensure safe operations both locally and beyond. At Potterhouse there are no viable alternative methods of providing telecommunications links into the wider network. A direct line of sight link is required to other operational sites at Spennymoor, Durham Rail and Kepier. Northern Powergrid therefore require a tower to be built to provide a clear line of sight at 22m because of the local clutter such as trees and buildings and the general topography between Potterhouse and the target locations. Significant technical assessment has

taken place over several months to ensure that there are no viable alternatives and ultimately that the height and scale of the structure is minimised.

30. The essential network infrastructure proposed is in no way connected with mobile phone operators, and there are no intentions at this time of permitting third party users at the site. The tower will provide only point-to-point links to and from other electricity substations to ensure that the time-critical protection system functions adequately. The site benefits from some mature screening which limits overlooking from residential properties to the south and west. To further minimise impact the tower is proposed towards the centre of the site amongst the clutter of plant transformers, buildings and a pylon. Whilst it is inevitable that the tower will have some impact, it is our view that the operational requirements to ensure supplies and safety significantly outweigh the negative impact of the proposed necessary development. The content of the Supporting Statement including Design and Access Statement should be noted. The report accompanying the application contains comprehensive information of the need for the development, why protection systems are a vital part of the electrical infrastructure and the issues surrounding BT and electrical technology which are affecting all Distribution Network Operators.

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=M4W1OFBN5B000

PLANNING CONSIDERATIONS AND ASSESSMENT

31. The main planning considerations relating to this application are the proposals accordance with the relevant planning policies, the impact on the street scene and surrounding occupiers and the objections raised by local residents.

Relevant Planning Policies

32. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
33. In terms of planning policy, part 5 of the Governments National Planning Policy Framework (NPPF) and saved policy U1 of the City of Durham Local Plan are most relevant.
34. Part 5 of the NPPF states that advanced, high quality communications infrastructure is essential for sustainable economic growth, and that local planning authorities should support the expansion of electronic telecommunications networks. Where new sites are required, these should be sympathetically design and camouflaged or screened where appropriate.
34. The need for telecommunications infrastructure is also reflected in saved policy U1 of the City of Durham Local Plan. This policy states that when considering applications for telecommunications equipment, the Council will grant planning permission where the benefits arising from the development would outweigh any environmental damage.

35. Given that the proposed telecommunications mast has specific operational needs and locational requirements in order to operate protection systems, it is considered that the proposed telecommunications mast is in accordance with the principles of both part 5 of the NPPF and saved policy U1 of the City of Durham Local Plan. However, there are other material considerations which must be taken into account which include the impact of the proposals on the street scene, residential amenity and the concerns of residents which will be discussed below.

Impact on the street scene and surrounding occupiers

36. For both operational and locational reasons, the proposed development is necessary to provide protection equipment which is critical to the safe management of electrical infrastructure. Given the specific nature of the proposed development, uncommon circumstances with regards to need, significant space constraints within the site and line of sight requirements, there are limited design options available and it is inevitable that the proposed telecommunications mast will be visible from the surrounding area and will have some impact on appearances.
37. Officers have visited the site on several occasions in order to assess the impact on the proposed mast on the surrounding occupiers and area as a whole. On one occasion, the applicant agreed to erect a 22 metre pole and antenna on the site in order for officers to assess the impact more accurately from various points around the site. It has been concluded that although the mast would be visible from some properties and public spaces around the site, that essentially the mast would be seen in the context of the site which already contains large amounts of electrical equipment including a 33 metre high pylon, overhead cables, electrical transformers and switch rooms. Therefore it is considered that the additional mast would have no significant additional impact that should outweigh the need for this essential infrastructure and lead to refusal of planning permission.
38. As acknowledged above, it is inevitable that the telecommunications mast will be visible from some areas surrounding the site. Most of the works already carried out on the site have been done so without the need for planning permission as Northern Powergrid are a statutory undertaker who have specific permitted development rights to carry out such developments. However, as this mast exceeds 15 metres planning permission is required and as such, the Local Planning Authority have the power to impose conditions on planning permissions where appropriate. In this instance it has been agreed that a landscaping condition should be added to any planning approval which would require the applicant to submit and implement a landscaping scheme which would help screen the whole site including the unsightly building mentioned in one of the residents letters and help mitigate the impact of the proposed telecommunications tower.

Objections from surrounding residents

39. In terms of objections from residents, it is not considered that the reduction in house prices is a planning consideration, nor is the statement that the house builder advised buyers of the properties that the substation was due to be decommissioned.
33. For the reasons discussed earlier it is not considered that the additional impact on the amenity of residents should outweigh the essential need for the infrastructure given the overall context of the site. However, in terms of the possible impact on the health of residents, the Government's firm view is that the planning system is not the place for determining health safeguards and as such it remains the Government's responsibility to decide what measures are necessary to protect public health. As required by part 5 of the NPPF, 'licensed code operators' must provide a self-certifying statement that any

exposure would not exceed the International Commission on non-ionising radiation protection guidelines (ICNIRP). If a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for the Local Planning Authority to consider the matter further. Although Northern Powergrid are not 'licensed code operators' and are not obliged to submit any such information, the applicant has confirmed that the proposed radio antenna would operate well within the permitted emission parameters, and as a result Officers do not consider that objections can be raised with regards to the potential impact of the proposed equipment upon the health of local residents.

CONCLUSION

36. The proposed development at Potterhouse Primary Substation is seen as a crucial part of the infrastructure of Pity Me and surrounding villages and of Northern Powergrid's wider network protection system. Protection equipment in high voltage transmission networks is essential to protect plant, employees and the wider public, and they enable remote switching and control both routinely and in emergencies such as overload or mechanical failure leading to loss of power. Substations cannot operate without this equipment.
62. As stated earlier in the report, local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. In this instance, it is considered that the proposals are in accordance with the relevant planning policies and the Governments National Planning Policy Framework. It is acknowledged that there are other material considerations including an impact on surrounding residents and the area as a whole, however it is considered that the wider infrastructure benefits arising from the development would outweigh any such localised impacts.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; 02/366985/003 Rev. P1, 02/366985/004 Rev. P1

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policy Q8 of the City of Durham Local Plan.

3. The hereby approved development shall be carried out in accordance with a scheme of landscaping to the front and rear of the site to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site, and which scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of screen

fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to 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.

Reason: In the interests of the visual amenity of the area and to comply with saved policy Q5 of the City of Durham Local Plan.

REASONS FOR THE RECOMMENDATION

1. The development was considered acceptable having regard to the following development plan policies:

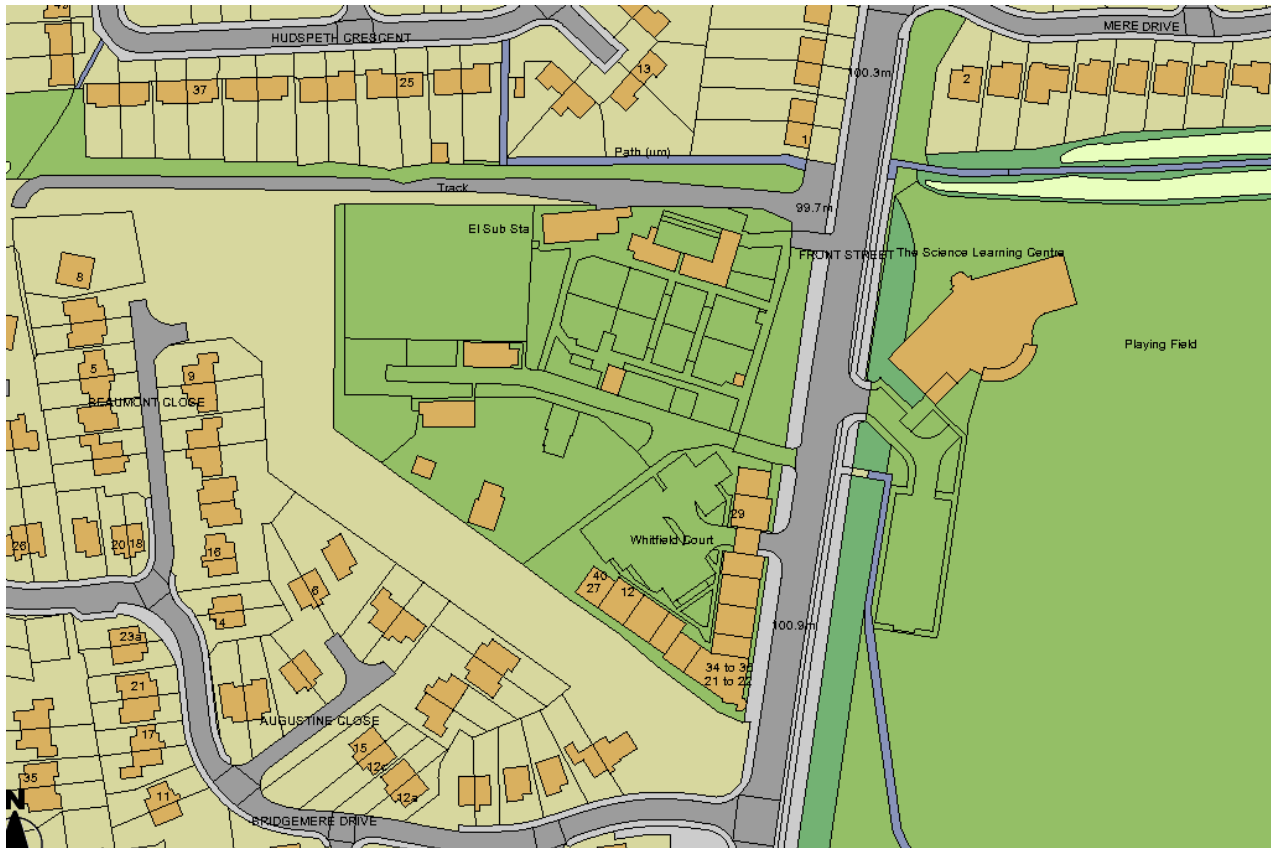
NPPF Part 1, NPPF Part 5 and NPPF Part 7

Regional Spatial Strategy Policy 2 and Policy 6

City of Durham Local Plan Policy Q1, Policy Q5 and Policy U1.
2. In particular the development was considered acceptable having regard to consideration of issues of the need for the development, planning policy and the impact on the street scene and surrounding occupiers.
3. Objections from local residents were not considered sufficient to warrant refusal of planning permission given the essential need for the infrastructure and that the additional impact of the proposal in the context of the existing site would not be significant.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
Regional Spatial Strategy
National Planning Policy Framework
Public Responses



Potterhouse, substation

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Date 11th September 2012

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/11/00805/OUT
FULL APPLICATION DESCRIPTION:	Outline planning application for the erection of 24 no. dwellings with detailed approval sought for means of access only
NAME OF APPLICANT:	Mr John Frampton
ADDRESS:	The Pottery Front Street Coxhoe Durham DH6 4AX
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a site of the former Coxhoe Pottery and the remnants of old brick buildings remain on the site. An access road leading from Front Street runs through the northern section of the site and provides access for 2 no. properties. The site also contains a vacant property known as Fairview. The remainder of the site is essentially an overgrown field and contains trees and hedging. A grouping of mature trees subject to a recent tree preservation order line sections of the southern and eastern boundary. Residential properties are located to the north and west with open fields to the east and south.
2. The site is located adjacent to but outside the settlement boundary of Coxhoe and is located at the southern end of the village close to the A177.

The Proposal

3. This application seeks planning permission for a residential development. The indicative layout and information supplied with the application proposes 24 no. dwellings with a mix of 2, 3 and 4 bed properties including detached, semi-detached and terraced properties.
4. The only detailed matter requested for consideration under this application relates to the access. Matters of the appearance, layout, landscaping and scale of the development

are reserved. The existing access would be improved to adoptable standard with a road width of 4.8m. In order to cater for the required adoptable road a section of hedge to the front of Nos. 15-22 Belgrave Court would be removed as part of the works.

5. This application is being referred to Committee as it constitutes a major development.

PLANNING HISTORY

6. There is no history of planning applications with regards to this site.
7. Of interest planning permission was granted for the development of a wildlife habitat on land to the south of the application site in March of this year.

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
10. The following elements are considered relevant to this proposal;
11. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
12. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.

14. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
16. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

REGIONAL PLANNING POLICY

18. *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.
19. 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:
20. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.

21. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
22. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
23. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
24. *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.
25. *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.
26. *Policy 31 - Landscape Character* seeks to promote development appropriate to the special qualities of locations specifically designated for their landscape quality and seeks to promote appropriate management of these areas through the use of integrated management initiatives and character based planning tools.
27. *Policy 32 Historic Environment* requires planning proposals to conserve and enhance the historic environment.
28. *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.
29. *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.
30. *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)

31. *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.
32. *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.
33. *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.

34. *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.
35. *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.
36. *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. 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.
37. *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.
38. *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.
39. *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.
40. *Policy T21 - Safeguarding the Needs of Walkers* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
41. *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.

42. *Policy R11 - Public Rights of Way* states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.
43. *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.
44. *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.
45. *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.
46. *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.
47. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
48. *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.
49. *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.
50. *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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

51. The Coal Authority have raised no objections.
52. The Highway Authority have been consulted on the application and the revisions to access arrangements were requested. Revised plans were received during the course of the application and considered acceptable.

53. Northumbrian Water have stated that their sewers cross the site and a scheme to divert or relocate the sewers must be agreed.
54. Coxhoe Parish Council have raised concerns over traffic generation and a request made that the 4 bed properties are replaced with 2 bed bungalows. Open space as oppose to play space is sought on site and any S106 monies should be with regards to schemes identified in the Parish Plan.

INTERNAL CONSULTEE RESPONSES:

55. Landscape have been consulted on the application and consider that the site is not prominent from the countryside and would fit well with the existing residential boundaries. However, concerns are raised at the loss of hedgerow to facilitate the access.
56. Environmental Health have raised no objections though recommendations with regards to working hours, dust and noise suppression and that no burning of materials on site should occur are made.
57. The Councils Senior Low Carbon Officer have stated that the development should seek to meet level 4 of the Code for Sustainable Homes or otherwise meet the standard 10% energy reduction condition.
58. Public Rights of Way have identified a public footpath to abutting the southern boundary of the site. The development should not affect this footpath though care should be taken with the treatment of the boundary.
59. Archaeology raise no objections but do recommend conditions are attached to any approval with regards to archaeological mitigation and recording.
60. Local Plans consider that the proposal is contrary to policies E7 and H5 of the Local Plan by reason of constituting residential development beyond a settlement boundary. However, the site is considered well related to the settlement and would constitute a logical extension to the village. The development is considered appropriate at the locality but consideration should be given to the fact it is outside the settlement boundary.
61. Asset management originally objected to the proposal on the basis that the development would involve development on Council owned open space and adopted highway. Following the submission of further details to assets clarifying the degree of land to be developed, assets have rescinded this objection.
62. The Councils School Admissions team have raised no objections to the proposed development stating that Coxhoe Primary School has recently been increased in size whilst there are also sufficient secondary school places available.
63. Ecology have raised no objections to the proposal, the mitigation measures within the submitted habitat survey should be conditioned on any approval.
64. The Councils Senior Tree Officer considers that the trees on the southern and eastern boundary of the site are worthy of a tree preservation order. The trees proposed for removal, particularly those in the western sections of the site could be removed and adequately replaced with a re-planting scheme. The hedgerow adjacent to the public footpath to the south should be retained.

PUBLIC RESPONSES:

65. Sixteen letters of representation have been received in relation to the application.
66. Objection to the removal of the hedgerow to form access is raised, the access road is not understood to be wholly owned by the applicant part of it is unregistered. The applicant is not thought to have a right of access across the access lane. Suggestions are made for a revised access arrangement. There is a considered lack of turning facilities at Ivy Cottage and occupiers have to reverse the full length of the access lane to exit onto the main road. A pedestrian passing point indicated on the access plan would increase pedestrian traffic in front of adjacent property.
67. Objection is raised to the number of vehicles using the access lane both during the construction phase and once the development were completed. The passing vehicles would be a hazard to children and cause noise and disturbance. The restriction on working hours proposed by environmental health officers is considered unacceptable there should be no work after 5pm or prior to 9am on a Saturday. Passing vehicles may cause damage to adjacent property coupled with concern over subsidence and cause damage to pipes and drains under the lane. Objection is raised that the development would infringe upon privacy and be a detriment to occupiers outlook and result in a loss of light.
68. The movement of the bus stop to accommodate the access could cause parking problems and traffic hazard.
69. It is considered that there are insufficient school places and lack of availability at Doctors and GP surgeries to cater for the development.
70. Objections are raised to the loss of trees and wildlife which would occur and concern raised over impact upon protected species. It is also considered that the development represents an intrusion into the countryside and the land is understood to be within a landscape improvement area and should be subject to enhancement rather than development.
71. One respondent points out that archaeological artefacts could be found at the site. One respondent acknowledges that the site is identified within the Strategic Housing Land Availability Assessment (SHLAA) but that this has not taken into account some key planning considerations such as highway safety, landscaping etc. This respondent also states that should planning permission be granted they would like to see revisions to the scheme to ensure adequate privacy and amenity, retention of landscape features, provision of turning facilities for their property, suitable boundaries are provided and measures to protect pedestrians at the access are incorporated.
72. One respondent states that the application documents claim the site has suffered from anti-social behaviour and vandalism but this is not the case.
73. The site contains some asbestos materials and it is understood that in the past unregulated substances were dumped on the land. Investigative work into land contamination by the applicant is inconclusive. Objection is raised to the claims within the submitted design and access statement that the development would improve security to properties on Belgrave Court, the submitted documents also incorrectly describe adjoining houses as former council stock.
74. One local resident queries what will happen to an old brick garage which forms part of the boundary of their property as a result of the development.

75. A freedom of information request was made by one respondent in relation to the sale of Council land adjacent to Belgrave Court.

APPLICANTS STATEMENT:

76. The applicant has submitted a statement in support of the proposal which states that the development is to provide a total of 24 detached, semi-detached and terraced dwellings. The submitted plan is however only indicative in that this is an outline application. The scale of the development fits in with its surroundings and the new development to the south. High quality landscaping is proposed at the outset.
77. The application site is considered to constitute previously developed land and is identified as a "green" site within the SHLAA.
78. Since the submission of the application the Government has introduced the National Planning Policy Framework (NPPF) which now replaces the former planning policy statements. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which it says should be seen as a golden thread running through both plan-making and decision-taking.
79. The site is considered to be a sustainable location for new housing development being conveniently located for access to a wide range of social and community facilities in Coxhoe and public transport.
80. The Core Strategy Consultation allows for further housing at Coxhoe, outside the limits for development set out in the adopted Local Plan. The benefits of allowing development on this application site significantly and demonstrably outweigh any adverse impacts.

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=11/00805/OUT](http://217.23.233.227/WAM/SHOWCASEFILE.DO?ACTION=SHOW&APPTYPE=PLANNING&APPNUMBER=11/00805/OUT)

PLANNING CONSIDERATIONS AND ASSESSMENT

81. 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, impact upon the character and appearance of the area, impacts on residential amenity, ecology, and highway safety.

The Principle of the Development

82. The vast majority of the application site with the exception of the access point is located adjacent to but outside of the settlement boundary of Coxhoe as defined within the City of Durham Local Plan.
83. Local Plan Policy E7 identifies land outside settlement boundaries as being the countryside. Policy H5 of the Local Plan relates to new housing outside settlement boundaries in the countryside and states that such housing will only be acceptable in

exceptional circumstances where required for persons employed mainly or solely in agriculture or forestry and even then a series of criteria must be met.

84. The proposal seeks planning permission for a general residential development, not development for any agricultural or forestry workers. As a result the proposed development must be considered to be in conflict with the contents of policies E7 and H5 of the Local Plan.
85. However, planning proposals must be considered with reference to the NPPF. The City of Durham Local Plan is not a plan adopted in accordance with the Planning and Compulsory Purchase Act 2004 but rather pre-dates it though policies were “saved”. As a result the NPPF advises that due weight should be given to relevant policies in the Local Plan according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
86. The key theme running throughout the NPPF is that of sustainable development and introduces a presumption in favour of sustainable development. With regards to residential development in countryside locations the NPPF at paragraph 55 advises that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances.
87. The application site is not isolated, it immediately abuts existing development and the settlement of Coxhoe. It is well related to other residential property and is within close proximity to existing services and facilities in the village. The County Durham Local Plan, set to replace the existing Local Plan, is still emerging and is at the preferred options stage. The document may therefore be subject to change, however, some weight can be attributed to its content and particularly with regards to housing need which is supported by the evidence based document the Strategic Housing Market Assessment (SHMA). The SHMA and County Durham Plan preferred options identify a housing allocation of 450 houses at Coxhoe lending weight to the considered suitability of Coxhoe to cater for further residential development.
88. In the current period of changing planning policy, to help provide clarity and direction, Cabinet approved in May of this year the advisory document “Assessing Development Proposals in a changing National Planning System”. This document considers that the following questions should be considered as key criteria in determining the acceptability of a development contrary to the Local Plan in the changing planning system.
89. *Does the proposal meet the objectives of the emerging County Durham Plan and does it comply with the emerging spatial strategy?*

The County Durham Plan identifies a need for housing, identifies Coxhoe as one of the 23 smaller towns and villages in the County capable of supporting levels of growth commensurate with their sustainability, physical constraints, land supply and attractiveness to the market. The emerging County Durham Plan is not proposing the use of settlement boundary limits tightly drawn around existing settlements unlike the existing the Local Plan. The proposed development of 24 no. dwellings is not considered to represent such a significant number of new dwellings that it could be considered to undermine the emerging plan. As a result the development is considered to comply with the objectives of the emerging County Durham Plan.

90. *Does the proposal deliver current needs or contribute to improved facilities in the locality?*

91. The application has been accompanied by a S106 agreement which proposes 20% affordable housing across the site (discussed in more detail elsewhere in this report), a financial contribution the equivalent of 1% of build costs to go towards public art and a contribution of £1,000 per dwelling to go towards play and recreational facilities in accordance with the requirements of Policies Q15 and R2 of the Local Plan.
92. The application is therefore considered to contribute towards providing affordable housing, art and improved local facilities as required. In addition to providing additional homes sought across the County these benefits are considered to demonstrate a delivery of need and improved facilities.
93. *Is there Community Support?*
94. A total of 16 letters from local residents raising concerns and objections have been received in relation to the development which clearly shows a degree of lack of support within some parts of the community. The Parish Council have also raised some objections in relation to highways matters, the house types proposed and queried S106 agreements. It must be noted that the majority of objections received relate to specific matters rather than in principle objections and these are discussed in more detail throughout this report.
95. *Is the Proposal Sustainable?*
96. With the location of the former Pottery buildings and dwelling known as Fairview within the bounds of the site part of the application site can be considered previously developed. The applicant considers that the site is wholly previously developed. However, other sections of the site appear as relatively unkempt grassland and the definition of previously developed land excludes garden associated with residential property. Much of the site must therefore be considered greenfield.
97. However, the application site is considered to be located in an appropriate and sustainable location. As described above the application site is not isolated adhering to NPPF advice, it immediately abuts existing development and the settlement of Coxhoe. It is well related to other residential property and is within close proximity to existing services and facilities in the village. Some public objection concerns the considered lack of local school and doctors surgery spaces. The Council school admissions team has been consulted and school places are considered to be available in the primary school and at local secondary schools, aided by a recent extension to the primary school in Coxhoe. Less assurance can be provided over the availability of places at doctors surgeries. However, the application is at this stage in outline only so some weight can be attributed to the length of time which is likely to occur between any grant of planning permission and the occupation of the development, by which time greater availability may have emerged. On balance officers consider that the proposal is adequately sustainable.
98. On balance, officers consider that the principle of the development can be accepted.

Impact upon the Character and Appearance of the Area

99. Part 7 of the NPPF relates to the design of all new development and with good design a key aspect of sustainable development, indivisible from good planning. Policies H13, Q1, Q2 and Q8 of the Local Plan seek to ensure that new development is appropriately designed whilst policy E14 seeks to retain trees and hedgerows of value where possible and replace those lost.

100. Some public objection to the development relates to the impact of the development upon the local landscape and countryside and the loss of trees and hedgerow.
101. The application site does lie beyond the settlement boundary and would develop a grassed and landscaped parcel of land albeit in a rather unkempt state. The newbuild would undoubtedly have some impact upon open character of the site and immediate area.
102. Landscape and tree officers have been consulted on the application. Landscape have not objected to the principle of the residential development at the site, the development would not be unduly prominent from the countryside and would fit well with the existing residential boundaries. Landscape and the Senior Tree Officer have raised objection to the loss of hedgerow to facilitate the access. It was also recommended that the trees of highest quality on the southern and eastern boundaries of the site are protected by a TPO.
103. The TPO has duly been served to protect the quality trees within the site bounds. The loss of a section of hedge of approximately 29m in length adjacent to Belgrave Court would be needed to provide an access of adequate width suitable for adoption. Trees within the site are also sought for removal including a grouping of tall leylandii also adjacent to Belgrave Court. The loss of the hedge is considered regrettable by officers and it does provide a quality and soft screen adjacent to Belgrave Court. However, it is not considered by officers to be such a detrimental impact to warrant refusal of the planning application. Sections of the hedge to the front of Nos. 22 to 15 Belgrave Court are shown as being retained on plan. A landscape scheme formulated as part of the reserved matters submission can provide some compensatory planting of trees, shrubs and plants.
104. With the application being in outline and the layout, appearance and scale of the development reserved, the detailed consideration of the visual impact of the dwellings and their siting would be considered within the reserved matters application.
105. Indicative details in the form of a layout and some detail of house types and scale parameters have been provided and in principle officers consider that the development of 24 houses could be achieved successfully at the site.
106. Officers raised no objections with regards to the impacts of the development upon the character and appearance of the area.

Impacts upon Residential Amenity

107. Within the public responses received some objections have been raised with regards to harm to residential amenity including a loss of light, outlook and privacy. One respondent recommends house types and distances from the development which they would consider is acceptable. Further concerns relate to the passing of vehicles causing noise and disturbance.
108. Policies H13 and Q8 seek to ensure that new developments preserve the amenities of residents. Policy Q8 provides detailed guidance separation distances between properties to ensure adequate amenity.
109. With the application being in outline with all detailed matters reserved except for access, the precise layout of the development, proximity of properties and siting of windows is at this stage unknown.

110. However, the indicative layout suggests that separation distances recommended within policy Q8 can be achieved both within the proposed estate and with regards to existing neighbouring property. The gable end of the plot 1 dwelling for example is shown as being 16m from the front elevation of No. 20 Belgrave Court, properties at Anchor Cottages have rear elevations in excess 21m from plots 3-7. The reserved matters stage would allow for full details of the siting, size and orientation of dwellings to be finalised and officers consider that adequate privacy and amenity for all existing and proposed occupiers can be maintained in accordance with the guidance contained within Policy Q8.
111. Some public objection relates to the passing of vehicles and potential for noise and disturbance both once the development is complete and during the construction phase. One objector considers that the recommended working hours prescribed by Environmental Health are not appropriate and should be more restrictive.
112. With the existing plot containing largely green space and vacant premises any development of any nature is bound to create some increase in activity at the site. However, the proposed use of residential development is considered appropriate within the area which is predominantly residential. The impact of noise from commuting vehicles, passing pedestrians, children playing etc will be an increase from the present situation but it would remain commensurate with any residential development adjacent to existing residential property.
113. Some noise during the construction phase of any development will again be expected. However, the development of a relatively small number of properties as proposed will not pose any exceptionally disturbing activities above or beyond what can be expected for any new development adjacent to existing property.
114. Officers do not consider that the potential for noise or disturbance is such that it would warrant refusal of the application. The proposed working hours condition requested by Environmental Health is the standard recommended on such developments and comes from good practice recommendations within and is considered suitable at the site. It must be taken into consideration that if working hours are heavily restricted this would result in a more protracted build time.
115. Much public objection is with regards to the proposed removal of hedging adjacent to Belgrave Court. Some concerns relate to harm to visual amenity, pedestrian safety and wildlife discussed elsewhere in this report, however, concerns also relate to the harm to amenity with a loss of privacy.
116. With regards to privacy officers do not consider that the removal of the hedge would cause a loss of privacy that would warrant refusal of the application. As discussed above houses can be located within the site so as to adhere to recommendations of Local Plan policy and ensure privacy. An increase in pedestrian traffic would occur in the area and so more pedestrians will be visible to the occupiers of residents within Belgrave Court. However, it is not considered that this passing of pedestrians would create such an invasion of privacy to warrant refusal of the application. Furthermore the applicant has suggested that some replacement planting could be achieved and this would be considered at the reserved matters stage.
117. Overall, officers do not raise objection to the development on the grounds of harm to residential amenity.

Highways Issues

118. A key concern within the public responses on the planning application relates to issues surrounding highway safety.
119. Policy T1 of the Local Plan relates to highway safety and part 4 of the NPPF seeks to promote sustainable transport.
120. Objections to the application include a consideration that the access point is hazardous, that the development will create traffic generation detrimental to highway safety and that the comings and goings and removal of hedgerow adjacent to property will be a safety threat to children and pedestrians. The occupiers of Ivy Cottage state that they must reverse the entirety of the length of the current access road due to an absence of turning space.
121. The access is the only detailed matter sought for approval under this application. The existing access lane is a narrow unadopted access road and the application proposes improvements to this with its widening to 4.8m, provision of footpaths and standard access taper to provide adequate visibility.
122. The Highway Authority have been consulted on the application and no objections to the plans have been received. The access is considered suitable for the movements associated with the development of 24 dwellings. No objections are raised with regards to the visibility from the access. No specific concerns are raised by the Highway Authority with regards to any conflict between existing residents within properties using the existing lane and those within the new development. Officers have noted the concerns with regards to vehicles reversing down from Ivy Cottage. However, officers visited the site and the property has a very large front hardstand curtilage and there would appear space to perform manoeuvres to exit in a forward motion.
123. One response received states that the movement of the bus stop would in itself create a hazard. However, the Highway Authority have not made any requirement that the bus stop to the front of 1-3 The Pottery moves as a result of the development.
124. The concern is noted that the removal of the hedgerow adjacent to Belgrave Court could result in a hazard to pedestrians and children from passing vehicles. However, it is not considered that would cause any demonstrable harm to safety to warrant refusal of the application. Furthermore the applicant has suggested that some replacement planting could be achieved and this would be considered at the reserved matters stage.
125. Overall no objections on the grounds of highway safety are raised.

Ecology

126. Policy E16 of the Local Plan and Policy 33 of the RSS seek to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through the NPPF most notably at paras. 118 and 119.
127. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation (Natural Habitats etc) Regulations 1994 (since amended). 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 license from Natural England.
128. Concern has emerged from the public consultation exercise with regards to the impact of the development upon protected species and wildlife in general.

129. The application has been accompanied by an extended phase 1 ecological survey and a bat survey. The extended phase 1 survey recommended that any vegetation clearance should occur between September and March to avoid the bird breeding season. With regards to great crested newts, local ponds were identified, however the assessment found that the development would unlikely affect great crested newts. No evidence of mammals were found though some recommendations on working methods are made in the report to ensure their safeguarding. The bat survey found no evidence of bats using or roosting in the buildings on site and as a result no harm to bats was considered to occur from the development. Enhancement measures are recommended however, in the form of providing bat boxes/tubes.
130. Ecology have raised no objections to the proposal, the mitigation measures within the submitted habitat surveys should be conditioned on any approval, however.
131. As a result no objections are raised with regards to the impact of the development upon protected species in accordance with Policy E16 of the Local Plan, Policy 33 of the RSS and the provisions of the NPPF.

Planning Obligations

132. The application has been accompanied by a S106 agreement proposing 20% affordable housing across the site and a financial contribution of £1000 per dwelling towards open space and recreational facilities and over £12,000 as a public art contribution.
133. The public art and recreational space contributions are considered to adhere to the requirements of Policies Q15 and R2 of the Local Plan.
134. With regards to the affordable housing provision, the latest evidence base emerging from the strategic housing market assessment and proposed within the preferred options of the new County Durham Plan as agreed by Cabinet 24th July requires 20% affordable housing. The proposal is therefore considered to meet the current affordable housing need within the former Durham City area.

Other Issues

135. Much public objection to the development has surrounded queries over the land ownership and rights of access of the applicant with regards to the access lane. The application was initially submitted with the applicant certifying that they did not own all of the land within the application site but that the other land owner, the County Council, which owns the section of hedge adjacent to Belgrave Court had been notified.
136. Following the receipt of objection and officers requests for clarity, the applicant accepted that sections of the access lane are unregistered land and not within their ownership.
137. In order for a planning application to be deemed valid and appropriate for determination an applicant must accompany a planning application with the correct certification with regards to land ownership. The applicant has during the course of the application publicised within a local newspaper that an application has been submitted and invited any land owner or tenant to come forward with comment in accordance with the provisions of Article 11 of the Development Management Procedure Order. Ultimately matters of land ownership and rights of access across land are separate legal matters beyond the remit of the Local Planning Authority. However, the Local Planning Authority must seek to ensure that the correct certification processes have been met and officers consider that this has now occurred.

138. Some public objection relates to the potential for damage to property and that the site could suffer from subsidence. The application site falls outside of the Coal Authority's referral zone on planning applications but a consultation was issued to the Coal Authority whom responded with no comment.
139. With regards to damage to property from passing vehicles and the construction process, the liability with regards to damage to property principally lies with the developer. Officers do not consider that the application should be refused on the potential damage to property.
140. One respondent has discussed the history of the site as a pottery and the potential for archaeological artefacts. The Local Plan has a specific policy regarding development and archaeology, E24 whilst part 12 of the NPPF advises on all aspects of the historic environment. Archaeology have been consulted on the application and no objections have been raised to the development though conditions are recommended on any approval with regards to archaeological mitigation and recording.
141. Some public objections have been raised to some documentation and commentary by the applicant such as referring to some local properties as ex Council stock and that the site currently suffers from vandalism which is disagreed with by residents. The applicant's agent has admitted some inaccuracies in the content of the Design and Access Statement following commentary from residents.
142. One resident has raised a query about what would happen to an old garage building which forms part of their boundary if the development were approved. The applicant's agent has stated that this could be removed as part of the development though this would be resolved at the reserved matters stage when the precise layout and boundaries of the development would be designed.
143. Some public concerns have been raised over potential unregulated disposal of materials and substances on the site in the past and whether correct investigation into contaminated land is being undertaken. The application has been accompanied by phase 1 environmental desktop study. Policy U11 of the Local Plan relates to contaminated land. The desktop investigation recommends that an intrusive site investigation occur and remediation measures undertaken. A condition can be attached to any approval to ensure that a full investigation and remediation of any potential contaminants at the site occurs.
144. The Parish Council have requested that some of the houses proposed are replaced with bungalows. Ultimately the housing types would be resolved at the reserved matters stage, however, the reporting of the Parish Councils request has now been made to the applicant and their agent.
145. Northumbrian Water have raised no objections to the development as such though sewers are located beneath the site and therefore agreement must be reached for their diversion. An informative can be attached on an approval to this effect.
146. With the proposal being a major residential development, a scheme to reduce energy consumption to the equivalent of 10% within the development is required and a standard condition can be attached to this effect.

CONCLUSION

147. The application site does lie outside of the settlement boundary of Coxhoe and as a result the development is contrary to Policies E7 and H5 of the Local Plan. However, with the emergence of the NPPF and the development of the new County Durham Plan development proposals are required to be assessed in the light of a changing and evolving planning system.
148. A key consideration is whether the development can be considered sustainable. With the proximity to Coxhoe as a whole, access to a range of facilities and services, availability of some public transport links and the road network officers consider that the development is sustainable and represents a logical addition to the settlement.
149. The development is not considered to undermine or be in conflict with the emerging local plan. Consideration should be given to the number of objections received and whether this clearly illustrates a lack of community support.
150. Much public objection relates to more matters of detail such as residential amenity, visual amenity, highways implications and land ownership. Officers have sought to discuss these matters within the report.
151. On balance, officers consider that the proposed development would constitute an appropriate and sustainable development at the location with no harmful impacts emerging which would warrant refusal. Approval is therefore recommended.

RECOMMENDATION

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

- i. The provision of 20% affordable housing
- ii. A contribution of £24, 000 for recreational and play space
- iii. A contribution of £12, 913 for public art

1. Approval of the details of 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 approved shall be carried out in strict accordance with the following approved plans:
Indicative sketch layout 09.58.03 received 7th December 2011

Proposed Access 09.58.04 received 28th May 2012

Proposed Access (hedging detail) 09.58.04 received 28th May 2012

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E7, E14, E16, E24, H5, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q5, Q8, Q15, U5, U8a, U11 and U14.

4. 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 and vehicular hardstand materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

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

5. The hereby approved development shall be carried out in accordance with a scheme of landscaping within the application site to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site. The scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The landscaping scheme shall also clearly indicate those existing trees and hedges to be retained through the development. The works agreed 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, either planted through the scheme itself or existing on site shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity having regards to policies Q5 and Q8 of the City of Durham Local Plan 2004.

6. Notwithstanding the information submitted within the application, no development shall commence until a precise schedule of works to trees and hedges within the application site including any felling, lopping, topping or pruning has been first submitted to and then approved in writing by the Local Planning Authority. Furthermore no construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges to be retained are protected by the erection of fencing comprising of a vertical and horizontal framework of scaffolding, well braced to resist impacts and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005 and in accordance with a plan to be first submitted to and then agreed in writing by the Local Planning Authority. Said protection shall remain for the entirety of the development works.

Reason: In the interests of visual amenity having regards to policies Q5 and Q8 of the City of Durham Local Plan 2004.

7. Prior to the commencement of the development details of means of enclosure shall be submitted to and approved in writing by the Local planning authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

Reason: In the interests of visual amenity having regards to policies Q5 and Q8 of the City of Durham Local Plan 2004.

8. 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 LPA;
 - 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 LPA;
 - 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 LPA; 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.

9. No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a mitigation strategy document that has been submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:
- i. Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
 - ii. Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
 - iii. Post-fieldwork methodologies for assessment and analyses.
 - iv. Report content and arrangements for dissemination, and publication proposals.
 - v. Archive preparation and deposition with recognised repositories.
 - vi. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
 - vii. Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
 - viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason: To protect sites of archaeological interest having regards to policies E24 and E25 of the City of Durham Local Plan.

10. Prior to the occupation of any dwelling hereby approved, a copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy subject to condition 9 shall be deposited at the County Durham Historic Environment Record.

Reason: To record and advance understanding of the significance of heritage assets and to make this information as widely accessible to the public as possible in accordance with Policy 24 of the Local Plan and Part 12 of the NPPF.

11. 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.

12. No development shall commence until details of the means of disposal of foul and surface water have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To prevent pollution of the water environment and in the interests of appropriate drainage of the site in accordance with Policy U8A of the City of Durham Local Plan 2004.

13. No development shall take place unless in accordance with the recommendations and enhancements detailed within section 4 of the extended phase 1 survey and section 4 of the bat survey both compiled by Durham Wildlife Services.

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

REASONS FOR THE RECOMMENDATION

1. The application proposes a residential development beyond the settlement boundary of Coxhoe and as a result is considered a departure from Policies E7 and H5 of the Local Plan. However, given the proximity of the site to Coxhoe, existing development, services and facilities the application is considered to constitute sustainable development in accordance with the provisions of the NPPF. No harm to the character of the area, highway safety or the amenities of neighbouring occupiers is considered to occur through the development. Detailed matters regarding landscaping, drainage and investigations into archaeology and contaminated land can be resolved at the reserved matters stage and through the discharge of conditions. The development is considered to accord with relevant Policies E14, E16, E24, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q5, Q8, Q15, U5, U8a, U11 and U14 of the City of Durham Local Plan 2004. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive brought into effect through The Conservation (Natural Habitats etc) Regulations 1994.

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, the City of Durham Local Plan 2004 and the provisions of the National Planning Policy Framework.

2. In particular the principle of the development was considered acceptable despite the conflict with Policies E7 and H5 of the Local Plan.
3. A total of 16 objections have been received from local residents and further concerns expressed from the Parish Council. Objections raised related to a range of issues including land ownership, visual amenity, residential amenity, highway safety, impact on trees, hedgerows and impact on wildlife and protected species. The content of the objections are presented within this recommended report. However, officers do not consider that the points raised would warrant refusal of the application.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
Regional Spatial Strategy
National Planning Policy Framework
Internal consultee responses
Public responses
Response of the Highway Authority
Parish Council Response
Response from Coal Authority
Response from Northumbrian Water
Planning Circular 11/95
County Durham Local Plan (Preferred Options)



Planning Services

Outline planning application for the erection of 24 no. dwellings with detailed approval sought for means of access only

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Date 11th September 2012

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: 4/12/00727/VOC

FULL APPLICATION DESCRIPTION: Removal of condition 12 of planning application 06/00631/OUT (Outline application including details of means of access for employment use and residential development with associated play areas, landscaping, parking and access) relating to the provision of 30% affordable housing

NAME OF APPLICANT: Dunelm Homes

ADDRESS: Land at Former Cape Site Durham Road Bowburn DH6 5AT

ELECTORAL DIVISION: Durham South

CASE OFFICER: Henry Jones
Senior Planning Officer 03000 263960
henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to the former Cape asbestos works and lies within the northern extremity of the Bowburn North Industrial Estate, adjoining the northern boundary of the village as defined on the City of Durham Local Plan proposals map. To the north is open countryside, to the east is the north-south A177 with residential development beyond. The site is bound to the west by the old Leamside railway line and to the south lies industrial land. The site is in the process of redevelopment following the grant of planning permission for a mixed use of residential and employment development following an appeal in 2007.
2. The more eastern sections of the site closest to the A177 have been developed thus far and 165 dwellings have been constructed to date of a total of 293 consented to. The original outline planning permission proposed office and employment generating development as well, though this does not yet have detailed approval.

The Proposal

3. This application seeks to remove condition 12 on the original 2007 outline approval. This condition required that 30% of all housing on the site is affordable.
4. The applicant, in submitting this planning application, now seeks to restrict the number of affordable units on site to a total of 59. Although detailed planning permission has not been granted for the entirety of the site the applicant was proposing to build a total of 293 dwellings on the site. The provision of 59 affordable units within this would equate to 20% affordable housing across the site.
5. In addition the applicant is also proposing a further financial contribution to the offsite delivery of up to a further 4 no. affordable homes. This would bring the net affordable provision to 21.5%.
6. It is now considered more appropriate to resolve affordable housing provision and any off-site contributions via a section 106 legal agreement as oppose to a condition on a planning permission. The application is therefore accompanied by a S106 agreement to establish the final on site affordable provision and financial contribution towards off-site provision.
7. This application is being referred to Committee as it relates to the variance of a condition on a major mixed use development.

PLANNING HISTORY

8. In 2002 planning permission was refused for a residential development in outline on the former Cape Asbestos Works site.
9. In 2006 the former City Council refused planning permission, in outline, for a mixed use development of residential and employment uses. At appeal the Inspectorate allowed the appeal following a public inquiry. This decision had to be referred to the Secretary of State who agreed with the findings of the Inspectorate and planning permission was granted. This current application directly relates to that outline planning permission granted in 2007.
10. Since this original approval, the reserved matters for phase one of the development, 121 no. dwellings was approved in 2009. The reserved matters for the phase 2 of 62 no. dwellings were approved in August 2010.
11. Later in 2010 the reserved matters were approved for a further 10 no. dwellings.
12. The substitution of some house types has occurred during the course of the development with the substitution of house types resulting in 10 no. bungalows and 17 no. houses approved in 2010 and the substitution of house types and removal of 2 no. units on 13 plots in 2011.
13. A series of variation of condition applications have also previously been submitted and approved. In 2008 approval was given for the variation of condition 10 of the outline planning permission to allow the construction of up to 150 dwellings prior to the completion of highways and drainage infrastructure works for the employment site rather than the originally agreed 50 dwellings.

14. In 2009 condition 6 of the outline approval was varied so as to permit the phasing of highway infrastructure improvements and in 2010 a variation of condition allowed for 10 no. affordable housing units to no longer be required to be affordable in perpetuity.
15. This application immediately follows a previous submission which also sought to remove the 30% affordable housing requirement condition which was refused in July as the reduced delivery of affordable housing was considered unacceptable contrary to the aims of sustainable development and mixed and balanced communities.

PLANNING POLICY

NATIONAL POLICY

16. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
17. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
18. The following elements are considered relevant to this proposal;
19. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
20. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
21. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
22. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
23. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning

Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.

24. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

REGIONAL PLANNING POLICY

25. *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.
26. 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:
27. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
28. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
29. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
30. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
31. *Policy 12 – Sustainable Economic Development* states that new economic development should be focused in urban centres, on brownfield mixed use locations and at key employment locations.

32. *Policy 13 – Brownfield Mixed Use Locations* states that strategies, plans and programmes should support brownfield mixed use developments in sustainable locations throughout the Region.
33. *Policy 18 – Employment Land Portfolio* establishes appropriate employment land provision throughout the region.
34. *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.
35. *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.
36. *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.
37. *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.
38. *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)

39. *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.
40. *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.
41. *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.
42. *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. 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.

43. *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.
44. *Policy EMP5 - Prestige Industrial Sites – General* states that on designated prestige industrial sites, business uses and general industry uses will be permitted provided that there is no detrimental effect on the environment, the amenity of neighbouring occupiers and the development of neighbouring areas. High standards of design and landscape will also be required.
45. *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.
46. *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.
47. *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.
48. *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.
49. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
50. *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.
51. *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.
52. *Policy U15 - Energy Conservation – Renewable Resources* permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

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:

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

53. The Highway Authority has raised no objections to the application. Consideration has been given to the impact the increase in market housing would have on congestion and highway safety. The provision of 20% on site affordable housing as oppose to 30% would result in 29 additional open market homes on the site. Using an industry tool to calculate the traffic generation rates for private housing as oppose to affordable housing a difference in generation of only 0.12 movements in the morning and 0.104 movements in the evening would result per unit. This would equate to an extra 3 trips in the morning and in an evening emerging from the additional open market homes. Such a degree of increase is considered to be insignificant.
54. Northumbrian Water has raised no objections.
55. The Environment Agency has raised no objections.

INTERNAL CONSULTEE RESPONSES:

56. Asset Management have previously been consulted specifically to assess the submitted development appraisals and evaluate their content using an industry tool.
57. The submitted appraisal figures are considered accurate and reflect standard figures and assumptions used in evaluating development costs. No inaccuracies or anomalies were found in assessing the development appraisals. Asset Management support the figures submitted, considering that the submitted appraisals provide an accurate depiction of the development running at a significant loss.

PUBLIC RESPONSES:

58. None

APPLICANTS STATEMENT:

59. The application has been accompanied by a letter in support of the application and seeking to explain the background to the application.
60. The applicant states that since the date the site was purchased and remediated the housing market has collapsed, dramatically reducing selling prices on the site.
61. Due to the difficult trading conditions the applicants successfully applied to receive Government Kickstart funding which together with subsidised preliminaries covered by the build of the affordable houses and enabled the site to commence. Without such assistance the site would have remained undeveloped to this date. The majority of houses sold thus far by Dunelm Homes have been through shared equity, Government First Buy or Homebuy Direct schemes and other sales initiatives.
62. 62 no. plots were sold on license to Taylor Wimpey to assist with the cash flow on site. Supplementary documentation in the form of development appraisals, abnormal foundations costs and site remediation costs have been included to demonstrate the lack of viability of the existing planning permission.

63. The application has been resubmitted following refusal of the previous submission in July as it is understood that following a recent cabinet motion it is now the policy to require 20% affordable housing on sites as oppose to 30%.

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&APP TYPE=PLANNING&APPNUMBER=4/12/00727/VOC>

PLANNING CONSIDERATIONS AND ASSESSMENT

64. Planning permission is sought to remove condition 12 of planning application 06/00631/OUT (Outline application including details of means of access for employment use and residential development with associated play areas, landscaping, parking and access) relating to the provision of 30% affordable housing. In the determination of this type of application the Local Authority must have due regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan and other material considerations and a new grant of planning permission would result if the proposal is approved. However, the original permission will continue to subsist whatever the outcome of the sec. 73 application.
65. The key issue relates to the justification and acceptability of the removal of condition 12 of the outline planning approval requiring 30% affordable housing on site. However, as a new planning permission would be granted, the issues pertaining to the original grant of planning permission namely the degree of compliance with the principle of the development, impact on the character and appearance of the area, highways issues and any other material matters should be considered in the decision making process though they have previously been deemed acceptable and the focus should be on the affect revised levels of affordable housing would have. Consideration should also be given to any changes in the Development Plan or material considerations which have emerged since the previous grant of planning permission.

The Principle of the Development

66. The application site lies on land allocated for employment generating purposes. Durham City Council refused the original planning application on the grounds of the loss of employment land contrary to the Local Plan.
67. Following a public inquiry the Planning Inspectorate recommended approval of the original planning application and the Secretary of State agreed with the Inspectorates' recommendations. It was considered that there existed ample employment land in the district to meet the needs of demand up to and beyond the next 25 years. Seeking to wholly redevelopment the land for employment generating purposes without subsidy was considered unviable. As a result, the loss of the land wholly for employment purposes and so as to include residential development was considered acceptable.
68. This application proposing to vary the amount of affordable housing to be delivered on the site is not considered to impact upon the previously considered acceptability of the principle of the mixed use development as such. A following section of this report deals more specifically with the discussion on affordable housing.

Impact Upon the Character and Appearance of the Area

69. The Secretary of State found that the original indicative masterplan for the site was appropriate and would enhance the character and appearance of the site from its condition at that time.
70. Reserved matters applications have been approved since this time establishing the detailed appearance and layout of the residential properties on the site.
71. This application proposing to remove the 30% affordable housing provision requirement is not considered to have an impact upon the character or appearance of the area.

Highways Issues

72. The Secretary of State found that the original outline consent was acceptable with regards highways and transport matters. Impacts on highway safety were considered acceptable and the site was considered to be in a sustainable location.
73. With this application ultimately proposing an increase in the proportion of open market housing and reduction in affordable housing there is the likelihood that an increase in car ownership levels would result and in turn increased vehicular movements.
74. The Highway Authority has been consulted on these highways implications and no objections have been raised. The provision of 20% on site affordable housing as oppose to 30% would effectively result in 29 additional open market homes on the site. Using an industry tool to calculate the traffic generation rates for such housing as oppose to affordable housing, a difference in generation of only 0.12 movements in the morning and 0.104 movements in the evening was found to result per unit. This would equate to an extra 3 trips in the morning and in an evening emerging from the additional 29 private homes. Such a degree of increase is considered to be insignificant.
75. Comments have not been received from the Bowburn and Parkhill Community Partnership prior to the writing of this report. Within the previous application, refused in July the partnership made specific reference to a condition whereby the Highway Authority had required affordable housing to be retained in perpetuity. The adequacy of existing bus services was also raised under that application.
76. A condition was placed on the reserved matters approval 10/00799/RM which required the 10 no. dwellings approved to be retained as affordable housing in perpetuity. The Highway Authority was satisfied with the layout of the development provided that those dwellings were retained as affordable units in perpetuity.
77. This condition was later varied so that the houses must constitute affordable units, however, the in perpetuity element was removed so as to enable a future tenant to increase their shared equity in the property with the social landlord until ultimately said tenant would own the property. The Highway Authority raised no objection to this considering that the future phases of development can address any possible parking shortfall.
78. Ultimately as this reserved matters condition requires these ten dwellings to be affordable units this variation of the outline consent would have no bearing on this and these properties would have to be affordable dwellings unless a further reserved matters application is submitted proposing that these dwellings are no longer affordable units.
79. Officers understand that the nearest bus stop Dallymore Drive no longer has a daytime service. Officers understand that the Arriva 57 service to Durham does still stop at

Bowburn estate providing a bus service to local residents and with this in mind and the existence of an extant planning permission the alterations to the availability of the local bus service is not considered to be a reason to raise objection to granting planning permission once more.

80. On balance officers raise no objection to the potential impact of the removal of condition 12 of the outline planning permission neither upon highway safety nor upon the considered sustainability of the site for housing having regards to Local Plan Policies T1 and T10, Policy 2 of the RSS and the provisions of part 4 of the NPPF.

Affordable Housing Provision

81. The key issue within this application is the discussion on affordable housing provision. The original outline approval granted by the Secretary of State attached a condition (No. 12) requiring that across the entirety of the development site 30% affordable housing would be provided in accordance with the guidance of PPS3. The Planning Inspectorate and Secretary of State considered it was appropriate to control the affordable housing provision via condition.
82. The applicant has come forward seeking to renegotiate the amount of affordable housing proposed across the site. The applicant has stated that the development at the site could only commence at a time of difficult trading conditions due to the benefits of Government Kickstart funding and additional subsidies. The Governments Kickstart programme is credited with providing invaluable support to the housebuilding industry through the worst of the market downturn and it is estimated that the funding programme will have delivered 20,000 homes on 299 stalled developments. Together with the economic downturn the Cape site had very high site specific remediation costs totalling £1.98 million and had a high purchase price, the site bought at the height of the market.
83. On the development to date considerable losses of over £3 million have occurred whilst if the remainder of the housing site was to be built out with 30% affordable housing then losses in the region of £4.5 million would occur. The subsidised funding contributions are now no longer available to the applicant at the site and for this reason the developer now considers that completing the site with the 30% affordable housing provision cannot be achieved.
84. The applicant has submitted detailed development appraisals breaking down the income and expenditure at the site for the period of the development thus far and also the data for the full completion of the site. Further enclosures on the costs of site remediation and abnormal foundation costs have been submitted.
85. The development appraisals have been assessed using an industry tool "Pro Val" and with the benefit of advice from Asset Management with specialist knowledge in land and development costs.
86. Asset Management consider the submitted appraisal data is accurate and reflect standard figures and assumptions used in evaluating development costs. No inaccuracies or anomalies were found in assessing the development appraisals. In summary the submitted development appraisal data is considered an accurate depiction of the site and development.
87. Through the removal of the requirement for 30% affordable housing the applicant is proposing that the remainder of the site would be developed solely for open market housing. The site would still run at a loss, the reduction in affordable units would not allow for the development to generate a profit. However, the reduction in the affordable housing units would allow for a new license to be granted to a housebuilder and "drip

feed” income. This would allow for the development to continue, with the 30% affordable housing requirement the site is a wholly unattractive proposition to any other developer and would not be implemented, remaining “moth-balled” for the foreseeable future.

88. The provision of affordable housing remains a key consideration for the Local Planning Authority and the NPPF does at part 6 requires Local Planning Authorities to establish and meet the affordable housing need in their district.
89. Equally paragraph 173 of the NPPF stresses the importance of viability as a material planning consideration; “sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”.
90. Paragraph 160 also advises that Local Planning Authorities must consider the needs of businesses and any changes in circumstances “work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability”.
91. The same economic arguments were put forward by the applicant within the previous application, refused at Planning Committee in July. The Local Planning Authority considered that the reduction in affordable housing proportion was unacceptable, failing to address need.
92. Since this refusal, however, the preferred options for the new County Durham Local Plan has been approved by cabinet on 24th July. Policy 31 relates to housing need and establishes that in central Durham 20% affordable housing is required on new developments of 15 dwellings or more. This policy though only at the preferred options stage is informed by the latest evidence base on affordable housing need in the form of the most recent Strategic Housing Market Assessment (SHMA). This document indicates the number of households requiring affordable housing across the County and is broken down into five market areas to be more locally specific.
93. This latest evidence base therefore establishes that there is a 20% affordable housing need the former Durham City area as oppose to the 30% as sought back when planning permission was originally gained in 2007. Since the approval of the preferred options of the County Durham Local Plan it is the revised affordable housing requirements which shall be consistently given weight in planning decisions. .
94. Already, 59 no. affordable units have been provided at the site which out of the whole development (once complete) would equate to 20% affordable housing. The development therefore meets the latest affordable housing need. Should other new residential development proposals (over 15 dwellings or more) be coming forward at this stage it is a 20% affordable housing provision which planning officers would request. As a result this adds further significant weight to the applicant’s request for the removal of the 30% affordable housing provision.
95. Furthermore, the developer has offered within a S106 agreement a further financial contribution of over £147,000 which the Council can utilise to provide further off-site affordable homes. Such a sum would equate to the provision of 4 additional affordable homes meaning that in total 63 affordable units would emerge from the site.

96. On balance although the previously submitted planning application seeking removal of the 30% affordable housing requirement was only recently refused, with the economic arguments put forward not considered acceptable, officers consider that the latest evidence based requirements of only a 20% affordable housing requirement and subsequent approval of the preferred options from the County Durham Local Plan adds significant weight to the argument to remove condition 12.
97. Given the latest SHMA evidence base establishes that there is no longer a need for 30% affordable housing on sites, officers consider that it would be unreasonable to refuse this planning application which would ensure 20% affordable housing on site and a further addition offsite meaning 21.5% affordable housing would emerge from the development overall over and above what is now required.

Other Issues

98. Condition number 3 on the original planning approval related to a scheme to deal with contamination on the application site. A final report dated March 2009 was submitted to the Local Planning Authority detailing the remediation of the land and it was considered to satisfy the condition. However, as the report recommends on matters such as foundation design and with not all houses complete on the site it is considered appropriate that a condition is attached on any approval requiring that all development accords with the content of the report having regards to Policy U11 of the Local Plan.
99. Condition 4 on the original planning permission required the submission of an art scheme. Although provisional details have been submitted previously of a scheme for art on open space within the site, a final proposal has not been agreed. Policy Q15 of the Local Plan relates to the provision of art in development and officers consider that a condition should once again be attached to any approval to finalise the provision of a scheme on site.
100. Condition 5 on the original planning permission related to agreeing means by which foul and surface water would be catered for in the development. With all dwellings not yet approved or built, it is considered that such a condition should be attached again to any approval in accordance with Policy U8A of the Local Plan.
101. Condition 6 on the original planning application related to highway improvements and required alterations to junction 61 of the A1 (M), construction of a ghost island priority junction and pedestrian crossing. Under application 09/00620/VOC this condition was varied, the improvements to the motorway junction were not considered necessary and did not form part of the revised condition. The priority T junction and bus lay by were to be provided prior to the commencement of development on the first dwelling. The protected right turn, ghost island and pedestrian crossing to be installed before the occupation of the 25th dwelling on site.
102. These timescales have not been met, the highway improvements are currently ongoing at the site and are being implemented by the Highway Authority. As the works are not yet complete, it is considered necessary that such a condition is attached again in the interests of highway safety having regards to Policy T1 of the Local Plan. The condition should be reworded, however, so that the highway improvements are implemented to the revised timescales agreed with the Highway Authority.
103. Condition 7 required that no dwellings could be occupied until an expansion of the Bowburn Sewage Works had been implemented. Previous discussions have been held with Northumbrian Water and improvements and expansion of the Bowburn Sewage

Works have been undertaken and it is now no longer considered necessary to attach a condition restricting the occupation of dwellings. Northumbrian Water has raised no objections to the application.

104. Condition 8 related to matters of archaeology and simply required that access shall be available to the County Archaeologist to allow for observations of excavations when sought. Such a condition can be attached once again on any approval having regards to Policy E24 of the Local Plan.
105. Condition 9 required a travel plan to be devised within six months of the occupation of any of the approved commercial buildings. Such a condition should be attached once again to any approval having regards to Policy T1 of the Local Plan and part 4 of the NPPF.
106. Condition 10 required that no more than 50 dwellings could be occupied until all necessary highways and drainage infrastructure for the employment element of the site has been provided. Under application 08/00848/VOC this condition was varied to allow the construction of up to 150 dwellings before the highways and drainage infrastructure had to be provided. The applicant argued at the time that due to the significant financial outlay that the infrastructure works entailed, coupled with the low financial returns received varying the condition would provide greater flexibility and contingency. The highways and drainage infrastructure has still not been provided with the applicant confirming that 165 dwellings are on site. The applicant has informally requested that the number of dwellings that could be constructed prior to the infrastructure requiring to be implemented be extended again. Taking into consideration the same depressed market conditions and the point at which the development is now at, it is considered reasonable to reapply the condition but requiring that the infrastructure works are implemented prior to the construction of the 200th dwelling.
107. Condition 11 required that the provision of open space in the form of informal play and amenity space to form an integral part of any reserved matters application in accordance with the provisions of Policy R2 of the Local Plan. The phase 1 and phase 2 elements of the development included provision in accordance with Policy R2. This condition should be reapplied on any approval to ensure that future phases of the development provide for adequate levels of open space.
108. Condition 13 of the original planning permission required that the development is carried out in broad accordance with the submitted masterplan for the site and in addition in accordance with the BRE Ecohomes, BREEAM, Building for Life and Secured by Design guidance and standards. Such a condition can be attached once again with regards to the accordance with the masterplan for the site, however, it is not recommended that the accordance with the BRE Ecohomes, BREEAM, Building for Life and Secured by Design standards is attached on this planning permission. Some of this guidance has now been superseded and in addition it is considered through the combination of the 10% energy reduction condition (also recommended for the site) and the statutory obligations housing developments must adhere to through Building Regulations that the adherence to other further sustainable build guidance is not entirely necessary or reasonable.
109. Condition 14 related to protected species and required that the development accords with the mitigation, compensation and enhancement proposals within the submitted protected species report. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation (Natural Habitats etc) Regulations 1994 (since amended). 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 license from Natural England.

110. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats etc) Regulations 1994 (as amended) contain 3 no. "derogation tests" which must be applied by Natural England when deciding whether to grant a license to a person carrying out an activity which would harm an European Protected Species (EPS). For development activities this license 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
111. Notwithstanding the licensing regime the Local Planning Authority must discharge its duty under Regulation 3(4) and also address its mind these three tests when deciding to grant planning permission. Through the attachment of the condition relating to the mitigation, compensation and enhancement proposals within the submitted protected species report it is considered that the favourable conservation status of protected species would be retained in accordance with the requirements of Policy E16 of the Local Plan and part 11 of the NPPF. The alteration to the level of affordable housing provision sought in this particular planning application is considered to have no impact upon protected species.
112. Condition 15 of the original approval required that a minimum of 10% of the sites energy requirements be provided by embedded energy. A condition to the same affect is proposed for attachment on this approval though a reworded version inline with the standard condition to achieve 10% energy reduction that the Local Planning Authority has now adopted.
113. Officers recommend the inclusion of further conditions in the interests of ensuring that the development has an acceptable impact upon the character and appearance of the area, relating to materials, landscaping, hard surfaces and means of enclosures.

CONCLUSION

114. This application seeks to remove condition 12 on the original outline planning permission so that 30% affordable housing provision is not required across the site.
115. The viability of development sites should be considered in the current financial climate. The submitted development appraisals and accompanying enclosures have sought to demonstrate the lack of viability of the site and that a build out of the remainder of the site to include 30% affordable housing is not possible. These arguments were put forward within the previously submitted application but were not considered acceptable with the application refused, the need for 30% affordable housing at the site maintained.
116. Since this previous approval the preferred options for the County Durham Local Plan have been approved by cabinet informed by the most up to date evidence base in the form of the SHMA. The SHMA has demonstrated that only a 20% affordable housing requirement on sites applies to the central Durham area and this is reflected within Policy 31 of the preferred options of the County Durham Local Plan. With 59 no. affordable houses on the site 20% affordable housing would still be achieved at the Cape Site with the removal of condition 12. Furthermore an additional off-site financial contribution is proposed by the developer which would amount to a total of 21.5% affordable housing to emerge from the site.

117. As a result, officers consider that the revised affordable housing provision would be appropriate and reflect current need. Approval is therefore recommended.

RECOMMENDATION

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

- i. The provision of 59 no. affordable dwellings onsite
- ii. A contribution of £147,472 towards the offsite provision of 4 no. affordable homes

1. Approval of the details of 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 29th October 2012 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: To ensure planning permissions are not extended by Section 73 applications and that the time limit remains consistent to the original consent 06/00631/OUT pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development shall be implemented in full accordance with the provisions of the Completion Statement for the remedial and preparatory works report C0681C dated March 2009 prepared by Sirius Geotechnical and Environmental Ltd.

Reason: To ensure that risks from land contamination are minimised in accordance with Policy U11 of the City of Durham Local Plan 2004.

4. Prior to the commencement of development pertaining to any reserved matters, a scheme for the delivery of an art project in accordance with the objectives and provisions of Policy Q15 of the City of Durham Local Plan 2004 shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall thereafter be implemented within a timescale that will form part of the aforementioned agreement.

Reason: To ensure a contribution towards art on major development proposals is achieved in accordance with the Policy Q15 of the City of Durham Local Plan 2004.

5. Prior to the commencement of development pertaining to any reserved matters, a scheme, including sustainable urban drainage measures, showing the means by which foul sewage and surface water generated as a result of the development are to be catered for, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the agreed details.

Reason: To ensure adequate drainage of the site having regards to Policy U8A of the City of Durham Local Plan 2004.

6. The highways improvements shown on the submitted and approved plan (drawing no. 758/0001/03/01 Rev 0 – Engineering Details) consisting of priority T – junction, bus lay-by, protected right turn facility, ghost island and signalised pedestrian crossing facilities shall be implemented by the May 31st 2013.

Reason: In order that the required highway improvements are provided at an appropriate stage of the development in the interests of highway safety and accessibility in accordance with Policy T1 of the City of Durham Local Plan 2004.

7. The developer shall afford access at all reasonable times to an archaeologist nominated by the Local Planning Authority and shall allow that person to observe the excavations and record items of interest.

Reason: In the interests of recording and preserving any features or remains of archaeological interest in accordance with Policy E24 of the City of Durham Local Plan 2004.

8. Within six months of the occupation of any of the approved commercial buildings, a detailed travel plan, based upon the draft scheme submitted shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the measures contained within that detailed travel plan shall be full implemented.

Reason: In the interests of promoting sustainable transport having regards to Policy T1 of the City of Durham Local Plan 2004 and having regards to Part 4 of the National Planning Policy Framework.

9. No more than 200 dwellings shall be occupied until all necessary highways and drainage infrastructure for the employment element of the site has been provided.

Reason: To provide assurance on the likelihood of the employment elements of the development proposal coming into fruition whilst having regards to the material considerations of site viability having regards to Policy EMP5 of the City of Durham Local Plan and the provisions of Part of the National Planning Policy Framework.

10. The provision of open space in the form of informal play and amenity space shall form an integral part of any reserved matter planning application, in accordance with the provisions of Policy R2 of the City of Durham Local Plan 2004.

Reason: To ensure that adequate play and amenity space are provided for major residential developments having regards to Policy R2 of the City of Durham Local Plan 2004.

11. The development shall be carried out in accordance with the submitted Masterplan detailed on page 33 of the submitted Design and Access Statement received 23rd June 2006.

Reason: To define the consent and ensure that the development is implemented in accordance with the principles of the devised Masterplan having regards to Policies H3, H13, EMP5 and T1 of the City of Durham Local Plan 2004.

12. The development hereby approved shall be implemented in full accordance with the mitigation, compensation and enhancement proposals contained within paragraphs 8.108 – 8126 of the submitted protected species report (Environmental Impact Assessment Section 2: Written Statement)

Reason: To ensure the protection and conservation of nature conservation assets having regards to Policy E16 of the City of Durham Local Plan 2004.

13. Prior to the commencement of development pertaining to any reserved matters, 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 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.

14. The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development pertaining to any reserved matters, and such a scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of screen fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site (or of that phase of development in the case of phased development) and shall thereafter be maintained for a period of 5 yrs following planting.

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

15. Prior to the commencement of development pertaining to any reserved matters, details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

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

16. Prior to the commencement of development pertaining to any reserved matters, details of the make, colour and texture of all walling and roofing materials shall be submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

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

17. Prior to the commencement of development pertaining to any reserved matters details of the surface treatment and construction of all hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

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

REASONS FOR THE RECOMMENDATION

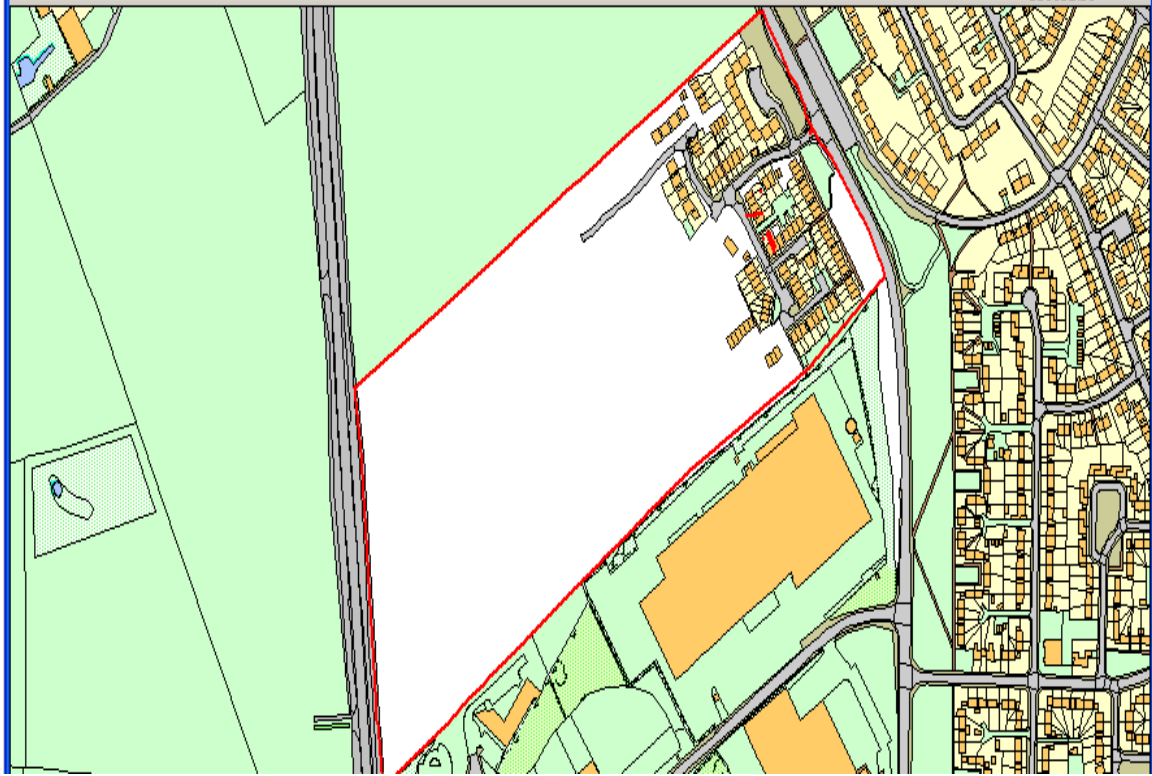
1. The development proposes a mixed use development including housing on a designated industrial estate. Adequate employment land is considered to be available in the Durham City area and the development reuses previously developed land within a suitable location. The proposed development is considered to be an acceptable development in principle although does constitute a departure from Local Plan Policy EMP5 albeit the principle is established. No harm to the character of the area, highway safety or the amenities of neighbouring occupiers is considered to occur through the development. With regards to affordable housing, the latest evidence base establishes that there is a 20% affordable housing need in the central Durham area. The submitted application proposes removal of the existing 30% affordable housing requirement and provision of 20% affordable housing on site with a further off site financial contribution meeting current need. The development is considered to accord with relevant Policies E16, E24, H3, H12, H13, T1, T10, Q8, R2, U5, U8A, U11 and U15 of the City of Durham Local Plan 2004. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive brought into effect through The Conservation (Natural Habitats etc) Regulations 1994

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, the City of Durham Local Plan 2004 and the provisions of the National Planning Policy Framework.

2. In particular the removal of condition 12 on the original planning permission requiring the provision of 30% affordable housing is considered acceptable having regards to current need.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
Regional Spatial Strategy
National Planning Policy Framework
Internal consultee responses
Public responses
Response of the Highway Authority
Parish Council Responses
Planning Circular 11/95
County Durham Local Plan (Preferred Options)



Planning Services

Removal of condition 12 of planning application 06/00631/OUT (Outline application including details of means of access for employment use and residential development with associated play areas, landscaping, parking and access) relating to the provision of 30% affordable housing

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Date 11th
 September 2012

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/12/00556/FPA
FULL APPLICATION DESCRIPTION:	20 no. apartments and 2 no. bungalows
NAME OF APPLICANT:	Housing Hartlepool (Vela Homes)
ADDRESS:	Brandon House, Grove Road, Brandon, Durham, DH7 8BW
ELECTORAL DIVISION:	Brandon
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 0.47 hectares in size and lies within the settlement of Brandon on the site of a former residential care home which was owned and managed by the Council. There are residential properties surrounding the site on all sides, most of which are low density bungalow developments surrounded by generous areas of open space. There are several bus stops nearby which enable good public transport links to nearby shops and community facilities, making the site sustainable for residential development in terms of its location. As the proposals are on the site of a former residential care home which is to be demolished, it is classed as being a brownfield site.

The Proposal

2. This application proposes the demolition of the former Brandon House residential care home and its replacement with 20 affordable apartments and 2 bungalows which have been adapted for wheelchair users, funded by the Homes and Communities Agency. The tenants would be over 55's who are registered with Housing Hartlepool and Durham County Council. These residents would be cared for by the Councils Care Connect scheme which uses trained staff who are available to respond to a variety of situations and provide emergency cover at all times.
3. Internally, the apartments would consist of a main double bedroom, a single second bedroom, lounge, kitchen and dining areas and a bathroom. Externally the apartments would be located to the north west corner of the site with the 2 bungalows in a separate area of the site in the southern corner. In the northern corner of the site there would be

10 off street parking spaces provided whilst to the centre and east of the site there would be a secure communal garden. Access to the site would be from the northern corner adjacent to the off street parking area.

4. The apartments would be two storeys in height and the adjacent bungalows would be single storey. Materials used for the construction of the external walls would include timber cladding and rendered masonry whilst the proposed dual and mono pitched roof would be covered with a concrete tile.
5. The proposals also include renewable energy technologies and fabric insulation which would equate to providing 10% of the energy requirements. It is hoped that the dwellings will achieve the Code for Sustainable Homes level 4.
6. This application is being referred to Committee as it relates to a major residential development.

PLANNING HISTORY

7. None relevant.

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
10. The following elements are considered relevant to this proposal;
11. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
12. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of

sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.

14. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
16. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

REGIONAL PLANNING POLICY

17. *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.
18. 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:
19. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
20. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.

21. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
22. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
23. *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.
24. *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.
25. *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)

26. *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.
27. *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.
28. *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. 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.
29. *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.
30. *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.
31. *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.
32. *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.

33. *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.
34. *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.
35. *Policy U15 - Energy Conservation – Renewable Resources* permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

*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>*

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. Highways Authority – No objections.
37. Environment Agency – no objections.
38. Northumbrian Water – no objections subject to the public sewer which crosses the site being diverted.

INTERNAL CONSULTEE RESPONSES:

39. Ecology Officers – no objections subject to mitigation.
40. Tree Officer – no objection subject to appropriate tree protection measures being conditioned.
41. Environmental Health – no objections subject to conditions restricting construction hours.
42. Sustainability Officer – no objections subject to the submission of a scheme detailing renewable energy and/or carbon reduction measures.
43. Landscape Officer –no objections.

PUBLIC RESPONSES:

44. The application has been advertised by way of a press notice, site notice and letters to individual residents. No responses have been received.

APPLICANTS STATEMENT:

45. Vela is a major new North East housing group formed in 2010 as a partnership of social landlords Tristar Homes and Housing Hartlepool, which together has over 17,000 homes and 700 employees. Vela is a leading social landlord in the North East with the vision of shaping places, creating communities and changing lives. The majority of Vela homes are for rent, but also include shared ownership, right to buy, outright sale and extra care and sheltered schemes. The mix and tenure is directed by Local Needs Surveys for older persons' accommodation and create a characterful building for supported accommodation that fits the residential character of Brandon.
46. The proposals are directed to be acceptable to the local community, of character and appearance to be suitable to the planning authorities, and to be contemporary-styled and forward-looking as befits a 21st century building. The design is context-driven. Using an appropriate domestic scale for its architectural language, the proposals aims to contribute to the character of the neighbourhood by easy integration of its massing, link to existing routes, and fit with the existing street pattern. The proposals provide new structures of the same scale as the existing surrounding two-storey and one-storey dwellings.
47. The street facades have been designed with a subtle, regular rhythm and vertical emphasis to continue the nature of the two storey dwellings to the east around the street corner. The proposed bungalows match the scale of the opposite existing one-storey dwellings, providing an overall new mix of structures of the same scale as the existing. The elevations have been carefully proportioned and are vertical in emphasis, which should help create a dignified feel to the main building. Using a contemporary-styled, domestic scale will create a 21st century, wholly non-institutional building that will hopefully become a welcome addition to the neighbourhood. In conclusion, our team has aimed to provide an attractive, functional, economic and sustainable community solution that will enhance Brandon.

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=M4W1OFBN5B000

PLANNING CONSIDERATIONS AND ASSESSMENT

48. 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, the main planning considerations relating to this application are the proposals accordance with the relevant planning policies, the impact on the street scene and surrounding occupiers, affordable housing, highways issues, ecology and Section 106 obligations.

Planning Policy

49. Saved Policy H3 of the City of Durham Local Plan allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the former District, provided that the scheme is

appropriate in scale, design location and number of units. This proposal seeks to redevelop a brownfield parcel of land within the settlement boundary of Brandon. The proposal is considered to constitute an efficient use of land with good access to services and public transport in accordance with the principles of the National Planning Policy Framework (NPPF) which establishes a presumption in favour of sustainable development. The proposal is re-using land within a sustainable location and as result the development is considered to accord with this overarching aim of the draft National Planning Policy Framework.

50. 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.
49. The locational strategy for the North East 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.
50. 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.
51. 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 and 10 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. Whilst this policy is primarily aimed at plan-making, it is considered that the principles can equally be applied to planning proposals.
52. 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 within the settlements across County Durham, including public transport, public and private services, and access to jobs. The findings indicate that Brandon 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.
53. Overall, in terms of the proposals accordance with planning policy, it is considered that due to the site being located within 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. In terms of the NPPF, this advises that there should be a presumption in favour of sustainable development such as the one proposed. Officers therefore consider the principle of bringing this site forward for residential development is acceptable.

Impact on the street scene and surrounding occupiers

54. Saved policy H13 of the City of Durham Local Plan 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. In addition, saved Policy Q8 of this plan 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. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.

55. Generally, the proposals have been well designed to create a well connected, accessible development which reflects the scale and character of the existing dwellings that surround the site. The building line would be parallel to the road, creating a strong frontage whilst the communal garden would be located toward the centre of the site providing a safe place for the elderly residents. The existing trees within the communal garden should be protected during building works by way of a planning condition. Both the roofscape, which is made up of single and two storey, mono-pitch and dual-pitch roofs, and the choice of materials would work to create a lively, contemporary development.
56. In terms of amenity and the privacy of existing and future residents, saved policy Q8 of the City of Durham Local Plan requires main elevations which face each other to have a separation distance of 21 metres whilst the distance between main elevations and gables should be at least 13 metres. In all instances, to both existing residents which surround the application site, and to future residents of the development, these distancing standards are exceeded. As such, the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

Affordable housing

57. Capital funding for this development has been secured by Housing Hartlepool (Vela Homes) via the Homes and Communities Agency for affordable housing on this application site. Affordable housing is social rented, affordable rented and intermediate housing which is provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
58. In this instance the affordable housing will be both affordable rent and shared ownership and would be provided for over 55's and the first refusal on the properties will be offered to the decanted residents of the former Brandon House.
59. Under normal circumstances, taking into account evidence from the Social Housing Market Assessment, the Council would require 20% of a development to be affordable housing where there are 15 or more dwellings proposed. Such provision is normally provided through a section 106 agreement. In this case all of the proposed dwellings would be classed as being affordable housing therefore the development exceeds the level of affordable housing which would normally be required. It is however, important to ensure that the proposed dwellings remain affordable in perpetuity and whilst only 20% affordable housing would normally be sought the applicant has agreed to enter into a section 106 agreement to ensure that all of the dwellings remain affordable in perpetuity. The provision of a section 106 agreement relating to the provision of 20% affordable housing in perpetuity on this site would meet the tests contained within Regulation 122 of the Community Infrastructure Levy Regulations 2010. It would however, be difficult to argue that 100% affordable housing would be required to make the development acceptable. The additional 80% affordable housing should therefore be regarded a voluntary contribution which Members should not take into account when considering the planning merits of the scheme.

Highways Issues

60. Both pedestrian and vehicular access will be from the northern corner of the site off Briar Avenue. This would also be where the 10 off street car parking spaces are located. In addition to the new vehicular access and parking arrangements a new footpath would be created which would run through the site from north to south. The detached bungalows to the southern corner of the site would each have 2 off street parking provision making a total of 14 car parking spaces. The Council's Highways Officers have assessed the proposals and are satisfied that both the access to the site and the level of parking provision is acceptable. Therefore the proposals are considered to be in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

Ecology

61. "Saved Policy E16 of the City of Durham Local Plan is aimed at protecting and enhancing the nature conservation assets of the former district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation habitats 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 should be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
62. The application is accompanied by a bat survey report. The bat survey confirmed that two common pipistrelle bat roosts have been identified under the bargeboards in the existing care home and a limited level of bat activity has been observed around the site.
63. The Ecology Section has no objections to the proposed development subject to appropriate conditions being imposed upon the grant of the planning permission. However, a license will be required from Natural England. Under the requirements of the Conservation of Habitats and Species Regulations 2010 it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England.
64. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species licence from Natural England. This requires an examination of the derogation provisions. The local planning authority must not usurp the functions of the licensing authority in this regard. It is for Natural England to decide licensing applications; the local planning authority must only be satisfied that there is a possibility of a required license being granted. The 2010 Regulations contain three "derogation tests", which are that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment; there must be no satisfactory alternative; and favourable conservation status of the species must be maintained.
65. *Test 1: preserving public health/safety or other imperative reasons of overriding public interest (including those of a social or economic nature).*

The development proposed is not required for any interests of public health or public safety. Natural England advises, however, in its statement following the aforementioned cases, that in considering whether the development proposed is for a purpose of

overriding public interest, it will take into account whether the development is required to meet or provide a contribution to meeting a specific need such as:

- i) the requirement to maintain the nation's health, safety, education, environment (sustainable development, green energy, green transport);
- ii) complying with planning policies and guidance at a national, regional and local level;
- iii) requirements for economic or social development (Nationally Significant Infrastructure Projects, employment, regeneration, mineral extraction, housing, pipelines, .etc.).

In other words the development proposal must contribute to meeting an imperative public interest, and that interest must be sufficient to override the protection of and any potential impacts on the protected species concerned. The benefits of this much needed 100% affordable housing scheme for the elderly and redevelopment of a vacant and derelict site are considered to be of such weight and materiality that it satisfies the first of the derogation tests.

66. *Test 2: there must be no satisfactory alternative*

In terms of whether there is a satisfactory alternative, the issue is whether or not the development could be carried out elsewhere or another form of development to provide the same results. Given that the applicant has acquired funding from the Homes and Communities Agency for the redevelopment of this particular vacant and derelict site, It is considered that there is no satisfactory alternative available which would provide much needed affordable housing for the elderly in this location, and the second test is consequently met in this particular circumstance.

67. *Test 3: favourable conservation status of the species must be maintained*

The Ecology Section offers no objections to the scheme, subject to the imposition of appropriate planning conditions to secure the mitigation measures identified in the bat report. Those mitigation measures would maintain favourable conservation status of the bats in this instance. Accordingly, it is considered that the scheme would satisfy the derogation tests being in the overriding public interest, according with the requirements of Saved Policy E16.

Section 106 obligations

68. As stated earlier, the applicant has agreed to enter into a Section 106 legal agreement in order to secure the affordable housing in perpetuity. Under normal circumstances, the Council would also require financial contributions towards both off-site recreation space and public art. However in this instance, given that it is a social landlord led scheme with funding from the Homes and Communities Agency, and not a private developer, it is a condition of funding to not allow a 'claw-back' for other benefits.

CONCLUSION

69. Overall it is considered that the proposals are in accordance with the relevant planning policies. The proposed residential development is in a highly sustainable location on a brownfield site, with good access to public transport, local shops and other community facilities. No objections from residents were received as part of the planning application process, furthermore the statement of community involvement which was submitted with the application shows a significant amount of local support for the scheme which would result in a high quality development and provide much needed affordable housing in the

area for over 55's. On the basis of the above, officers recommended that the application be approved.

RECOMMENDATION

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

- i. The provision of affordable housing in perpetuity;
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. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with saved policy Q8 of the City of Durham Local Plan.

3. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours and 1800 hours Mondays to Fridays (excluding bank holidays) and 0800 hours and 1300 on Saturdays.

Reason: In the interests of residential amenity and to comply with saved policy H13 of the City of Durham Local Plan.

4. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005. No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree. No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: In the interests of the visual amenity of the area and to comply with the National Planning Policy Framework part 11.

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section F.2 (Mitigation Requirements) of the 'Extended phase 1 & Bat Risk Assessment, Brandon House, Brandon, Revision 03' written by E3 Ecology Ltd and dated 2nd June 2012. All habitat enhancement required as part of the mitigation must be carried out in accordance with a scheme to be submitted and agreed with the Local Planning Authority before the demolition of the existing building commences.

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 11.

6. No development shall commence until a detailed landscaping scheme has been submitted to, and approved in writing by, the Local Planning Authority. No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan based details of the following: Trees, hedges and shrubs scheduled for retention. Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers. Details of planting procedures or specification. Finished topsoil levels and depths. Details of temporary topsoil and subsoil storage provision. Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage. The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc. The local planning authority shall be notified in advance of the start on site date and the completion date of all external works. Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

7. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

8. No development shall commence until a scheme for the diversion of sewer apparatus has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure appropriate drainage is maintained in accordance with saved policy U8a of the City of Durham Local Plan.

9. Prior to the commencement of the 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 efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained thus in perpetuity.

Reason: In order to secure a sustainable form of development in accordance with saved policy U15 of the City of Durham Local Plan, Policy 38 of the RSS and part 10 of the NPPF.

10. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; 11041/S02, 11041/P100, 11041/P101, 11041/P200, 11041/P201, 11041/P202, 11041/P300

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policy Q8 of the City of Durham Local Plan.

REASONS FOR THE RECOMMENDATION

1. The development was considered acceptable having regard to the following development plan policies:

NPPF Part 1, NPPF Part 4, NPPF Part 6, NPPF Part 7, NPPF Part 10 and NPPF Part 11

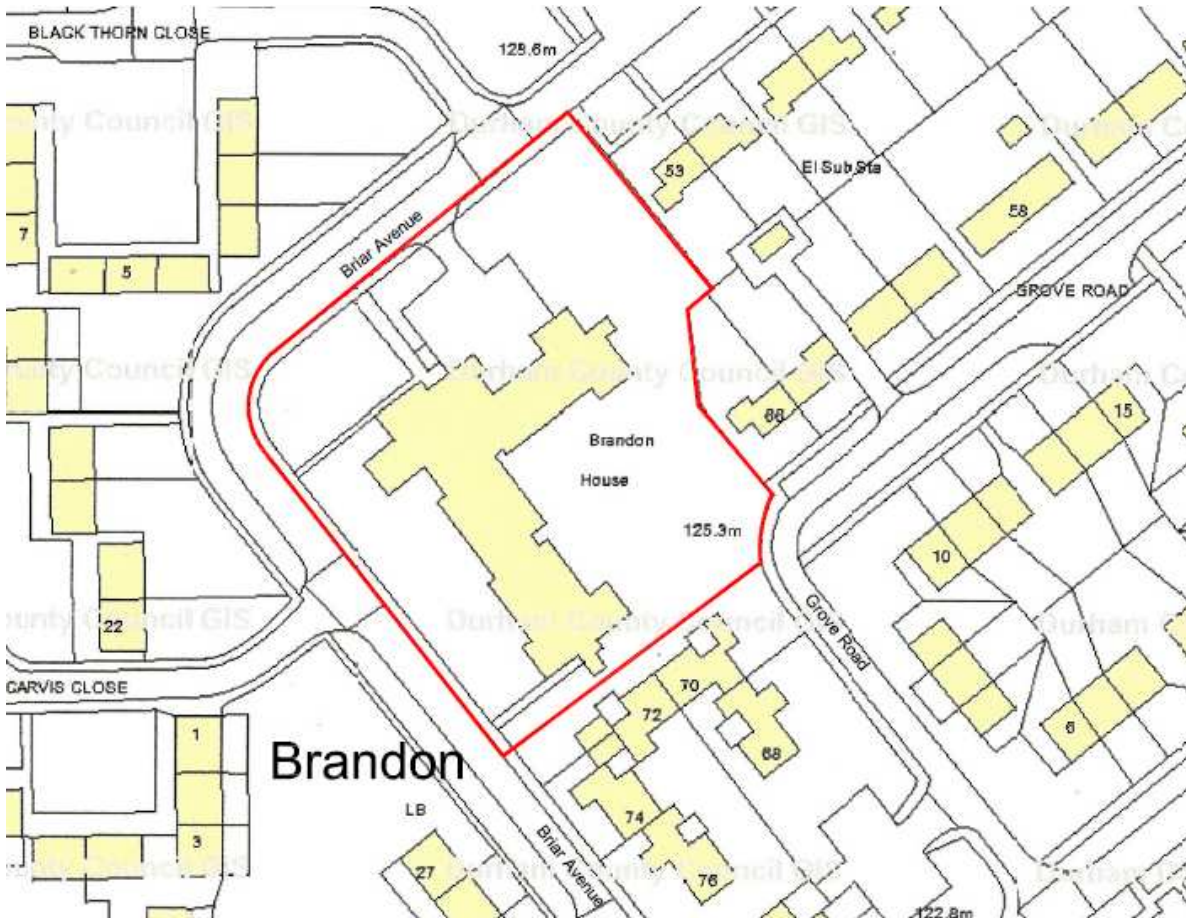
Regional Spatial Strategy Policy 2, Policy 4, Policy 7, Policy 8, Policy 24, Policy 30 and Policy 38.

City of Durham Local Plan Policy E16, Policy H3, Policy H12, Policy H13, Policy T1, Policy T10, Policy R2, Policy Q8, Policy U8a and Policy U15.

2. In particular the development was considered acceptable having regard to consideration of issues of planning policy, the impact on the street scene and surrounding occupiers, affordable housing, highways and ecology issues.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
Regional Spatial Strategy
National Planning Policy Framework
Internal consultee responses
Response of the Highway Authority



Planning Services

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Date 11th
 September 2012

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/12/00557/FPA
FULL APPLICATION DESCRIPTION:	16 no. apartments
NAME OF APPLICANT:	Housing Hartlepool (Vela Homes)
ADDRESS:	Oversteads House, Skippers Meadow, Ushaw Moor, Durham, DH7 7NJ
ELECTORAL DIVISION:	Deerness Valley
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 0.3 hectares in size and lies within the settlement of Ushaw Moor on the site of a former residential care home which was owned and managed by the Council. There are residential properties surrounding the site on all sides, which are a mixture of two storey dwellings, dormer bungalows and bungalows along with some former Council garaging. There are several bus stops nearby which enable good public transport links to nearby shops and community facilities, making the site sustainable for residential development in terms of its location. As the proposals are on the site of a former residential care home which is to be demolished, it is classed as being a brownfield site.

The Proposal

2. This application proposes the demolition of the former Oversteads House residential care home and its replacement with 16 affordable apartments, which would be adapted for wheelchair users. The scheme would be funded by the Homes and Communities Agency. The tenants would be over 55's who are registered with Housing Hartlepool and Durham County Council. These residents would be cared for by the Councils Care Connect scheme which uses trained staff who are available to respond to a variety of situations and provide emergency cover at all times.
3. Internally, the apartments would consist of a main double bedroom, a single second bedroom, lounge, kitchen and dining areas and a bathroom. Externally the apartments would be located in an apartment block to the south of the site with a communal garden

area to the north of the site. Access to the site would be from the north west corner of the site off Valley View which would also be the location of 13 off street parking spaces.

4. The apartments would be two storeys in height to reflect the surrounding dwellings. Materials used for the construction of the external walls would include timber cladding and rendered masonry whilst the proposed dual and mono pitched roofs would be covered with a concrete tile.
5. The proposals also include renewable energy technologies and fabric insulation which would equate to providing 10% of the energy requirements. It is hoped that the dwellings will achieve the Code for Sustainable Homes level 4.
6. This application is being referred to Committee as it relates to a major residential development.

PLANNING HISTORY

7. None relevant.

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
10. The following elements are considered relevant to this proposal;
11. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
12. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an

identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.

14. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
16. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

REGIONAL PLANNING POLICY

17. *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.
18. 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:
19. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
20. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.

21. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
22. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
23. *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.
24. *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.
25. *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)

26. *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.
27. *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.
28. *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. 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.
29. *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.
30. *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.
31. *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.
32. *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.

33. *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.
34. *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.
35. *Policy U15 - Energy Conservation – Renewable Resources* permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. Parish Council – Offers its full support to the application.
37. Highways Authority – No objections.
38. Environment Agency – no objections.
39. Northumbrian Water – no objections subject to the public sewer which crosses the site being diverted.

INTERNAL CONSULTEE RESPONSES:

40. Ecology Officers – no objections subject to mitigation.
41. Tree Officer – no objection subject to appropriate tree protection measures being conditioned.
42. Environmental Health – no objections subject to conditions restricting construction hours.
43. Sustainability Officer – no objections subject to the submission of a scheme detailing renewable energy and/or carbon reduction measures.
44. Landscape Officer –no objections subject to landscaping scheme.

PUBLIC RESPONSES:

45. The application has been advertised by way of a press notice, site notice and letters to individual residents. One letter has been received from a local resident who raises concerns relating to a lack of car parking, anti-social behaviour and noise and disruption during the construction process.

APPLICANTS STATEMENT:

46. Vela is a major new North East housing group formed in 2010 as a partnership of social landlords Tristar Homes and Housing Hartlepool, which together has over 17,000 homes and 700 employees. Vela is a leading social landlord in the North East with the vision of shaping places, creating communities and changing lives. The majority of Vela homes are for rent, but also include shared ownership, right to buy, outright sale and extra care and sheltered schemes. The mix and tenure is directed by Local Needs Surveys for older persons' accommodation and create characterful proposals aimed to fit the unique 'hill-town' character of Oversteads.
47. The site planning consists of a single wing building aligned along the slope reinforcing the existing street pattern. Two-storey street elevations are wholly residential and domestic in character. Being ordered, coherent, and appropriate, this strategy means the proposals should enhance the public realm by creating an appropriate neighbourhood sense of enclosure and scale. The elevations have been carefully proportioned and are vertical in emphasis, which should help create a dignified feel to the main building. Using a contemporary-styled, domestic scale will create a 21st century, wholly non-institutional building that will hopefully become a welcome addition to the neighbourhood.
48. The building section has been devised to retain the majority of the building along the slope, thereby avoiding resource-costly steps in floor levels. The domestic scale of the proposals are by their nature of human scale, with an individual feel to the bays of the facade to avoid the look of institutional, supported accommodation. The proposals are thoughtfully proportioned, of vertical emphasis, and feature irregular rhythmical bays to provide a modelled façade of individual character. The overall aim has been to provide balanced compositions where the relationship of the parts are pleasing while satisfying the numerous functional and sustainability requirements. The materials have been selected to complement the existing neighbourhood. Masonry and through-colour render in contrasting colours to break down the scale and develop a language of individual character while fitting well with the existing adjacent dwellings. In conclusion, our team has aimed to provide an attractive, functional, economic and sustainable community solution that will enhance Oversteads.

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=M4W1OFBN5B000

PLANNING CONSIDERATIONS AND ASSESSMENT

47. 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, it is considered that the main planning considerations relating to this application are the proposals accordance with the relevant

planning policies, the impact on the street scene and surrounding occupiers, affordable housing, highways issues, ecology, the concerns raised by a local resident and Section 106 obligations.

Planning Policy

48. Saved Policy H3 of the City of Durham Local Plan allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the former District, provided that the scheme is appropriate in scale, design location and number of units. This proposal seeks to redevelop a brownfield parcel of land within the settlement boundary of Ushaw Moor. The proposal is considered to constitute an efficient use of land with good access to services and public transport in accordance with the principles of the National Planning Policy Framework (NPPF) which establishes a presumption in favour of sustainable development. The proposal is re-using land within a sustainable location and as result the development is considered to accord with this overarching aim of the draft National Planning Policy Framework.
49. The RSS sets out the broad development strategy to 2021 and beyond. It identifies 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.
49. The locational strategy for the North East 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.
50. 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.
51. 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 and 10 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. Whilst this policy is primarily aimed at plan-making, it is considered that the principles can equally be applied to planning proposals.
52. 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 within the settlements across County Durham, including public transport, public and private services, and access to jobs. The findings indicate that Ushaw 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.
53. Overall, in terms of the proposals accordance with planning policy, it is considered that due to the site being located within 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. In terms of the NPPF, this advises that there should be a presumption in favour of sustainable development such as the one

proposed. Officers therefore consider the principle of bringing this site forward for residential development is acceptable.

Impact on the street scene and surrounding occupiers

54. Saved policy H13 of the City of Durham Local Plan 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. In addition, saved Policy Q8 of this plan 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. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.
55. Generally, the proposals have been well designed to create a well connected, accessible development which reflects the scale and character of the existing dwellings that surround the site. The building line would be parallel to the road, creating a strong frontage whilst the communal garden would be located toward the rear of the site providing a safe place for the elderly residents. The existing trees within the communal garden should be protected during building works by way of a planning condition. Both the roofscape, which is made up of two storey, mono-pitch and dual-pitch roofs, and the choice of materials would work to create a lively, contemporary development.
56. In terms of amenity and the privacy of existing and future residents, saved policy Q8 of the City of Durham Local Plan requires main elevations which face each other to have a separation distance of 21 metres whilst the distance between main elevations and gables should be at least 13 metres. In all instances, to both existing residents which surround the application site, and to future residents of the development, these distancing standards are exceeded. The development would serve to improve the outlook for residents to the north of the site who are currently only around 12 metres away from Oversteads House, this distance would increase to around 28 metres and in addition these residents would have views across the communal garden. As such, the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

Affordable housing

57. Capital funding for this development has been secured by Housing Hartlepool (Vela Homes) via the Homes and Communities Agency for affordable housing on this application site. Affordable housing is social rented, affordable rented and intermediate housing which is provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
58. In this instance the affordable housing will be both affordable rent and shared ownership and would be provided for over 55's and first refusal on the properties will be offered to the decanted residents of the former Oversteads House.
59. Under normal circumstances, taking into account evidence from the Social Housing Market Assessment, the Council would require 20% of a development to be affordable housing where there are 15 or more dwellings proposed. Such provision is normally provided through a section 106 agreement. In this case all of the proposed dwellings

would be classed as being affordable housing therefore the development exceeds the level of affordable housing which would normally be required. It is however, important to ensure that the proposed dwellings remain affordable in perpetuity and whilst only 20% affordable housing would normally be sought the applicant has agreed to enter into a section 106 agreement to ensure that all of the dwellings remain affordable in perpetuity. The provision of a section 106 agreement relating to the provision of 20% affordable housing in perpetuity on this site would meet the tests contained within Regulation 122 of the Community Infrastructure Levy Regulations 2010. It would however, be difficult to argue that 100% affordable housing would be required to make the development acceptable. The additional 80% affordable housing should therefore be regarded a voluntary contribution which Members should not take into account when considering the planning merits of the scheme.

Highways Issues

60. Both pedestrian and vehicular access will be from the north west corner of the site off Valley View. This would also be where the 13 off street car parking spaces are located. In addition to the new vehicular access and parking arrangements a new footpath would be created which would run through the site from east to west. The Council's Highways Officers have assessed the proposals and are satisfied that both the access to the site and the level of parking provision is acceptable. Therefore the proposals are considered to be in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

Ecology

61. The presence of protected species such as bats and barn owls is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have 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 an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with a the benefit of a licence from Natural England.
62. The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2010, contain three "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 a European Protected Species (EPS). For development activities this license is normally obtained after planning permission has been granted. The three tests are that:
- 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
63. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
64. As there was a danger that nesting bats, which are a protected species, may be disturbed by the proposed development the applicant has submitted a bat risk survey which has been assessed by the Council's ecology officers. The survey has found that

there are no protected species in the present in the building. Given this, there is no requirement to obtain a license from Natural England and therefore the granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2010.

65. Notwithstanding the above, a condition will be required which would ensure care is taken during demolition and to provide habitat creation in the new buildings in accordance with the recommendations in the submitted bat risk survey. This would involve the provision of bat slates and bat boxes as part of the development. Subject to this mitigation, it is considered that the proposals would be in accordance with saved policy E16 of the local plan and part 11 of the NPPF.

Letter of concern from nearby resident

66. One letter has been received from a local resident who raises concerns relating to a lack of car parking, anti-social behaviour and noise and disruption during the construction process. Highways Officers have concluded that the level of parking provision is acceptable with regard to the amount of development. With regard to anti-social behaviour it is considered that the occupancy of a new building would reduce the amount of anti-social behaviour which residents may currently experience due to the vacant dilapidated building. A condition, should be imposed which restricts the hours of construction on site in order to keep any disruption to surrounding occupiers to a minimum.

Section 106 obligations

67. As stated earlier, the applicant has agreed to enter into a Section 106 legal agreement in order to secure the affordable housing in perpetuity. Under normal circumstances, the Council would also require financial contributions towards both off-site recreation space and public art. However in this instance, given that it is a social landlord led scheme with funding from the Homes and Communities Agency, and not a private developer, it is a condition of funding that there can be no 'claw-back' for other benefits.

CONCLUSION

68. Overall it is considered that the proposals are in accordance with the relevant planning policies. The proposed residential development is in a highly sustainable location on a brownfield site, with good access to public transport, local shops and other community facilities. Only one letter of concern has been received from a nearby resident, furthermore the statement of community involvement which was submitted with the application shows a significant amount of local support for the scheme which would result in a high quality development and provide much needed affordable housing in the area for over 55's. On the basis of the above, officers recommended that the application be approved.

RECOMMENDATION

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

- i. The provision of the affordable housing in perpetuity
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. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with saved policy Q8 of the City of Durham Local Plan.

3. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours and 1800 hours Mondays to Fridays (excluding bank holidays) and 0800 hours and 1300 on Saturdays.

Reason: In the interests of residential amenity and to comply saved policy H13 of the City of Durham Local Plan.

4. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005. No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree. No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: In the interests of the visual amenity of the area and to comply with the National Planning Policy Framework part 11.

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section F.2 (Mitigation Requirements) of the 'Extended phase 1 & Bat Risk Assessment, Oversteads House, Ushaw Moor, Revision 02' written by E3 Ecology Ltd and dated 2nd June 2012. All habitat enhancement measures shall be carried out in accordance with a scheme to be first submitted and agreed in writing by the Local Planning Authority before the demolition of the existing building.

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 11.

6. No development shall commence until a detailed landscaping scheme has been submitted to, and approved in writing by, the Local Planning Authority. No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan based details of the following: Trees, hedges and shrubs scheduled for retention. Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers. Details of planting procedures or specification. Finished topsoil levels and depths. Details of temporary topsoil and subsoil storage provision. Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage. The establishment

maintenance regime, including watering, rabbit protection, tree stakes, guards etc. The local planning authority shall be notified in advance of the start on site date and the completion date of all external works. Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

7. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

8. No development shall commence until a scheme for the diversion of sewer apparatus has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure appropriate drainage is maintained in accordance with saved policy U8a of the City of Durham Local Plan.

9. Prior to the commencement of the 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 efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained thus in perpetuity.

Reason: In order to secure a sustainable form of development in accordance with saved policy U15 of the City of Durham Local Plan, Policy 38 of the RSS and part 10 of the NPPF.

10. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; 11042/P100, 11042/S02, 11042/E100, 11042/P101, 11042/P200, 11042/P201, 11042/P202, 11042/P300

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policy Q8 of the City of Durham Local Plan.

REASONS FOR THE RECOMMENDATION

1. The development was considered acceptable having regard to the following development plan policies:

NPPF Part 1, NPPF Part 4, NPPF Part 6, NPPF Part 7, NPPF Part 10 and NPPF Part 11

Regional Spatial Strategy Policy 2, Policy 4, Policy 7, Policy 8, Policy 24, Policy 30 and Policy 38.

City of Durham Local Plan Policy E16, Policy H3, Policy H12, Policy H13, Policy T1, Policy T10, Policy R2, Policy Q8, Policy U8a and Policy U15.

2. In particular the development was considered acceptable having regard to consideration of issues of planning policy, the impact on the street scene and surrounding occupiers, affordable housing, highways and ecology issues.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
Regional Spatial Strategy
National Planning Policy Framework
Internal consultee responses
Response of the Highway Authority



Planning Services

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**Date 11th
 September 2012**