County Planning Committee

Date       Tuesday 3 September 2013
Time       2.00 pm
Venue      Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meetings held on 2 and 23 July 2013 (Pages 1 - 18)
5. Applications to be determined
   a) 4/12/01006/OUT - Land at Former Cape Site, Durham Road, Bowburn, DH6 5AT (Pages 19 - 34)
      Application to replace extant planning permission 06/00631/OUT (Outline application including details of means of access for employment use and residential development) in order to extend period of time for implementation
6. Appeals Update (Pages 35 - 36)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration
8. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information
9. 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
23 August 2013
To:   The Members of the County Planning Committee

Councillor K Davidson (Chairman)

Councillors J Allen, B Armstrong, D Boyes, J Buckham, M Dixon, D Hall, G Holland, A Laing, R Lumsdon, C Marshall, G Richardson, A Shield, P Taylor and R Young
DURHAM COUNTY COUNCIL

At a Meeting of County Planning Committee held in the Council Chamber, County Hall, Durham on Tuesday 2 July 2013 at 2.00 pm

Present:

Councillor K Davidson (Chairman)

Members of the Committee:
Councillors H Bennett, J Blakey, D Boyes, J Buckham, K Dearden, M Dixon, G Holland, J Maitland, G Mowbray (Vice-Chairman), G Richardson, A Shield and R Young

Also Present:
Councillors J Alvey and G Bleasdale

1 Apologies for Absence

Apologies for absence were received from Councillors J Allen, B Armstrong, D Hall, A Laing, R Lumsdon and C Marshall.

2 Substitute Members


3 Declarations of Interest

Councillor D Boyes declared an interest in the first two applications to be considered by the Committee (Item Nos. 5(a) and 5 (b)) as he had previously been involved in debate and discussion on both applications. Councillor Boyes took no part in the debate or decision on these items.

4 Minutes

The Minutes of the meeting held on 4 June 2013 were confirmed as a correct record and signed by the Chairman.
5 **Applications to be determined**

The Chairman informed the Committee that Agenda Item Nos. 5(a) and 5(b) would be considered together, but with separate voting on each item.

5a PL/5/2013/0106 - Land North of Lowhills Road, Peterlee
5b PL/5/2013/0107 - Land East of Thorpe Road, Easington

The Committee considered reports of the Principal Planning Officer regarding the following:

i) an outline application for residential development of up to 900 dwellings and local retail centre on land north of Lowhills Road, Peterlee, and

ii) an application for the formation of ponds and upgrading of existing footpaths on land east of Thorpe Road, Easington.

The Principal Planning Officer provided the Committee with detailed presentations on both applications which included photographs of the sites and plans of the proposed layouts. Members of the Committee had visited both sites the previous day and were familiar with the locations and settings.

The Principal Planning Officer informed the Committee that Peterlee Town Council, while having no overall objection to the application, had objected to the retail element, expressing concerns its scale prejudicing the vitality and viability of Peterlee Town Centre. A survey undertaken on behalf of the applicant had concluded that a retail development of up to 500m² would pose no threat to the Town Centre.

The Highway Development Manager informed the Committee that three offsite highways improvement schemes would be needed should the applications be approved, as follows:

i) adjustments to the timings of the traffic signals on the A19/B1320 junction to accommodate the flow of traffic

ii) signalisation on the A1086 Thorpe Road/Essington Way junction

iii) localised road widening on Lowhills Road and Stephenson Way approaches to the development, which could be accommodated within the current highway boundaries.

Mr M Styles address the Committee to object to the applications on the grounds of the historical aspects of the area and the sustainability of the application. Mr Styles informed the Committee that the economy was not in place at Peterlee to support the arrival of what would be a few thousand people to the proposed new residential development. There were currently over 100 empty properties in Easington and 1,000 properties for sale in Peterlee and Mr Styles questioned where the demand for the proposed additional properties would come from.

Mr Styles referred the Committee to the historical nature of the site and to the development of Peterlee in the 1950’s and 1960’s as a town for miners which it was never envisaged would sprawl outwards. The settlements of Easington Village and Peterlee should be kept separate to maintain their identities.
There were ample brownfield sites in the area for development, and sites which had been granted planning permission where no building work had commenced. He informed the Committee that the application would not help the coalescence between the site, Littlethorpe and Easington Village.

Mrs Hopper addressed the Committee to object to the applications. She referred to a previous planning application for 500 houses in 1999 which was rejected following a public inquiry and, due partly to the importance of visual separation to prevent coalescence with Easington Village. The impact of the applications would be overwhelming on the Easington Village Conservation Area which was 500 metres north of the development site. Referring to the application for the formation of ponds and upgrading of public footpaths, Mrs Hopper informed the Committee that this application would bring the site even closer to Easington and she queried who would be responsible for future maintenance of the area.

Mr Frain addressed the Committee to object to the application. He informed the Committee that the development would not, as the applicant had claimed, bring significant benefits to the area, but would have a devastating effect on the area instead. The area was already oversubscribed with sites which had planning permission for development, although no building work had commenced on these. There was a brownfield site on the site to the old Dewhirst factory which would be more suitable for development and would be of more benefit to the area.

Councillor Morton, Easington Village and Thorpe Parish Council, addressed the Committee to object to the application. He informed the Committee that while the residents of Easington Village were not against the building of new homes, this application was on greenfield land when there were brownfield sites in the area capable of accommodating up to 500 dwellings. Councillor Morton informed the Committee that Easington Village was used as a rat run by motorists to gain access to the A19 to travel south and queried whether the impact of this had been assessed.

Councillor Morton referred to education provision in the area, with the £900,000 to be made available under the Section 106 agreement for the provision of additional school places, which was not much between the two primary schools in the area. There was no mention in the report around nursery provision, and although secondary schools in the area had some spare capacity, they did not have sufficient given the size of the proposed development.

Councillor Alvey, local Member, asked whether the proposed road widening on Lowhills Road was only to be at its approach with the mini roundabout. The Highway Development Manager replied that widening works might also take place where at the pedestrian refuge on Lowhills Road. Councillor Alvey expressed concern that widening might encourage heavy goods vehicles to use Lowhills Road which would cause problems for local residents, and also expressed concern that neither he nor Peterlee Town Council had been consulted on this proposed road widening.
Mr C Harrison, Nathaniel Lichfield and Partners, addressed the Committee in support of the application. The proposed development would deliver accessible housing and regeneration. The proposed site for development was identified in the emerging County Durham Plan and there had been no objection to this. The site was identified as being greenfield over 13 years ago and this was no longer relevant to the pro-growth agenda for Local Authorities. Durham County needed 20,000 extra homes by the year 2030 and it was important that Peterlee made a contribution to this housing requirement.

Property vacancy rates in the Peterlee area were 3% and market rate 2½%, with the regional average being 5%. There were insufficient brownfield sites within Peterlee to deliver similar numbers to this application, and other sites which had received planning permission but not commenced work had stalled because they were not deliverable at the time.

Both application sites would provide over 50 hectares of public open space, and separation would be enhanced through topography.

No objections to the applications had been made by the statutory consultees and there were no technical reasons to withhold planning permission. Mr Harrison provided the Committee with details of the significant economic, social and environmental benefits which the applications would deliver which were at paragraph 78 of the Committee report.

The Principal Planning Officer informed the Committee that Council’s Design and Conservation Officer considered the impact of the proposed development on Littlethorpe to be minimal. Referring to the historic nature of the site, the County Archaeology Officer had expressed no concerns. The Principal Planning Officer referred the Committee to condition 17 of the conditions for planning permission at page 42 of the report which covered the archaeological work to be undertaken prior to development. Referring to nursery provision, it was expected that this would be provided by the private sector and was not a planning consideration.

The Highway Development Manager informed the Committee that a full and concise transport assessment had taken place on at least 11 junctions which would be impacted by the development. This assessment, which included the junctions referred to by Councillor Morton, showed that the junctions at Easington Village would be within their capacity when the extra traffic generated by the development materialised.

Councillor Dixon referred to paragraph 48 in the report and asked how the objection from Sport England could be overcome. The Principal Planning Officer replied that under the proposed Section 106 agreement a financial contribution would be made to mitigate the concerns of Sport England.

Councillor Dixon informed the Committee that consideration of the applications was a balance between development and the protection of a green wedge. Natural England raised no objection to the proposals and conditions were being proposed to ensure there would be detailed archaeological studies carried out prior to development.
The formation of ponds and upgrading of footpaths on land to the east of Thorpe Road would provide a buffer for the site. There was a need for development and economic regeneration to provide jobs and Councillor Dixon informed the Committee he supported approval of both applications.

Councillor Buckham informed the Committee that the County Council was on the cusp of policies, with the District of Easington Local Plan and the emerging Durham Local Plan and asked what weight should be given to the emerging Local Plan. The Principal Planning Officer replied that while the District of Easington Local Plan was the saved Local Plan for the time being, consideration needed to be given to how this was now consistent with the NPPF. There was a need take into account the evidence-based demand for housing. Councillor Buckham informed the Committee there was a need to observe the NPPF which would put more weight on the emerging Local Plan and seconded approval of the applications.

Councillor Holland informed the Committee he had listened to the views of local people and was concerned at the weight of opinion against the applications. He could not see the need for 900 houses and asked about the Regional Spatial Strategy (RSS).

The Principal Planning Office replied that the RSS did in the past form one half of the development plan for this area, but added that the RSS had now been abolished. There were 605 letters of support for the applications and 33 objections.

Councillor Shield informed the Committee that he shared the concerns and reservations of Councillor Holland. There were over 1,000 properties currently available in the area and also brownfield sites which could be developed. School governors had expressed doubts about the availability of school places for the development and there was no mention in the report about public transport.

The Principal Planning Office replied that these applications for consideration did not prejudice other sites being brought forward for future consideration, including brownfield sites. However, brownfield sites alone could not meet the future housing needs in the area. Referring to the concerns expressed by School Governors, the Senior School Places Officer took a strategic overview of school places in the area and considered that these concerns had been addressed by the Section 106 contribution for additional classrooms. Traffic impact assessments had been carried out and there were bus stops in the area and services would eventually be directed through the development site.

Councillor Richardson informed the Committee that he had considered the arguments and could find no planning reasons to object to the proposals.

Resolved:
Outline application for residential development of up to 900 dwellings and local retail centre on land north of Lowhills Road, Peterlee
That the application be approved, subject to the conditions outlined in the report.
Application for the formation of ponds and upgrading of existing footpaths on land east of Thorpe Road, Easington
That the application be approved, subject to the conditions outlined in the report.

5c CMA/5/39 - Land Adjacent to B1287 (east) to the North of Seaham

The Committee considered a report of the Principal Planning Officer regarding an application for a static caravan park, including associated access works, children’s play area and landscaping (outline – all matters reserved) on land adjacent to B1287 (east) to the north of Seaham (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

Mr Mark Welsh, Seaham Town Council, addressed the Committee to object to the application. The application would have a devastating impact on the visual amenity of the area, which was in an area of high landscape value. The application site was on greenbelt land. There was also concern about the impact the proposed development would have on local wildlife, and the area had an actively eroding coastline.

Mrs Hindmarsh, Seaham Environmental Association, addressed the Committee to object to the application. The application site was part of the East Durham Plateau which was the only place where limestone was exposed to the sea, and as such it was unique and also contained rare flowers. The site was a greenfield site and within the greenbelt. Seaham had been nominated as the gateway to the Durham Heritage Coast and Mrs Hindmarsh queried whether visitors would know they had arrived at a unique heritage coast if this application was approved.

Councillor Bleasedale, local Member, addressed the Committee to object to the application. She informed the Committee that Seaham had undergone a massive regeneration in recent years, including the new Seaham Marina, and local feeling was that this application would detract from the regeneration which had taken place.

Mr Noble, applicant, addressed the Committee in support of the application. He informed the Committee that Seaham Town Council had been in support of a caravan site on this area, but this support had now been withdrawn. The caravan site would be a luxurious caravan park with landscaping and no static structure was proposed. The caravan site would create up to 10 full time jobs and attract visitors to the area, including the new Marina at Seaham, much in the same way as Crimdon Dene Caravan Park benefitted from Hartlepool Marina.

Councillor Buckham informed the Committee that he knew this area of coast well. There had been objections to the application from statutory consultees and Councillor Buckham supported the recommendation that the application be refused.
Councillor Blakey informed the Committee that this area of coastline had won environmental awards and needed to be protected. As such, she agreed with Councillor Buckham that the application be refused.

Councillor Boyes informed the Committee that the application site was in a Site of Special Scientific Interest and as such he could not support the application.

Resolved:
That the recommendation in the report be approved.

5d MRA/7/3 - Aycliffe Quarry, Aycliffe

The Committee considered a report of the Principal Planning Officer regarding an application for the determination of new planning conditions for working and restoration at Aycliffe Quarry, Aycliffe (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation on the application. There had been no objections received from the statutory consultees and the application was recommended for approval.

Resolved:
That the application be approved, subject to the conditions outlined in the report.

5e CMA/7/91 - Former Electrolux Site, Merrington Lane, Spennymoor

The Committee considered a report of the Principal Planning Officer regarding a variation to the terms of a Section 106 agreement and the provision of a Section 278 Agreement under the Highways Act (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation on the application.

Resolved:
That the recommendation in the report be approved.

6 Appeals Update

The Committee noted an appeal update regarding an appeal by Mr W J Drennan against the refusal of planning permission for an anaerobic digestion plant and associated combined heat and power plant at High Hedley Hope Farm, East Hedley Hope, Bishop Auckland (for copy see file of Minutes).
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At a Meeting of **County Planning Committee** held in the **Council Chamber, County Hall, Durham** on **Tuesday 23 July 2013** at **2.00 pm**

**Present:**

Councillor K Davidson (Chairman)

**Members of the Committee:**
Councillors J Allen, B Armstrong, J Blakey, D Boyes, J Clare, K Dearden, M Dixon, O Gunn, G Holland, A Laing, G Richardson, A Shield and R Young

**Also Present:**
Councilor(s) J Armstrong, D Bell, A Bonner, J Chaplow and E Tomlinson

1 **Apologies for Absence**

Apologies for absence were received from Councillors J Buckham, D Hall, R Lumsdon, C Marshall and G Mowbray.

2 **Substitute Members**


3 **Declarations of Interest**

Councillors B Armstrong, A Laing, G Richardson, A Shield and R Young declared an interest in Item No 5 (e) on the agenda as Members of the Combined Fire Authority for County Durham and Darlington and withdrew from the meeting during discussion of this item. Councillor Blakey informed the Committee that she was a Member of Cassop cum Quarrington Parish Council which had been consulted on this application, but had taken no part in the discussion.
Applications to be determined

4a 1/12/0408/DM - Land to the west of Esh Winning Industrial Estate, Esh Winning

The Committee considered a report of the Senior Planning Officer regarding an application for the use of land for industrial purposes and erection of one industrial building for a workshop and storage and one building for a steel fabrication workshop and storage and construction of an access road and hard standing on land to the west of Esh Winning Industrial Estate, Esh Winning (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site the previous day and were familiar with the location and setting.

Maria Ferguson, agent for the applicant, addressed the Committee. The applicant had undertaken significant expenditure on the site by constructing a road to the site and had carried out planting works, as well as expenditure on legal fees. During no time that these works were being undertaken had the applicant been asked to stop them. The applicant had been acting in good faith and planning permission had been consistently granted on this site over the last 10 years. The area of the development had been reduced in size to address concerns of Officers, but if it were to be reduced any further would not be viable due to the costs of providing access, drainage and services to the undeveloped areas. The application site was recognised within the Derwentside District Local Plan as an industrial commitment and the emerging Local Plan proposed to allocate the land for industrial development.

Traffic movements to the site had decreased over time, and the County Council had previously made improvements to the bridge providing access. Additional traffic movements arising from the application were unlikely to be significant as the occupiers of the industrial units were likely to be small scale local businesses needing an affordable local base. There was significant local support for the application which would provide local jobs for local people.

Councillor J Armstrong, Local Member, addressed the Committee in support of the application. He referred the Committee to Parts 1 and 3 of the NPPF, outlined at paragraphs 34 and 25 in the report, which this application met. He also referred to Policy IN4 in the Derwentside Local Plan which identified the industrial estate at Esh Winning for B1, B2 and B8 uses. No concerns had been raised by the statutory consultees and the application had 2 objections and 6 letters of support.

The industrial estate was served by an unrestricted access road and to reject the application on the grounds of the road width at the access bridge was unsustainable. The access road and bridge had been used daily for heavy haulage for the past 20 years, and Councillor Armstrong had no knowledge of any recorded accidents. There were no other grounds to reject this application, as the applicant had amended his application as requested by Planning Officers.
There was significantly less transport on the industrial estate since the Esh Partnership moved to premises at Bowburn. The site complimented the emerging County Durham Plan and was featured as a development site and a protected employment site.

Councillor Armstrong informed the Committee that the area was in need of jobs and economic growth to help the local economy and all 5 Councillors in the area, Deerness and Esh and Witton Gilbert Divisions, supported the application.

Councillor Chaplow, Member for Deerness Division, addressed the Committee in support of the application. She informed the Committee that Esh Winning needed jobs for young people, and this application was an opportunity to provide these. Vehicles had used the access road to the industrial estate for many years without incident.

Councillor Boyes informed the Committee that if planning permission for the industrial estate was being sought now, he felt that this may be refused. However, the industrial estate had been doing business for over 20 years with no accidents, despite regular use by heavy goods vehicles. He suggested that access problems at the bridge could be mitigated by the introduction of priority signage.

Councillor Holland informed the Committee that while he was uneasy going against the recommendations of Officers, the need for this development in Esh Winning was overwhelming. He asked whether there was any mechanism to offer financial support to improve the road system on the access to the industrial estate.

Councillor Dixon informed the Committee that while he wanted the development progress the application pivoted on the access road to the industrial estate, particularly the road bridge. He suggested that any approval for the application be conditional on road improvement works taking place at the bridge before any development took place.

Councillor Richardson informed the Committee that the application should be supported because of the need for jobs and investment in the area.

Councillor Shield informed the Committee that while he was in favour of the development, the professional advice of Officers must be considered regarding the access bridge. The introduction of priority signage and other works at the bridge had been estimated at £3,500 and Councillor Shield asked whether the 5 Councillors in the area would access their budgets to meet this cost. Councillor B Armstrong confirmed that all 5 Councillors were willing to do this.

Councillor Clare referred to paragraph 28 of the report regarding the granting of planning permission in 2008 and asked on what grounds the highways objection had been overturned. The Senior Planning Officer replied that in 2008 planning permission was granted for the erection of eight industrial starter units, although this was never implemented. The objection from the Highways Authority was the same for that application as for this one, and this objection was overturned for the same reasons as the Committee was putting forward at today’s meeting.
Councillor Clare informed the Committee that he supported the views put forward by Councillor Boyes and that if planning permission was to be granted then a solution to the highways problems would need to be found.

The Senior Planning Officer replied that a condition attached to any planning permission to implement the priority system on the bridge would address one issue, but not all highway safety issues across the site. Various highways solutions had been considered but could not be implemented because they relied on third party land to implement highways improvements.

The Highway Development Manager informed the Committee that the Highway Authority had recognised the need to bring forward a possible solution to the highways issues at the site, particularly the safety and stability of the access bridge, and had suggested a priority system on the bridge. However, this solution would only be relevant if only two units were developed on the application site. If the whole site was approved, then traffic movements could increase significantly, and the priority system would not be an appropriate solution should this happen.

Councillor Davidson informed the Committee that if the application was refused then the applicant could appeal the decision and this would test the robustness of the officer’s advice. Alternatively, the applicant could submit a smaller application which may attract a different opinion from officers.

Councillor Holland asked what the cost would be of making good all highways on the site. The Highway Development Manager replied that to widen the highways to 7.3m and also construct footways would require considerable funding and would also be reliant on 3rd party land.

Councillor Dixon referred to paragraph 57 of the report and asked that if the permission was not granted whether the site would be taken forward as land allocated for industrial development in the emerging Local Plan. The Senior Planning Officer replied that the land had been identified as such because of previous planning permission granted, but if this application was refused, it may not be taken forward as an allocated site.

Councillor B Armstrong suggested that the Committee could recommend the application, which was for two units, for approval, and consider any subsequent applications as and when they were submitted. Councillor Boyes moved that the application be approved subject to the highway to the new part of the site being extended and also a one-way priority system on the bridge being implemented.

Resolved:
(i) That the application be approved, subject to the extension of the highway to the site and the implementation of a one-way priority system on the access bridge prior to the commencement of any works being carried out;
(ii) That the Head of Planning be authorised, in consultation with the Chairman and Vice-Chairman of the Committee, to impose relevant conditions on the planning approval which related to highways issues.
4b  PL/5/2013/0197 - Land at Dalton Park, Murton, SR 7 9HU

The Committee considered a report of the Principal Planning Officer regarding an application for variation of Conditions 14 and 15 attached to Planning Application Reference Number PL/5/2009/0548 relating to energy efficiency and BREEAM rating on land at Dalton Park, Murton (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation of the report.

Councillor Holland expressed concern at the minimum 10% level of energy from renewable or low carbon sources, adding that technology was available for this to be 100%.

Resolved:
That the application be approved, subject to the conditions outlined in the report.

4c  PL/5/2013/0202 - Land at Dalton Park, Murton SR7 9HU

The Committee considered a report of the Principal Planning Officer regarding an application for groundworks and associated landscaping on land at Dalton Park, Murton (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation of the report.

Resolved:
That the application be approved, subject to the conditions outlined in the report.

4d  CMA/1/84 - Land adjacent to and north east of Thomas Swan & Co Ltd, Rotary Way, Consett, Durham

The Committee considered a report of the Planning Officer regarding an application for the development of a 1MW anaerobic digestion energy plant including 1 digester unit, 1 residue tank, technical building, bunker and cooling system, access roadway, 2 silage clamps, gas flare, lagoon and section of watercourse culvert on land adjacent to and north east of Thomas Swan and Co. Ltd., Rotary Way, Consett (for copy see file of minutes).

The Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site the previous day and were familiar with the location and setting.

The Planning Officer informed the Committee that Condition 9 on page 72 of the report should be amended to read ‘a daily average of 60 vehicles per day (30 in and 30 out) over any 14 day period’.
Mr Harry Swan, Managing Director of Thomas Swan and Co. Ltd. addressed the Committee. He informed the Committee that Thomas Swan and Co. was founded in 1926 and was now a fourth generation company. However, the company faced a challenge from the spike in energy prices, which had seen the company's spending on energy rise from £750,000 a year to £1.2m a year. The company needed to reduce its reliance on energy sources. Other forms of energy generation had been considered, however, none of these would provide a steady delivery of energy. Local consultation on these proposals had taken place where concerns were expressed around odour, increased traffic movement and visual impact. Mr Swan informed the Committee that the proposal would produce very little odour, that 50% of deliveries would now be made by HGV rather than tractor to reduce the number of traffic movements needed and that deliveries would only take place during a 7-week period over the year, and that the level of the anaerobic digester had been dropped to minimise the visual impact.

Councillor Richardson informed the Committee that he personally knew Mr Harry Swan and took no part in the debate or decision on the application.

Councillor Temple, local Member, addressed the Committee. He informed the Committee that while he supported the application, he had concerns at the increased traffic movements which would be generated. The legal speed limit for tractors was 20 m.p.h. and suppliers to the proposed facility were spread over a 10-mile radius. This would lead to an increase in very slow moving traffic within the area, which in turn could be frustrating for other road users and lead to danger. Councillor Temple suggested that a condition to become a supplier of the proposed digester could be that deliveries should be made by HGV. The use of HGV's would result in fewer vehicle movements to and from the site, as they were capable of carrying greater loads than tractors.

The Planning Officer replied that the applicant had identified a supplier for the proposed plant, and that the supplier had reported that increased loads would decrease the viability because deliveries by HGV would be at a greater cost. Deliveries would be made around the time of crop harvesting each year, which was when tractors would normally be on the roads. The Highway Development Manager added that the impact of tractor movements had been considered, and their direction of approach. The direction of approach would be split evenly, which would result in an average of one tractor per hour. Additionally, the impact would be over short period at harvest time each year.

Councillor A Shield informed the Committee that he shared the concerns expressed by Councillor Temple. The access roads used to the site skirted the peripheral areas of Consett and had a high incidence of traffic, which would be exacerbated when the Academy opened in Consett. Councillor Shield referred to paragraph 52 of the report and asked what the capacity was of tractors compared to articulated lorries.

There were plans for a development of 400 plus houses on land adjoining the Swans facility, and this digester would then be significantly less than 350m from the nearest property.
Councillor Shield referred to a green recycling facility at Bunkerhill which created odours, and while acknowledging this was not the same facility, local residents had expressed concerns around odours from the digester.

The Planning Officer replied that Bunkerhill was a green waste composting site which imported more waste than it could facilitate. The digester had a finite capacity which would be in sealed containers. The proposed facility would produce very little noise and no odour. The capacity of tractors was 15t compared to 30t for articulated lorries.

Councillor Dixon made reference to the issues around access and traffic and informed the Committee that measures had been taken to mitigate these issues.

Resolved:
That the application be approved, subject to the conditions, as amended regarding traffic movement, contained in the report.

Councillors B Armstrong, A Laing, G Richardson, A Shield and R Young withdrew from the meeting during the discussion of the following item.

4e  CMA/4/100 - Land at Bowburn South Industrial Estate, Bowburn, Durham

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of a Fire and Rescue training facility, to include workshops, RTC training area and simulator training on land at Bowburn South Industrial Estate, Bowburn (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site the previous day and were familiar with the location and setting. The Senior Planning Officer confirmed that the proposed site would not prejudice the route of any future Bowburn relief road and connection between it and the industrial estate road network.

Councillor Blakey, local Member, informed the Committee that concerns had been expressed regarding the cleanliness of the smoke to be emitted from the site. The Senior Planning Officer replied that all burning would be within controlled environments and inside buildings, with fume emission filtration.

Councillor Boyes informed the Committee that the proposed training facility would enhance and improve the Industrial Estate and would be a state of the art facility, which would attract both regional and national interest.

Resolved:
That the application be approved, subject to the conditions outlined in the report.
Councillors B Armstrong, G Richardson, A Shield and R Young rejoined the meeting.

5 CMA/4/103 and CMA/4/103LB - Elemore Hall School, Littletown, Durham, DH6 1QD

The Committee considered a report of the Principal Planning Officer regarding an application for an extension to existing school buildings to provide additional facilities including multi-use hall, changing facilities and additional classrooms, alterations to a Listed Building to allow connection points, internal alterations to amend the layout of an existing classroom and erection of a stand-alone forest classroom within the walled garden situated in the schools grounds at Elemore Hall School, Littletown (for copy see file of Minutes)

The application also included associated preparatory, infrastructure and landscape works and listed building consent to enable the proposed development.

The Principal Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layouts.

Resolved:
That the application be approved, subject to the conditions outlined in the report, as amended below:

Amendments to plans listed in Condition 2
As Proposed Partial Site Plan First Floor Plan 1:200 G 900 AL(0) 103 Rev H - FOR CLARITY IS VERSION G

Plan to remove from list in Condition 2
End of Barn 900 AL(0) 602 AS THERE WILL BE A SEPARATE APPLCIATION.

Plan to add to Condition 2
Room Data Sheet Ducts to Elect House 900 AA(0) 522 First Issue

Documents to add to Condition 2
Bat Surveys for 2012 and 2013.

New condition
Notwithstanding any details submitted with the application details of the additional settlement tank and widening of the existing reedbed shall be submitted to and approved in writing by the Local Planning Authority prior to their construction. These shall be constructed in accordance with the approved details thereafter.

Reason: To ensure that proper means are provided for the disposal of foul sewage and surface water from the development in accordance with Policies U10 and U8a of the City of Durham Local Plan 2004 and Part 10 of the NPPF.
Amendment to Condition 14
No development shall take place in the following areas 1) new music facility (east of the hall and south of the 1990s building) 2) northern foundations of the sports hall immediately adjacent to the GRII listed Barn; (3) proposed forest classroom; (4) Electrical connections required as part of the proposed development; until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The Scheme shall provide for:

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.
vi. Archive preparation and deposition with recognised repositories.
vii. 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.
viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

Reason: To comply with Policy E24 of the City of Durham City Local Plan because the site is of archaeological interest.
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APPLICATION DETAILS

APPLICATION NO: 4/12/01006/OUT

FULL APPLICATION DESCRIPTION: Application to replace extant planning permission 06/00631/OUT (Outline application including details of means of access for employment use and residential development) in order to extend period of time for implementation

NAME OF APPLICANT: Esh Group Limited

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

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 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 to which this planning application directly relates.

2. The more eastern sections of the site closest to the A177 have been developed thus far with in excess of 160 dwellings constructed to date. The outline planning permission which this application seeks to extend the period of time for implementation also proposes office and employment generating development as well at the western fringe of the site.
3. This application seeks to replace planning permission 06/00631/OUT in order to extend the period of time for implementation. This extension of time for implementation would apply to the whole development, however the residential elements of the development site have all now received detailed planning permission and work is well advanced in delivering this housing. However, approval of the reserved matters pursuant to the employment elements of the development has not been forthcoming. As a result the applicant is seeking this replacement planning permission more specifically so as to ensure further time for these reserved matters to be submitted and potentially approved and then implemented. The employment elements of the development are proposed to comprise of B1 and B2 uses and indicatively comprise of 4,600m$^2$ of each. Ordinarily an extension of time for implementation cannot be applied for where development has commenced. However, there are exceptions as in this instance where the application has been submitted in outline and implemented in phases. Under these circumstances, the procedures apply as long as the development was required or expressly permitted to be implemented in phases when the outline permission was originally granted by the local planning authority.

4. This application is being referred to committee following a request to do so and an objection received from the Parish Council regarding matters of drainage.

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**PLANNING HISTORY**

5. In 2002 planning permission was refused for a residential development in outline on the site.

6. 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.

7. 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 was approved in August 2010.

8. Later in 2010 the reserved matters were approved for a further 10 no. dwellings.

9. 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.

10. 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.

11. In 2009 condition 6 of the outline approval was varied so as to permit the phasing of highway infrastructure improvements and the requirements to improve junction 61 of the A1(M) were removed. In 2010 a variation of condition allowed for 10 no. affordable housing units to no longer be required to be affordable in perpetuity.
12. In 2012 two variations of condition applications were submitted seeking to remove the 30% affordable housing requirement condition on the original outline permission for the development. The first was refused at planning committee though the resubmission was approved.

13. In 2013 the reserved matters for a further phase of the development, the erection of 126 dwellings was approved.

PLANNING POLICY

NATIONAL POLICY

14. 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.

15. 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’

16. The following elements are considered relevant to this proposal;

17. **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.

18. **NPPF Part 2 – Ensuring the Vitality of Town Centres.** Seeks to promote competitive town centres, recognising town centres as the heart of their communities and pursue policies to support their viability and vitality. LPAs should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan

19. **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.

20. **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.
21. **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.

22. **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.

23. **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.

24. **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

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

25. **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.

26. **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.

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 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.

31. **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.

32. **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.

33. **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.

34. **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.

35. **Policy U5 - Pollution Prevention** seeks to control development that will result in an unacceptable impact upon the quality of the local environment.

36. **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.

37. **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.

38. **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, and 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:

39. The Highway Authority have considered the submitted technical note provided in support of the planning application comparing traffic between 2007 and 2013 and are satisfied that the extension of time and any increase in traffic would not be detrimental to highways operations and no objections are raised. The Highway Authority have also considered the implications of the development on the proposed signal controlled access for the nearby superstore and again no concerns are raised.

40. Northumbrian Water have raised no objections.

41. The Environment Agency have assessed the flood risk assessment submitted within the original application which proposes that surface water drainage from the site is to be directed to Northumbrian Water sewers. On this basis no objections are raised.

42. The Highways Agency originally queried whether the requirements of the condition on original approval seeking improvements to junction 61 of the A1(M) have been discharged. Following further information being provided to them that this requirement was removed via a previous variation of condition application, this query/concern has been removed.

43. Cassop cum Quarrington Parish Council have no objections to the renewal of the planning permission as such though have raised concerns over matters of drainage capacity in the area. A point is also raised that any permission must retain the business access road to the industrial estate.

INTERNAL CONSULTEE RESPONSES:

44. Ecology have assessed the updated extended phase 1 habitat survey supporting the application. It is recognized that the site is likely to support populations of food plants used by butterfly and moth larvae such as Birds foot trefoil and so could provide habitat for the dingy skipper butterfly. As a result either further investigation into the presence of the species on site is necessary or as an alternative area of Early Successional Brownfield BAP habitat is created in the sections of the development site proposed for employment use.

45. Environmental Health stated that contaminated land investigative conditions should apply the development. No further assessments with regards to noise and dust would be required.

PUBLIC RESPONSES:

46. Comments have been received from the Bowburn and Parkhill Community Partnership and safe cycling is encouraged with reference made to the cycling strategy and relevant policies within the preferred options to the County Durham Local Plan. It is stated that any new planning permission should take into account the line for a future relief road. It should also be ensured that ample green space is provided for within the development.
47. A planning statement has been submitted in support of the application. This statement explains the background to the submission of this application and that whilst the residential development on the eastern side of the site has come forward in the recent economic climate the employment portion of the site has not. There is therefore the need to extend the period of time for implementation to permit the reserved matters for the employment side of the development to come forward at a later date.

48. The supporting statement considers that the development remains a sustainable one with the site within close proximity to services and facilities.

49. The supporting statement considers the development against planning policy changes since the time of the original grant of planning permission and primarily against the content of the NPPF. Both the housing and employment elements of the development are considered to be supported by the content of the NPPF.

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=4/12/01006/OUT

PLANNING CONSIDERATIONS AND ASSESSMENT

50. National guidance for Local Planning Authorities in regards to handling applications seeking to extend the period of time for implementation advises a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission.

51. The key material planning considerations relating the development are considered to be the principle of the development, impact upon the character and appearance of the area, highways issues, ecology and flood risk.

The Principle of the Development

52. 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 and Policy EMP5.

53. 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 redevelop 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.
54. Since this time relevant National PPS and PPG guidance is no longer applicable, replaced with the NPPF. The Regional Spatial Strategy for the North East though relevant for much of the life of the permission has now been abolished.

55. No objections are raised to the principle of the delivery of housing at the location in the light of the NPPF which advises at paragraph 22 against unsuitable long term protection of sites for employment use supporting the original findings of the Planning Inspector. The development makes efficient reuse of previously developed land in a sustainable location having regards to the core planning principles and Part 6 of the NPPF. Regardless, the residential elements of the development have now all received detailed planning permission with substantial build out already occurred.

56. Having regards to the employment element of the development, this part of the proposal effectively accords with the Local Plan designation of the land for employment use. The NPPF promotes mixed developments within its core planning principles. The NPPF does promote the regular review of employment allocations and it is acknowledged that within the preferred options of the County Durham Plan no employment allocation is proposed as the site. However, being only at the preferred options stage reduced weight should be attributed to the County Durham Plan. However, it is not considered that an extension to the period of time for implementation for an employment element to the site prejudices the future delivery of the County Durham Plan.

57. No objections are therefore raised to the principle of the development.

Impact upon the Character and Appearance of the Area

58. 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.

59. Reserved matters applications have been approved since this time establishing the detailed appearance and layout of the residential properties on the site.

60. With this application being in outline only, the final detail of the layout, appearance and landscaping for the remaining employment section of the site would be finalised at the reserved matters stage. It is not considered that in the intervening period between this application and that originally approved there are any reasons to object to the indicative siting or impacts of the proposed employment units.

Highways Issues

61. 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.

62. Since this time detailed reserved matters approval for a total of 293 dwellings has been granted with consideration given to and acceptance of the highways implications.

63. In principle no objections are raised with regards to the remaining suitability of the site for the development having regards to the principals of sustainable transport contained within Part 4 of the NPPF.
64. The application has been accompanied by a technical note provided in support of the planning application comparing traffic between 2007 and 2013. The Highway Authority have considered this note and are satisfied that the extension of time and any increase in traffic would not be detrimental to highways operations. The Highway Authority have also considered the implications of the development on the proposed signal controlled access for the nearby superstore and again no concerns are raised.

65. The Highways Agency have also been consulted on the application and originally queried whether the requirements of the condition on original approval seeking improvements to junction 61 of the A1(M) have been discharged.

66. Condition 6 of the original outline approval did require improvements to junction 61 of the A1(M) and it is to this that the Highways Agency refer. However, this matter was reconsidered under the variation of condition application 09/00620/VOC where on the basis of the level of traffic anticipated as a result of the redevelopment such improvements were not considered necessary simply for the Cape redevelopment. Since this 2009 amendment to the condition subsequent approvals have applied to this site with the improvements to junction 61 not forming part of a condition on the permission. As a result a condition seeking the improvements to junction 61 is not considered necessary and this has been confirmed by the Highways Agency.

67. The previously approved outline application included a plan showing a specific access via the industrial estate to south to serve the business units at the western end of the application site and it is considered that such an access would remain suitable for the development. The need for this access route is a point raised by the Parish Council. The final internal layout and parking arrangements for the units themselves would be resolved at a later date under a reserved matters submission.

68. Comments have been received from the Bowburn and Parkhill Community Partnership and reference is made to the encouragement of safe cycling. Potentially at the reserved matters stage the final layout of the business units at the site could incorporate cycling parking/facilities though this would be finalised at this stage rather than at this outline stage.

69. Taking into account the above Officers raise no objection to the potential impact of the extension of time application upon highway safety nor upon the considered sustainability of the site for housing and employment uses having regards to Local Plan Policies T1 and T10 and the provisions of part 4 of the NPPF.

Ecology

70. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through Part 11 of the NPPF most notably at paragraphs 118 and 119.

71. 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.

72. 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 license 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.
73. The original outline planning application included ecological surveys/submissions as part of the submitted Environmental Statement and the development was considered acceptable having regards to protected species though a condition (no. 14) required that mitigation measures occur.

74. Given the length of time between this original grant of planning permission and present it was deemed necessary that updated survey work is undertaken. The application has therefore been accompanied by an extended phase 1 habitats survey the purpose of which is effectively to provide an up to date depiction of the ecological value of the site, potential impact of the development and mitigation/compensatory measures where necessary. The application site does include three areas of open water though these are considered low risk for great crested newts. However, the site does contain food sources which the Council’s Senior Ecologist has advised are likely to support the dingy skipper butterfly which is a UK priority species though not a European Protected Species. As a result it is considered necessary that a compensatory habitat consisting of an area of Early Successional Brownfield BAP habitat be provided within the sections of land proposed for the employment purposes. Officers consider that a condition attached to any planning permission can ensure this.

75. However, it is not considered that any European Protected Species License is required and therefore a detailed assessment against the “derogation tests” is not necessary.

76. Having regards to the above officers raise no objection with regards to the impact of the development upon protected species and nature conservation assets. As a result no objections are raised having regards to Part 11 of the NPPF and Policy E16 of the Local Plan.

Flood Risk

77. Part 10 of the NPPF in part advises on flood risk information requirements on applications and the criteria when determining applications. Policy U8A of the Local Plan advises on surface and foul water disposal.

78. The application site itself is located within Flood Risk Zone 1 essentially the area at least risk of flood events. The Parish Council have expressed concern over drainage capacity in the area to cater for the development.

79. The Environment Agency have been consulted on the application and have considered the originally submitted flood risk assessment with regards to the development. The Environment Agency note that the flood risk assessment proposes that surface water drainage from the site is to be directed to Northumbrian Water sewers and no objections are raised to this.

80. Northumbrian Water are well aware of the problem flooding areas in Bowburn and have factored in these and their improvement works undertaken when calculating capacity in the system in the context of this development. Therefore, they raise no objection to this application and consider adequate capacity in the system exists to accommodate the discharge from this proposal.

81. As a result officers raise no objections to the development on the grounds of flood risk or drainage matters. Without all elements of the development built out a condition is proposed to ensure an agreed detailed drainage scheme for the commercial elements.
82. With regards to matters of affordable housing, the original outline planning permission was granted on the basis that 30% affordable housing would be ensured. However, an application to remove this condition was submitted and approved in September 2012. At the time of this planning permission being granted 59 affordable houses had already been provided at the site and this equated to the 20% affordable housing requirement as outlined within the Strategic Housing Market Assessment. In addition under that application the applicant also provided an additional financial contribution of £147,000 towards further offsite affordable housing delivery. This sum of money has already been received. As a result the affordable housing requirements on the site have already been met.

83. In 2007 the proposed development was considered to be acceptable having regards to matters of residential amenity with no objections raised to the development. Since this time detailed planning permission has been given to the residential elements of the development and within the subsequent reserved matters application to cover the employment elements of the site again detailed consideration can be given to ensure adequate amenity for all occupiers having regards to key policies Q8 and H13 of the Local Plan.

84. 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 buildings are 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.

85. Condition 4 on the original planning permission required the submission of an art scheme. Although provisional details have been submitted previously, 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.

86. Condition 6 on the original planning application related to necessary highway improvements. The improvements to junction 61 have previously not been considered necessary for this development. The remaining improvements in the form of priority T – junction, bus lay-by, protected right turn facility, ghost island and signalised pedestrian crossing facilities have now been implemented and therefore the condition is no longer required.

87. Condition 7 of the original approval 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 have raised no objections to the application.

88. Condition 8 on the original approval 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 and part 12 of the NPPF.
89. 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.

90. 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. In a later variation of condition application the threshold within this condition was again raised to the 200th dwelling and in consistency with this it is considered that such a wording should again apply in the absence of any further arguments put forward.

91. 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 previously approved phases of the development have included provision in accordance with Policy R2. However, such condition should be reapplied on any approval to ensure that revised phases of the development provide for adequate levels of open space.

92. 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 Ecocohenes, 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 Ecocohenes, 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 under condition 15) 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.

93. Conditions had previously been attached to cover matters of materials, landscaping, hard surfaces and means of enclosures though these could be covered under the reserved matters applications regardless and so there is considered to be no need to reapply these conditions. An additional condition is recommended for attachment with regards to working hours on the site as now residential properties are occupied within the site, any future works should be limited to social hours to reduce any impact upon residential amenity.

94. Bowburn and Parkhill Partnership make reference to the need to take into account of any future relief road. As this is an extension of time to an outline planning permission the plans and proposals are not differing and the detailed layout of the remaining employment element of the proposal would be considered at the reserved matters stage. The indicative information supplied within the original outline submission indicated a reserve strip for a road in the western extremity of the site.
CONCLUSION

95. This application seeks to extend the period of time for implementation of a development of housing and employment (B1 and B2) uses which, whilst a departure from the City of Durham Local Plan has previously been considered acceptable by the Secretary of State. National guidance advises a positive and constructive approach towards applications to extend the period of time for implementation which improve the prospect of sustainable development being taken forward quickly.

96. National guidance has altered since the grant of original planning permission and during the life of the permission, principally the regional spatial strategy being abolished and the NPPF coming into force. The City of Durham Local Plan has remained. Officers do not consider that there has been any policy guidance changes which now mean that the development proposal should be considered unfavourably. The application has been submitted with updated information where necessary such as transport and ecological submissions.

97. As a result, officers consider the application to extend the period of time for implementation is acceptable and approval is recommended.

RECOMMENDATION

That the application be APPROVED subject to the following conditions:

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;
   Site location NE20170 first received 23rd July 2006
   Access layout Figure 6 first received 23rd July 2006
   Access layout Figure 7 first received 23rd July 2006
   Engineering details 758/0001/03/01 Rev 0

   Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies H3, H13, EMP5, T1 and T10 of the City of Durham Local Plan 2004.
4. 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.

5. No development shall take place pertaining to any reserved matters until 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 has been 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.

6. No development pertaining to any reserved matters shall take place until a scheme showing the means by which foul sewage and surface water generated as a result of the development are to be catered for has been 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.

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/employment 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 fully 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 additional 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 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. No development shall commence in relation to the provision of the proposed B1 and B2 employment phase of the development until full details have been submitted to and approved in writing by the LPA regarding the provision of a compensatory Early Successional Brownfield Biodiversity Action Plan habitat within the site. Said habitat shall thereafter be implemented in accordance with the timescales that shall form part of the approved details.

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. No development shall commence pertaining to any reserved matters until a scheme to minimise energy consumption has been 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.

14. No development works shall be undertaken outside the hours of 7.30am and 6pm Monday to Friday and 8am to 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

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

STATEMENT OF PROACTIVE ENGAGEMENT

The applicant has been fully informed on the progress of the planning application and when additional information has been required for submission to support the application officers have informed the applicant. The September date for committee was previously identified as the target for determination of the application in consultation with the applicant.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Statutory consultee responses
Planning Circular 11/95
County Durham Local Plan (Preferred Options)
Application to replace extant planning permission 06/00631/OUT (Outline application including details of means of access for employment use and residential development) in order to extend period of time for implementation.
Planning Services

COMMITTEE REPORT

APPEAL UPDATE (STRATEGIC TEAM & LEGAL & DEMOCRATIC SERVICES)

High Court Challenge by UK Coal Mining Ltd. in respect of the Secretary of State’s dismissal of an appeal at a site to be known as Bradley, near Leadgate, Consett, County Durham, Planning Application No. 1/2007/1049 (Ref: CMA/1/37)

BACKGROUND

1. In February 2011 the County Planning Committee refused planning permission for the proposed surface mining of approximately 533,750 tonnes of coal with restoration of the site to include woodland, species rich grassland and haymeadow, scrub, water features and agriculture at a site to be known as Bradley, near Leadgate, Consett, County Durham, UK Coal Mining Limited (UKC). The application was refused on the grounds that it would have an unacceptable impact on the environment and amenity of local communities, and the proposed community benefits of the proposal do not outweigh the unacceptable impact on the environment and amenity of local communities, contrary to Policies contained in the County Durham Minerals Local Plan.

2. UKC lodged an appeal against the Council’s decision which was heard at a local Inquiry between 25 October 2011 and 11 November 2011. The Planning Inspector’s decision letter was issued on 23 February 2012. The Inspector dismissed the appeal and an associated temporary footpath diversion order application that would have been necessary to facilitate the development. The Planning Committee was advised of the Inspector’s decision at its meeting on 6 March 2012.

3. On 5 April 2012 UKC mounted a legal challenge against the Inspector’s appeal decision, under Section 288 Town and Country Planning Act 1990. The Planning Committee was advised of the Grounds of the Challenge at its meeting on 7 June 2012. The case was heard at the High Court on 5 and 6 June 2013 with the Secretary of State seeking to defend the Inspector’s decision and the County Council acting in support. The judgement was handed down on 19 July 2013.

THE JUDGMENT & NEXT STEPS

4. His Honour Judge Cooke QC sitting as a Deputy High Court Judge has upheld one of UKC’s grounds of challenge and quashed the Planning Inspector’s decision.

5. The judgement considers that the Planning Inspector misunderstood the central policy against which the development fell to be considered. He is of the view that the Inspector failed to correctly to understand, analyse and apply County Durham Minerals Local Plan Policy M7 relating to opencast coal and fireclay. The judgment is set out in the document entitled ‘High Court Judgment’ that can be viewed on the Council’s online register of planning applications for the Strategic Team www.durham.gov.uk (quoting reference CMA/1/37).
6. Unless the matter is appealed to the higher courts, a new Inquiry would need to be held at which another Inspector would reconsider UKC's appeal against the Council's decision to refuse planning permission.

7. Both the Secretary of State and the County Council have made written applications for permission to appeal the judgment and are waiting to hear if the applications are successful.

8. The applications for permission to appeal the judgment can be viewed on the Council’s online register of planning applications for the Strategic Team [www.durham.gov.uk](http://www.durham.gov.uk) (quoting reference CMA/1/37) and are entitled ‘Application for Permission to Appeal by the Secretary of State’ and ‘UK Coal application for permission to appeal by DCC’.

**RECOMMENDATION**

9. That the Committee note the High Court judgment and that both the Secretary of State and the County Council are seeking to appeal against it. The Committee will be advised of the outcome of the applications for permission to appeal in due course.

**BACKGROUND PAPERS**

- The High Court Challenge - ‘Particulars of Claim’ can be viewed on the Council’ website [www.durham.gov.uk](http://www.durham.gov.uk) using the online register of planning applications for the Strategic Team application reference CMA/1/37, document entitled ‘High Court Challenge - Particulars of Claim’.
- Planning Inspectorate Good Practice Advice Note 15 – Challenges and complaints.
- ‘Appeals Update’ report to County Planning Committee on 6 March 2012.
- ‘Appeals Update’ report to County Planning Committee on 7 June 2012.
- The High Court Judgment - can be viewed on the Council’ website [www.durham.gov.uk](http://www.durham.gov.uk) using the online register of planning applications for the Strategic Team application reference CMA/1/37, document entitled ‘High Court Judgment’.
- Documents entitled ‘Application for Permission to Appeal by the Secretary of State’ and ‘UK Coal application for permission to appeal by DCC’ can be viewed on the Council’s online register of planning applications for the Strategic Team [www.durham.gov.uk](http://www.durham.gov.uk) (quoting reference CMA/1/37).