



Area Planning Committee (Central and East)

Date Tuesday 11 February 2014
Time 1.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 14 January 2014 (Pages 1 - 8)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) CE/13/01085/OUT - Land North of Windsor Drive, South Hetton, Durham (Pages 9 - 26)
Outline Residential Development (80 houses).
 - b) CE/13/01554/FPA - Land North of Dunelm Road and A181, Thornley, Co. Durham (Pages 27 - 42)
28 no. affordable dwellings & 6 no. dwellings including landscaping and access.
 - c) 4/13/01578/FPA - Communal Hall, 63 Marlene Avenue, Bowburn, Durham, DH6 5ER (Pages 43 - 50)
Conversion of communal hall into residential bungalow.

d) 4/13/01590/AD - Bells Fish Shop, The Garth, Sunderland Road, Gilesgate, Durham, DH1 2LG (Pages 51 - 58)

Retention of illuminated signage to building including free standing sign.

6. Proposed Changes to Constitution - Code of Practice for Members and Officers Dealing with Planning Matters (Pages 59 - 90)
7. 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

3 February 2014

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

Councillor P Taylor (Chairman)
Councillor A Laing (Vice-Chairman)

Councillors A Bell, G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, S Iveson, C Kay, J Lethbridge, R Lumsdon, B Moir and J Robinson

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in Council Chamber, County Hall, Durham on **Tuesday 14 January 2014 at 1.00 pm**

Present:

Councillor P Taylor in the Chair

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, D Freeman, C Kay, A Laing (Vice-Chairman), J Lethbridge, B Moir, J Robinson, R Lumsdon and I Jewell (substitute for M Davinson)

1 Apologies for Absence

Apologies for absence were received from Councillors M Davinson and S Iveson.

2 Substitute Members

Councillor I Jewell substituted for Councillor M Davinson.

3 Minutes

The Minutes of the meeting held on 10 December 2013 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest.

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

5a 4/13/00461/FPA & 4/13/00542/CAC - 51 The Avenue, Durham, DH1 4EB

The Committee considered a report of the Planning Officer regarding applications for two dormer windows to the rear, carparking area to the front and demolition of front boundary wall (retrospective) at 51 The Avenue, Durham, DH1 4EB (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting. The Principal Planning Officer advised that should the Committee be minded to approve the application, then an additional condition would need to be imposed, requiring that all materials for the boundary wall would need to be approved by the Planning Officer.

Mr R Cornwell, local resident, addressed the Committee, speaking in objection to the application both as a local resident and on behalf of the local residents association.

Mr Cornwell believed that the property was to be converted to accommodate students, hence the proposal to create two dormer windows to the rear of the property.

However his main concerns related to the frontage and the demolition of the boundary wall and hedging. Mr Cornwell suggested that the applicant had deliberately planned a retrospective application, knowing that had the application been submitted when it should have, it might not have been approved.

Members were advised that an estate agents had previously advertised the property and highlighted that the garden was a major asset not least because it had been secluded.

Mr Cornwell understood that planning policies encouraged that conservation areas should be improved and enhanced and he believed that the original frontage had done just that. However what was now proposed – much lower walls and hedging than was there previously – did nothing to improve the area.

Members were aware that there was a nearby property in the street, no.53, which already had a similar layout to the frontage, indeed they had taken note of that property on the site visit. However Mr Cornwell stressed that no.53 was misrepresentative as the works done there had not required permission. As such no earlier precedent had been set and there was no need for additional parking in the street. The expectation was that parking bays should not exceed 1.5 per dwelling, but this would exceed that.

Mr Cornwell highlighted that in the emerging County Durham Plan there was a significant emphasis on executive housing which this property had previously been.

The Committee were advised that although the Highway Authority had stated the wall must be retained should the front be used for parking, they had not recommended that it was to become a parking area.

Mr Cornwell stated that instant hedging had been recommended. This came in various heights and so the hedging could be installed at 2m as it had been previously.

He believed the current design proposals to be incompatible with the area and stated that should Members be minded to grant approval, they would be sending

the wrong message out regarding retrospective applications and setting a precedent for off street parking.

Councillor G Holland, local Member, addressed the Committee to speak about the principle of the retrospective application.

Members were advised that when the property had come up for sale it was marketed as an executive family dwelling which had been in the ownership of the same family for many years. Councillor Holland advised that the reason it did not end up being sold to a family was due to the area being inundated with student accommodation, as such no family would wish to move to the area.

The new owners had held no regard for the fact the property was located in a conservation area and as such had destroyed the original frontage and then applied for retrospective permission. Councillor Holland found both developers and students to be uncaring towards the area and this was a situation which repeatedly occurred. He did not believe that officers would have recommended the application for approval had it been submitted at the correct time. As such he believed that the developer should be required to restore the frontage to its original design and that the application should be refused.

Councillor N Martin, local Member, addressed the Committee. He identified two key issues with the application, one being the development of HMO's (Houses of Multiple Occupancy), the other being the effect the application would have on the pavement to highway crossing.

In respect of HMO's, Councillor Martin advised that the property was already being let to students and the inclusion of additional dormer windows was purely to accommodate more. He believed the intention of the developer was clearly to create a HMO.

The Committee were advised that if permission for the HMO was refused then there would be no need for the additional parking area. Should Members be minded to approve the application, he believed they would be setting a precedent for future retrospective applications.

In respect of the highways issues, Councillor Martin highlighted that should there be a need for additional parking to the front of the property, then a traffic order would be required. He queried what reassurance there would be that the developer would apply for the appropriate order.

He therefore suggested that should Members allow the permission, but that in the future the application for a traffic order be unsuccessful, then it would be reasonable to stipulate that in such an instance the additional parking area should be removed.

Councillor Martin stated that both issues were integral to one another – the HMO needed the parking and the parking was only necessary if the HMO were approved. He queried what element should come first.

Councillor Martin concluded by stating that he could not accept the application unless a condition was imposed requiring the appropriate Traffic Order from the Highway Authority. If that Order could not be granted, then the additional parking should be removed.

The Principal Planning Officer responded to the points raised as follows:-

- Precedent for off street parking – The Committee were advised that notwithstanding no.53 The Avenue, there were also further instances of off street parking in that area, albeit in different styles from that at no.51 and no.53.
- Reinstating the entire boundary – Members were advised that it would be feasible to require the applicant to reinstate the entire boundary wall back to its original design should the Committee believe it to be appropriate. However the applicant and officers had worked to create a compromise design in this instance. The Principal Planning Officer also clarified that the removal of hedging was not a contravention of planning legislation. Therefore to require the applicant to restore the front boundary hedging was not necessarily feasible.
- Traffic Regulation Order – conditions were suggested within the report regarding timescales (16 weeks). Members were advised that should that time period lapse without the appropriate order, then officers would need to revisit the permission.
- In response to Councillor Martins concerns, the Principal Planning Officer acknowledged that both applications were intrinsically linked and that was why both had been brought together for consideration, but the matter of change of use to HMO was being investigated separately and was not for consideration as part of these current proposals.

Councillor Kay agreed with the concerns raised by Councillor Holland in respect of the retrospective nature of the application and was therefore minded to refuse permission. He queried on what grounds refusal could be made.

Councillor Bleasdale agreed with Councillor Kay and for the benefit of the Committee, the Chair and the Principal Planning Officer gave an overview of the possible implications should the application be refused.

Councillor Robinson queried whether the tree which had been removed from the front area would need to be replaced should permission be refused. He further queried the 16 week timescale for the Traffic Regulation Order and whether that deadline could be tightened further.

The Highways Officer clarified the process involved in applying for a TRO and why a 16 week deadline was imposed.

Councillor Moir voiced concerns about the detrimental affect certain aspects of the applications would have on the environment though he acknowledged they were not material planning considerations. He also expressed concerns about the potential future appearance of The Avenue, and that it was at risk of becoming a completely paved area.

He queried whether the Committee could consider deferring the application in order to consult with the applicant on restoring the wall to its original height and design. The Principal Planning Officer clarified that deferral could be an option should officers be required to negotiate further with the applicant. However he highlighted that the application had been submitted back in May 2013 and that officers did believe the proposals to be an acceptable option.

In response to a query from Councillor Conway the Principal Planning Officer clarified that should the Committee be minded to refuse the application, then saved policies E6 and E22 would be feasible grounds on which to refuse.

The Solicitor reminded Members that there were two separate applications for the Committee to consider and so separate decisions must be made. Should the Committee be minded to refuse one, they would still be permitted to approve the other should they so wish. Members were reminded that many of the issues raised such as the Traffic Regulation Order and HMO's, were not relevant to the current applications.

Councillor Freeman concurred with earlier suggestions that had the application come before officers when it should have, it was unlikely to have been recommended for approval. The works which the applicant had undertaken had not served to either enhance or preserve the conservation area. The applicant would have to restore the frontage to its original design should Members opt to refuse the application.

Seconded by Councillor Laing, Councillor Conway moved that application 4/13/00542/CAC be refused on the grounds that it contravened saved policies E6 and E22.

Seconded by Councillor Bleasdale, Councillor Moir moved that application 4/13/00461/FPA be approved subject to variation of the conditions detailed within the report to take account of refusal of the boundary proposals.

Resolved:

- (i) That application 4/13/00542/CAC be refused;
- (ii) That application 4/13/00461/FPA be approved, subject to variation of the conditions detailed within the report to take account of refusal of the boundary proposals.

5b CE/13/00792 - Ruth First House, Claypath, Durham, DH1 1QS

The Committee considered a report of the Senior Planning Officer regarding an application for the construction of new extensions to the north and east sides of building to provide additional student accommodation at Ruth First House, Claypath, Durham (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting.

Seconded by Councillor Bleasdale, Councillor Moir moved approval of the application and upon a vote being taken it was:-

Resolved:

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

5c CE/13/00918/FPA - Former ITEC site, Neville Road, Peterlee

The Committee considered a report of the Planning Officer regarding an application to erect 58 dwellings with associated infrastructure and landscaping at the former ITEC site, Neville Road, Peterlee (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting.

Mr Race, local resident, addressed the Committee. He was speaking collectively on behalf of residents of Stainton Way which was directly opposite the development site.

He objected to the application as he had concerns regarding how the development would directly affect his responsibilities with the main sewer. As he had a contract with Northumbrian Water for the sewage main, he expressed concerns regarding the impact which construction could have on that pipe.

Mr Race added that there would be an increase in traffic accessing Neville Road and Burnhope Way which was already difficult especially during peak times. He suggested that the developer consider opening the cul-de-sac to the roundabout at the south of the site which would ease the volume of traffic on Neville Road.

Mr Wolfe, local resident, addressed the Committee. He referred to Plot 24 and raised concerns over 'right to light' and privacy issues.

He highlighted that the distance of the proposed property from his main lounge was 9 metres which contravened Planning Regulations, with the recommended separation distance being no less than 10 metres.

Mr Wolfe stated that both his 'Right to Light' and his privacy would be affected by the development and he took the opportunity to clarify that his patio door did not serve any light to within his property.

Mr Wolfe also had concerns regarding flooding issues and pointed out that the previous application for 52 dwellings had been restricted, he therefore believed those restrictions should apply to the current application. He further advised that the removal of boundary bushes would exacerbate any flooding problems.

He queried whether there were plans to remove a weeping willow tree which would ultimately encompass his drive and requested a meeting to discuss his issues further.

The Principal Planning Officer responded to the points raised as follows:-

- 'Right to light' – Members were advised that the impact on the neighbour's amenities including loss of light was addressed within the report and it was not considered sufficient to warrant refusal, while 'right to light' was a separate legal matter
- Flooding – a Flood Risk Assessment had been undertaken which did not predict any problems associated with the development, indeed both the Environment Agency and Northumbrian Water were satisfied with the proposals.

In addition the planning case officer responded to some points which had been raised, as follows:-

- Separation Distance – The Committee were advised that a site visit had been carried out, measurements had been taken and clarification had been sought from Mr Wolfe as to which windows served which rooms within his property. Officers believed that Mr Wolfe's study conversion had not been developed as such all windows served the lounge only. Mr Wolfe responded to advise that indeed the conversion had been done and as such re-emphasised that only 2 windows served his lounge.
- Willow Tree – the planning case officer advised that protective fencing measures would be required for the tree.

The Highways Officer responded to the points raised as follows:-

- Regarding Mr Race's concerns over increased traffic, he advised that similar developments had been surveyed and based on 2 cars per household the average would be an additional 35 two way movements per hour, not all of which would be heading in the same direction. As such it was determined that the increase was not a material concern;
- Access – opening the cul-de-sac onto the roundabout would cause disruption to the B1320 which was the main route in and out of Peterlee.

The Legal Officer confirmed that the 'right to light' matter was a separate legal issue and therefore should not be given any weight by the committee.

Councillor Laing referred to paragraph 48 of the report regarding the reduced number of visitor car parking spaces within the development. The Planning Officer clarified that 23 visitor spaces were available within the development and each dwelling would have 1.5 parking spaces.

Councillor Laing expressed concern regarding possible damage to grass verges during any building works, the Highways Officer clarified that the contractor would be responsible for repairing any damage.

Councillor Alvey, local member, informed the committee that he would also be monitoring any damage caused to grass verges. He further advised that the traffic was already exceptionally busy in that area and as such he was concerned about any additional traffic.

Councillor Jewel felt that possible damage to the main drain was a real concern and sought clarification as he would not want Mr Race to incur any costs associated with the development. Councillor Laing advised that the drain was in close proximity to a grass verge and that any damage should be covered by the developers.

Seconded by Councillor Bleasdale, Councillor Laing moved approval of the application and upon a vote being taken it was:-

Resolved:

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

5d CE/13/01300/FPA - Land at Dalton Park, Murton, SR7 9HU

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

The Senior Planning Officer gave a detailed presentation on the application which included photographs of the site. He informed the Committee that the submitted landscaping scheme had now been agreed with officers, which would no longer be a requirement under condition 3 which relates to the submission of a further landscaping scheme.

Seconded by Councillor Bleasdale, Councillor Laing moved approval of the application and upon a vote being taken it was:-

Resolved:

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

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	CE/13/01085/OUT
FULL APPLICATION DESCRIPTION:	Outline Residential Development (80 houses)
NAME OF APPLICANT:	Ms K Pattison
ADDRESS:	Land North of Windsor Drive, South Hetton, Durham
ELECTORAL DIVISION:	Shotton and South Hetton
	Chris Baxter
	Senior Planning Officer
CASE OFFICER:	03000 263944
	chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site measures 3 hectares and is located to the north of Windsor Drive in South Hetton. The residential estate of Windsor Drive is therefore located immediately to the south of the application site with residential properties of Conishead Terrace situated along the west boundary. There are agricultural fields to the north of the site with Murton Moor West Farm located to the north west. There are some allotments scattered along the south boundary of the site. There is a nearby public right of way (ref: No. 15) running to the east of the site along the route of the old North Eastern Railway. The Hesledon Moor West Site of Special Scientific Interest (SSSI) is located approximately 700 metres to the east of the application site. The site falls just beyond the development limits for South Hetton as defined in the District of Easington Local Plan.

The Proposal

2. Outline planning permission is sought for residential development for 80 houses with all matters reserved for future consideration with the exception of access, which is to be considered under this application. Access is proposed to be taken from the south of the site through the existing residential housing estate of Windsor Drive.
3. The application is supported by various documents and assessments including an indicative masterplan which shows how the general layout of the site can be mapped out to accommodate 80 properties. The masterplan shows the access taken from Windsor Drive between properties No. 32 and 33 with a primary road link running north and secondary roads running east and west. The masterplan shows structural landscaping treatment along the south, west, east and north east boundaries of the site.
4. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

5. No planning history on this site.

PLANNING POLICY

NATIONAL POLICY:

6. 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.
7. 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’.
8. The following elements are considered relevant to this proposal;
9. *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.
10. *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.
11. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. *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.
13. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at

unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

LOCAL PLAN POLICY:

District of Easington Local Plan

15. *Policy 1* - Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
16. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
17. *Policy 14* - Development which adversely affects a designated or candidate Special Area of Conservation and is not connected with managing the scientific interest will only be approved where there is no alternative solution and there is an overriding national interest where it is necessary for reasons of human health or safety; or there are beneficial consequences of nature conservation importance.
18. *Policy 15* - Development which adversely affects a designated Site of Special Scientific Interest will only be approved where there is no alternative solution and it is in the national interest.
19. *Policy 16* - Development which adversely affects a designated Site of Nature Conservation Importance/Local Nature Reserve/ancient woodland will only be approved where there is no alternative solution and it is in the national interest.
20. *Policy 18* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
21. *Policy 19* - Areas of nature conservation interest, particularly those of national importance will be protected and enhanced.
22. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
23. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
24. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

25. *Policy 66* - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
26. *Policy 67* – Housing development will be approved on previously developed sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan.
27. *Policy 74* - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.
28. *Policy 75* - Provision for cyclists and pedestrians will be reviewed to provide safe and convenient networks.
29. *Policy 77* - The Council will seek to encourage the improvement of the public transport service and the rail transport of freight in the district.

EMERGING POLICY:

30. The emerging County Durham Plan is now in Pre-Submission Draft form, having been the subject of a recent 8 week public consultation, and is due for submission in Spring 2014, ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. To this end, the following policies contained in the Pre-Submission Draft are considered relevant to the determination of the application:
31. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
32. *Policy 15 (Development on Unallocated Sites)* - states that all development on sites that are not allocated in the County Durham Plan will be permitted provided the development is appropriate in scale, design and location; does not result in the loss of a settlement last community building or facility; is compatible with and does not prejudice any intended use of adjacent sites; and would not involve development in the countryside that does not meet the criteria defined in Policy 35.
33. *Policy 35 (Development in the Countryside)* – Sets out that new development will be directed to sites within built up areas, or sites allocated for development, whilst the countryside will be protected from inappropriate development.
34. *Policy 39 (Landscape Character)* – States that proposals for new development will only be permitted where they would not cause significant harm to the character, quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh its impacts.

35. *Policy 41 (Biodiversity and Geodiversity)* – States that proposals for new development will not be permitted if significant harm to biodiversity and geodiversity, resulting from the development, cannot be avoided, or adequately mitigated, or as a last resort, compensated for.
36. *Policy 47 (Contaminated and Unstable Land)* – Sets out that development will not be permitted unless the developer can demonstrate that any contaminated or unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment.
37. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. *South Hetton Parish Council* has expressed concerns regarding the proposed development. The concerns relate to the proposed vehicular access and that the traffic generated by the development will result in highway safety issues at the junction with the A182. It has been requested if an alternative vehicular access could be proposed. Concerns have also been raised about the house types proposed, as it is felt that more bungalows and two bedroom houses should be provided.
39. *Environment Agency* has not raised any objections providing a condition is imposed which ensures that mitigation measures are installed limiting the surface water run-off generated by the site.
40. *Natural England* has noted that the application falls within close proximity to Hesledon Moor West SSSI, however given the nature and scale of the proposal they are satisfied that there is not likely to be an adverse effect on this site as a result of the proposed development.
41. *Northumbrian Water* has raised no objections providing a condition is imposed requiring a scheme for the disposal of foul water to be submitted.
42. *The Coal Authority* has not raised any objections.
43. *Durham County Highways Authority* has not raised any objections to the proposal indicating that the proposed means of access would support 80 additional properties. Creating 6no. compensatory car parking spaces would also be welcomed to accommodate existing residents.

INTERNAL CONSULTEE RESPONSES:

44. *County Spatial Policy Team* has indicated that the proposed development does not accord with local plan policies and is not strictly in line with the emerging County Durham Plan. However the proposal is in accordance with the sustainable principles of the National Planning Policy Framework.

45. *County Landscape Team* supports the application and considers the site to be suitable for residential development as the impact on the wider landscape is relatively limited by the topography, whilst it relates reasonably to the existing settlement boundary.
46. *County Tree Officer* has stated that there are no major tree species within the site and the only trees affected will be at the proposed entrance and are considered not to be significantly good specimens
47. *County Public Rights of Way Section* confirm that the Murton Bridleway 15 lies on the east boundary of the site. This is an important bridleway forming part of the North Sea Cycle Route as well as a Sustrans route. This bridleway should not be affected by the proposed development and it is suggested that links onto the bridleway from the site would encourage recreational use.
48. *County Environmental Health (Noise, dust and light)* has not raised any objections but does advise that conditions are applied in relation noise, dust and light mitigation.
49. *County Environmental Health (Contaminated land)* has not raised objections however conditions are recommended to ensure site investigations are undertaken of the site prior to development commencing.
50. *County Environmental Health (Air quality)* confirms the location for the proposed development is not within a declared Air Quality Management Area or in close vicinity to such an area. Therefore the application will not give rise to new receptors that will be exposed to a known or an existing area of poor air quality.
51. *County Archaeology Section* has not raised any objections to this outline application. A condition is however recommended for further investigation works to be undertaken prior to development commencing on site.
52. *County Ecology Section* has confirmed that the ecological report submitted is satisfactory and no objections are raised with regards to the proposed development. It is recommended that in order to reduce any likely risk of 'day to day' dog walkers impacting on the coast, sufficient and appropriate greenspace will need to be provided which can be provided through the enhancement of the nearby recreational park and providing additional pedestrian linkages from the site to the adjacent public right of way.
53. *Sustainability Team* has indicated that by ensuring measures are built into the development, this will improve the sustainability of the development.
54. *County Housing Development and Delivery Team* has confirmed that the 8 affordable housing units proposed meets the 10% affordable requirements for the South Hetton area.
55. *County Education Team* has stated that a proposal for 80 properties would provide a requirement for 20 primary school places in the local area.

PUBLIC RESPONSES:

56. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. 4 letters of objection have been received along with a petition with 75 signatures.

57. Concerns have been raised with regards to highway issues, including traffic congestion and the increase in vehicles would compromise highway safety and be dangerous for young children in the area. Loss of parking spaces for the existing residents is also raised as a concern. The loss of view is raised as a concern and the adverse impact the proposal would create on residential amenity, including noise, disturbance, overlooking and loss of privacy. Residents have also objected with regards to visual impact and the loss of street character which would happen as well as impacting on local wildlife.
58. The Ward Councillor has also raised concerns with regards to access and the mix of house types which are proposed.

APPLICANTS STATEMENT:

59. The indicative design proposed for housing north of Windsor Court has evolved as a result of an understanding of context, landscape, and market needs. The design will continue to evolve as detailed proposals are formulated. If the indicative masterplan is approved it will provide a strong and current framework which will dictate the parameters for detailed designs and design quality which will be required to determine the built form and infrastructure.

PLANNING CONSIDERATIONS AND ASSESSMENT

60. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of residential development of the site, highway and access issues, affordable housing and section 106 contributions, ecology, layout, design and visual amenity and other issues.

Principle of residential development

61. This scheme proposes housing development on greenfield land that is located outside of the existing settlement boundary for South Hetton. Sites located outside of settlement boundaries are treated against countryside policies and objectives, and there is a general presumption against allowing development beyond a settlement boundary. Consequently, the development of the site for housing would be in conflict with policies 3 and 67 of the local plan on account the proposal does not comprise previously-developed land within the settlement. Therefore, there would need to be other material considerations to justify a departure from those policies.
62. A key material consideration in determining this application should be the NPPF. A strategic policy objective of the NPPF is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs. Local planning authorities are expected to boost significantly the supply of housing, consider housing applications in the context of the presumption in favour of sustainable development, and create sustainable, inclusive mixed communities in all areas both urban and rural. Housing should be in locations which offer a range of community facilities with good access to jobs, key services and infrastructure. The provision of affordable housing where a need has been identified is encouraged through the NPPF, and a range of dwelling types and sizes, including affordable housing and

alternative forms of tenure to meet the needs of all sectors of the community should be provided.

63. In terms of the emerging County Durham Plan (CDP), the “Pre-Submission Draft” underwent consultation from October to December 2013. Within that draft are the raft of housing sites which are earmarked as allocations to meet housing need up to 2030. No housing sites have been allocated in the South Hetton area although it is acknowledged that the site subject of this application was included in the recent review of the SHLAA assessment and given a green colour code. This green colour code indicates that the site is considered to be suitable for residential development. South Hetton is recognised as a local service area (3rd tier) within the Council’s Settlement Study in recognition that it possesses good access to shops, services and key facilities such as primary schools; and therefore reduces the amount of trip generations out of the settlement to other towns or villages.
64. It is important to address how much weight can be attributed to the emerging CDP at this stage. Para 216 of the NPPF sets out in detail the weight which can be afforded to relevant policies in emerging plans. Essentially, the more advanced the plan is in its preparation, the greater the weight that may be given. Allied to this, the fewer and less significant the objections to the plan, the greater the weight that may be given. Although this proposal also contravenes Policies 15 & 35 of the emerging plan, as both policies received objections during the recent consultation, little weight can be applied. Recent Secretary of State call-in decisions have attributed “limited” and “little” weight to emerging Plans in recognition that they could be subject to further amendments in order to resolve issues likely to be discussed at the Examination in Public (EiP). The EiP for the CDP is scheduled to take place in summer 2014, so at the current stage whilst some weight can be attached to the emerging policies, it should not be a factor of decisive weight in appraising this application.
65. The application conflicts with the existing local plan however the strategy and approach of the local plan is no longer wholly consistent with the aims of the NPPF. The development does not accord with policies 15 and 35 of the emerging CDP, but given objections have been received on these policies through the most recent consultation it is considered that little weight can be afforded to these emerging policies. It is recognised that the application site has been included in the most recent review of the SHLAA assessment and given green status indicating that the site is suitable for residential development. South Hetton is considered to be a sustainable location given the number of shops, services and facilities available to its residents and its status in the Council’s Settlement Study as a Local Service Area. The developer has also agreed to make financial contributions towards the upgrade and enhancements of local sports and recreational areas as well as providing additional pupil places in local primary schools. The developer has also agreed to contribute towards the local housing need by providing the 10% affordable housing requirement through this development.
66. Whilst it is accepted that this proposal would not strictly accord with local plan policies or emerging CDP policies, it is recognised that the proposed development would be in line with the sustainable aims of the NPPF. On balance, given the current status of the emerging CDP and the local plan policies, it is considered that the key policy consideration for this application should be against the criteria detailed in the NPPF. Therefore in this instance it is considered that the proposed development would be acceptable in principle and in accordance with the sustainable principles of the NPPF.

Highway and access issues

67. This application has been made in outline with access to the site to be determined at this stage. The proposed access is to be taken from the south of the site onto Windsor Drive between existing properties No. 32 and 33 where an existing gap is situated. This gap between properties No. 32 and 33 is currently a grassed parcel of land with several trees situated thereon. The introduction of an access at this point would result in the loss of approximately six existing parking spaces which are currently available to the existing residents of Windsor Drive. The access plan which has been submitted with the application does show that six compensatory parking spaces would be formed which would ensure there would not be any loss of parking provision for the existing residents.
68. The County Highways Officer has been consulted on the application and no objections have been raised to the proposed access to the site. The road running through Windsor Drive linking to the A182 currently serves 121 dwellings and is deemed adequate to serve an additional 80 dwellings as proposed on this site. Speed bumps would be required on the new site as an extension of the existing traffic calming on Windsor Drive. Speed bumps have been shown on an amended drawing of the access arrangements. To ensure the speed bumps are incorporated into the final development a planning condition is recommended.
69. The Parish Council have raised concerns with regards to the proposed access and has requested whether an alternative option to the west of the site could be used as the access to the site. This option to the west is another gap between existing houses however the Highways Officer has confirmed that this gap is not wide enough to accommodate an adequate access.
70. It is considered that the proposed access would retain the existing parking provision for existing residents; and highway safety would not be compromised as a result of the introduction of 80 houses in this location. The proposed development would therefore be in accordance with policies 36 and 37 of the local plan.

Affordable housing and section 106 contributions

71. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”.
72. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 10% affordable housing across the East Durham Delivery Area (on sites of 15 or more dwellings/0.5 hectares or greater), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets. The SHMA and the NPPF therefore provide the justification for seeking affordable housing provision on this site, which should be secured via S106 agreement. The applicant has agreed to provide 10% of affordable dwellings on site and this requirement will be secured through a section 106 legal agreement.
73. Financial contributions are also being offered towards other local functions and facilities within the vicinity of the site. Monies towards education would be provided which contribute towards providing additional classrooms for schools in the immediate locality. A contribution is also being offered towards the enhancement and upgrade of recreational facilities in the locality from which the recreational park immediately to the south of the site will benefit from some enhancements. The

amounts of these contributions would be determined pro-rata on the final number of dwellings approved.

74. The above contributions would help to support and improve facilities within the surrounding locality for the benefit of occupiers of the additional properties and also existing residents of the local community.

Ecology

75. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
76. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
77. As the green field nature of the site could mean that a protected species may be disturbed by the proposed development, the applicant has submitted a habitat survey which has been assessed by the Council's ecology officers. The survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion. Given this, there is no requirement to obtain a licence from Natural England and therefore the granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2010.
78. Notwithstanding the above, a condition will be required which would ensure care is taken during construction in accordance with the recommendations in the submitted habitat survey. Subject to this mitigation, it is considered that the proposals would be in accordance with saved policy 18 of the Local Plan and part 11 of the NPPF.
79. In addition to the assessment of protected species, the Local Planning Authority must also consider impacts on designated wildlife sites in the vicinity of the proposed development.
80. This application site is in close proximity to the Hesledon Moor West Site of Special Scientific Interest (SSSI) and within 8 miles to the Durham Coast SSSI, and Special Area of Conservation (SAC) Natura 2000 site and the Northumbria Coast SSSI, Special Protection Area (SPA) and Ramsar site, all of which are designations of significant importance.
81. In order to take pressure from additional visitors away from the coastal designations of significant importance, sufficient and appropriate greenspace needs to be provided in association with the proposed development. The applicant is prepared to offer a financial contribution towards the enhancement and upgrade of the existing recreational area immediately south of the site, along with providing a pedestrian link to the existing public right of way which runs along the east boundary of the site. The financial contribution towards the enhancement of the recreational area and ensuring the pedestrian link to the public right of way will be secured through a section 106

agreement. It is noted that the financial contribution towards the pedestrian links and enhancement of the recreational area are specific to ensuring the coastal designations are protected. Contributions towards the general enhancement and upgrade of recreational facilities in the locality is a separate contribution.

82. The Council's Ecology Team are satisfied that the enhancements to the existing recreational area along with the additional pedestrian link would reduce any recreational pressure on the coastal European protected sites. Natural England has also not raised any objections to the scheme noting that due to the scale and size of the proposals the scheme is unlikely to have an adverse impact on the SSSI's.
83. As such, it is considered that the proposed development would be in accordance with saved policies 14, 15, 16, 18 and 19 of the District of Easington Local Plan and part 11 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.

Layout, design and visual amenity

84. The application has been made in outline with all matters except access being reserved for future consideration. However an illustrative masterplan has been submitted showing certain site development parameters.
85. The masterplan shows a central spine road running north/south through the centre of the site, with secondary roads running west and east. The proposed houses are set back from the south and west boundaries to ensure adequate separation distances are achieved with the existing houses on Windsor Drive and Conishead Terrace. Structural landscaping is also shown along the boundaries of the site which will contain the site and help screen the development. Landscaping will also reduce the impact on existing properties providing added privacy.
86. Information provided in the submitted design and access statement as well as the indicative masterplan indicates that a mix of house types would be available on site including a range of 2, 3 and 4 bedroom properties of detached, semi-detached, linked and bungalow design. The mix is intended to cater for a range of household sizes and market sectors across the site. It is considered that a housing scheme can be provided on this site which would blend in with the existing built environment and would not be out of keeping. The Parish Council have raised concerns regarding the proposed house types on the site, indicating that bungalows and two bedroom properties are needed in the area. This is only an outline application therefore the specific house type would be reserved for future consideration. The details submitted with the application do indicate that bungalows and two bedroom properties can be incorporated into a housing scheme on this site.
87. Local residents have raised concerns that residential amenity would be adversely affected by the proposed development including noise issues, general disturbance, overlooking and loss of privacy. No objections are raised from the Council's Environmental Health Officers in terms of noise, dust, light and air quality; therefore it is not considered that the residential amenities of existing residents would be compromised in this regard. Conditions are recommended in terms of hours of operation during the construction phase of the development. Although the exact positioning of the proposed properties is reserved for future consideration, the masterplan does show that adequate separation distance can be achieved between the existing properties and proposed properties; ensuring adequate levels of privacy would be maintained with no overlooking issues. Overall, it is considered the residential amenities of existing and future occupiers of neighbouring properties and the proposed houses would not be adversely affected. Loss of view has also been

raised as a concern however it is noted that a right to a view is not a material planning consideration and not a justified reason to refuse planning permission.

88. The proposed site parameters shown on the illustrative masterplan and the details provided within the design and access statement indicate that a high quality residential scheme could be provided on this site and successfully integrated within the local area. The proposals are considered to be in accordance with policy 1, 35, 36 and 37 of the local plan.

Other issues

89. The Environment Agency and Northumbrian Water have both been consulted on the proposed application. No objections have been raised providing further details are submitted prior to development commencing in relation to surface water and foul drainage. Conditions are subsequently recommended for details to be submitted prior to works starting.
90. The County Landscape and Tree Officers have not raised any concerns with regards to the proposed development. Landscape Officers consider the site to be suitable for residential development as the impact on the wider landscape is relatively limited by the topography, whilst it relates reasonably to the existing settlement boundary. The Tree Officer has acknowledged that some trees would be lost as a result of introducing a new access however these are not of significant importance. It is also noted that the proposed scheme would provide substantial structural landscaping which would mitigate the loss of the existing trees, although this is only indicative at this stage.
91. A formal bridleway runs along the east boundary of the site. This is an important bridleway forming part of the North Sea Cycle Route as well as a Sustrans route. The Public Rights Of Way Officers have not raised any objections to the proposed development and have advised that footway linkages from the site to the bridleway would encourage recreational use. As previously discussed under the 'ecology' section of this report, a footway link is required to be implemented from the site to the adjacent bridleway. A condition is therefore recommended for a footway link to be incorporated into a reserved matters scheme.
92. The County Archaeologist has not raised any objections to the proposal following the submission of a geophysical survey of the site. Further site investigation works are recommended before development starts to ensure that no archaeological features would be compromised by the development. A condition is recommended accordingly for site investigation works to be undertaken prior to works commencing on site.
93. The Coal Authority and the Council's Sustainability Team have been consulted and they have not raised any objections to the proposed scheme.

CONCLUSION

94. The proposal would not strictly accord with local plan policies or emerging CDP policies, however the proposed development would be in line with the sustainable aims of the NPPF. It is considered in this instance the key policy consideration for this application should be against the criteria detailed in the NPPF, therefore the proposed development would be acceptable in principle and in accordance with the sustainable principles of the NPPF.

95. The Highways Authority has confirmed that the access into the site would be acceptable and the surrounding road network can accommodate the proposed development. The proposed access arrangement would provide compensatory car parking spaces for those spaces which would be lost therefore the existing residents of Windsor Drive would still have the same amount of parking available. An alternative access to the west of the site was investigated however the Highways Officer has confirmed that an adequate access could not be achieved at this point. Overall, it is considered that highway safety would not be compromised as a result of the proposed development. The proposal therefore accords with policies 36 and 37 of the Easington District Local Plan.
96. The proposed development would deliver the full amount of affordable housing (10%) on the site. Although no house types are to be agreed in this outline application, it has been demonstrated through illustrative plans that a mixed development could be provided including 2-4 bedroom properties of detached, semi-detached linked properties and bungalows. A number of improvements would also be facilitated within the surrounding area arising from developer contributions that would enhance the overall sustainability of the site and the surrounding area. These would be secured through a proposed Section 106 Agreement.
97. A detailed ecology survey has been submitted with the application and this survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion. In order to take pressure from additional visitors away from the coastal designations of significant importance, the developer has agreed to contribute towards the upgrade and enhancement to the recreational area to the south of the site. Footway linkages from the site to the adjacent bridleway and the recreational area will also be provided. As such, it is considered that the proposed development would be in accordance with saved policies 14, 15, 16, 18 and 19 of the District of Easington Local Plan and part 11 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.
98. Although this is an outline application, it is considered that the parameters set out on the submitted masterplan, which shows a housing density of 27 units per hectare, does provide sufficient confidence that a high quality layout, design and landscaping framework can be provided and appropriately accommodated in amenity terms.
99. It is acknowledged that the proposal has generated some local opposition. These concerns have been considered in the report and notwithstanding the points raised it is felt that sufficient benefits and mitigation measures are contained within the scheme to render it acceptable in planning terms and worthy of support as a justifiable departure from existing local policy. It is also noted that there have been no substantial objections made from any statutory consultee bodies.

RECOMMENDATION

That Members are minded to **APPROVE** the application subject to the completion of a Section 106 Legal Agreement to secure the provision of affordable housing; provision of footway linkages from the site to the bridleway and recreational area; and the payment of commuted sums towards education provision, enhancements to sports provision and recreational areas in the locality; and subject to the following conditions;

1. Approval of the details of appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) for the development shall be obtained from the local planning authority before the development is commenced. Approval of the reserved matters for the development thereafter shall be obtained from the local planning authority before 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 for the development must be made not later than 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 first approval of the reserved matters.

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 only in accordance with the approved plans and specifications contained within:

Description	Date Received
Site Location Plan	01/10/2013
Vehicle & Pedestrian Access Plan	21/01/2014

Reason: To meet the objectives of saved Policies 1, 35 and 36 of the Easington District Local Plan and parts 1 and 4 of the NPPF.

4. Prior to the commencement of the development a scheme to minimise energy consumption arising from the occupation/operation of the development shall be submitted to and approved in writing by the local planning authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policies 1 and 35 of the Easington District Local Plan and Part 10 of the NPPF.

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document that has been submitted to and approved in writing by the local planning authority. The strategy shall include details of the following:
 - i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area;
 - ii) an assessment of the impact of the proposed development on any archaeological remains identified;
 - iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings,

- it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
- iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
 - v) notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

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

Reason: To comply with paragraph 141 of the NPPF because the site is of Archaeological interest.

6. Prior to the occupation of the first dwelling a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with paragraph 141 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

7. No development shall take place until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any sources and in accordance with saved Policy 1 of the Easington District Local Plan and part 10 of the NPPF.

8. The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) URS of November 2013 and the following mitigation measures detailed within the FRA:
 - Limiting the surface water run-off generated by the site to the greenfield run off rate of the impermeable areas only.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in accordance with saved Policy 1 of the Easington District Local Plan and part 10 of the NPPF.

9. No development shall take place until a site investigation and Desk top Study has been carried out in accordance with Part IIA of The Environmental Protection Act 1990. The results of the site investigation shall be submitted and approved in writing by the local planning authority.

As a minimum requirement, the Desk Top Study should include the following information in relation to the study site:

- Historic Land Use
- Former contaminative site uses
- Typical contaminants from former industrial uses
- Watercourses, major underground aquifers, water source protection zones, at or close to the site
- Ground water, perched ground water
- Adjacent land uses and their historical land use, and potential to affect the study site
- All former holes in the ground on or close to the study site

If the desk top study determines there is no historical land use which may cause contamination of the site, no further action is required in relation to the contaminated land risk assessment.

If any historical land use which may cause contamination of the site is found from the desk top study site investigation, a 'Phase 2 Report' will be required as detailed below.

Phase 2 Report

A further report shall be submitted to and approved in writing by the local planning authority. This report shall take into consideration the relevant aspects of the desk top study and discuss remediation measures in accordance with appropriate legislative guidance notes.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority

Phase 3 – Validation Report

After remediation measures are implemented at the site, a final validation statement shall be submitted in accordance with the remediation recommendations of the above 'Phase 2' report.

Reason: To ensure that the application site is safe for the approved development, as required by paragraph 121 of the National Planning Policy Framework and in accordance with saved Policy 1 of the Easington District Local Plan and part 11 of the NPPF.

10. No development works (including demolition) shall be undertaken outside the hours of 08:00am to 06:00pm Monday to Friday and 08:00am to 01:00pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: To safeguard the residential amenity of neighbouring residents and to comply with policy 1 of the Easington District Local Plan.

11. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Ecological Assessment Survey Report prepared by Barrett Environmental Ltd dated September 2013.

Reason: To conserve protected species and their habitat in accordance with the objectives of saved Policy 18 of the Easington District Local Plan and part 11 of the NPPF.

12. Prior to the commencement of the development details of proposed traffic calming measures shall be submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details on completion of the surface course to the carriageways of the development.

Reason: In the interests of highway safety and to comply with policies 36 and 37 of the Easington District Local Plan.

13. Prior to the commencement of the development details of footway pedestrian links to the Murton Bridleway 15 and the recreational land to the south of the site shall be submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details prior to the occupation of the first dwelling.

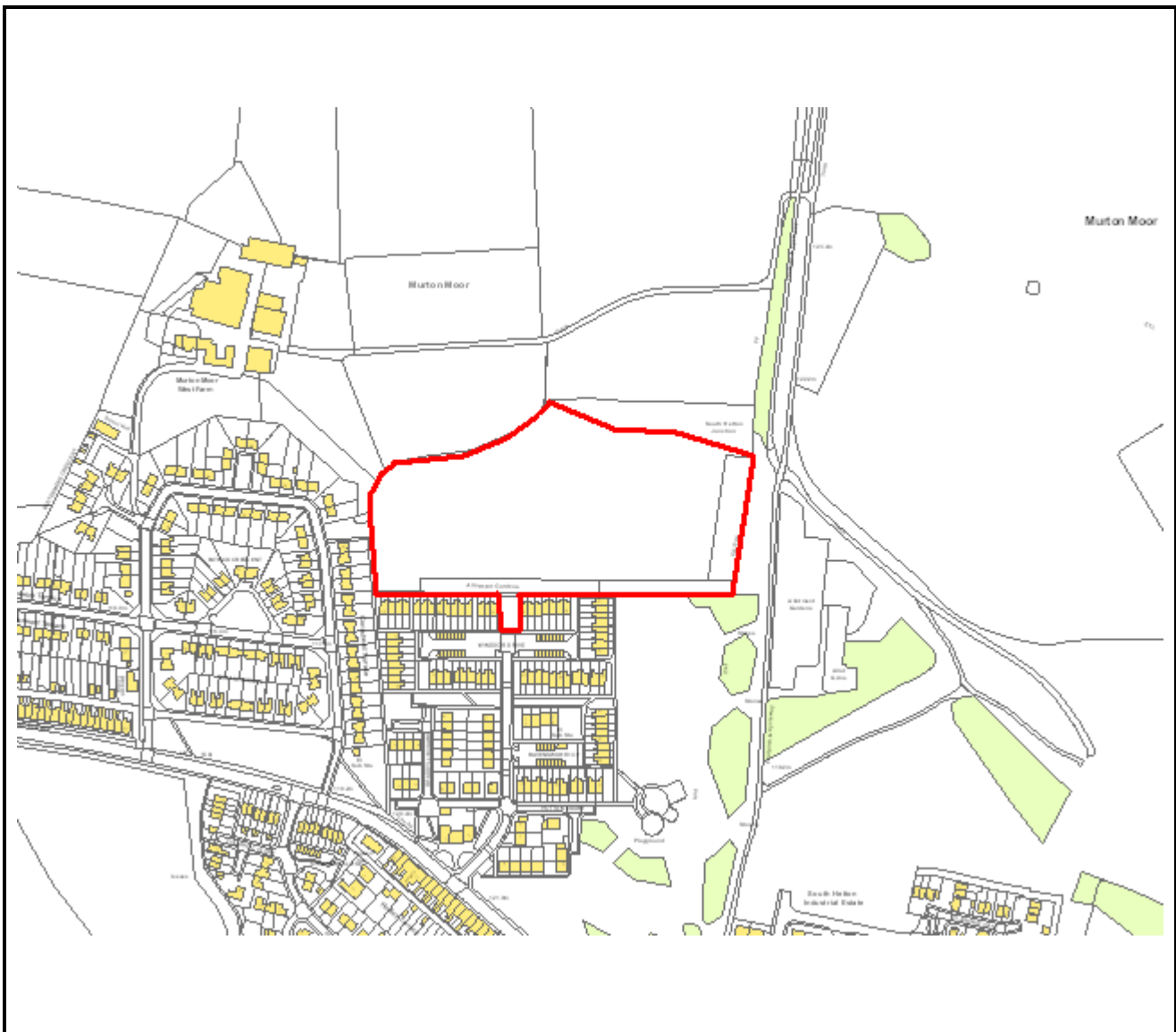
Reason: To secure safe and efficient community access to adjoining public rights of way and sports recreational areas and to comply with policy 1 of the Easington District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

14. In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- Environmental Statement
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



Planning Services

Outline Residential Development (80 houses) at Land North of Windsor Drive, South Hetton, Durham Ref: CE/13/01085/OUT

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Comments

Date 11th February 2014

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	CE/13/01554/FPA
FULL APPLICATION DESCRIPTION:	28no. Affordable Dwellings & 6no. Dwellings Including Landscaping and Access
NAME OF APPLICANT:	Partner Construction Ltd
ADDRESS:	Land North of Dunelm Road and A181, Thornley, Co. Durham
ELECTORAL DIVISION:	Trimdon and Thornley
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site measures 1 hectare and is located on the west boundary of Thornley village to the north of Dunelm Road and the A181 highway. Directly opposite the site to the south east and also off Dunelm Road is the recently completed housing development of Crossways Court (previously Crossways Hotel site). The south west boundary backs onto the A181 highway with residential properties to the north east. There are open fields to the north with the water works covered reservoir site immediately to the north west. The site falls just beyond the development limits for Thornley as defined in the District of Easington Local Plan.

The Proposal

2. Planning permission is sought for residential development for 34 houses in total. The proposed scheme provides a mix of housing with 5 different house types across the site. These house types include 19 two bedroom dwellings and 9 three bedroom dwellings which are to be affordable units. To the north part of the site, 6 four bedroom detached dwellings are proposed. The proposed properties are designed to have a mix of two storey dwellings and single storey bungalows. Access is proposed to be taken from the east corner of the site onto the Dunelm Road.
3. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

4. No planning history on this site.

PLANNING POLICY

NATIONAL POLICY:

5. 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.
6. 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'.
7. The following elements are considered relevant to this proposal;
8. *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.
9. *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.
10. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
11. *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.
12. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

LOCAL PLAN POLICY:

District of Easington Local Plan

14. *Policy 1* - Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
15. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
16. *Policy 18* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
17. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
18. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
19. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
20. *Policy 66* - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
21. *Policy 67* - Housing development will be approved on previously developed sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan.
22. *Policy 74* - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.
23. *Policy 75* - Provision for cyclists and pedestrians will be reviewed to provide safe and convenient networks.
24. *Policy 77* - The Council will seek to encourage the improvement of the public transport service and the rail transport of freight in the district.

EMERGING POLICY:

25. The emerging County Durham Plan is now in Pre-Submission Draft form, having been the subject of a recent 8 week public consultation, and is due for submission in

Spring 2014, ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. To this end, the following policies contained in the Pre-Submission Draft are considered relevant to the determination of the application:

26. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
27. *Policy 15 (Development on Unallocated Sites)* – states that all development on sites that are not allocated in the County Durham Plan will be permitted provided the development is appropriate in scale, design and location; does not result in the loss of a settlement last community building or facility; is compatible with and does not prejudice any intended use of adjacent sites; and would not involve development in the countryside that does not meet the criteria defined in Policy 35.
28. *Policy 35 (Development in the Countryside)* – Sets out that new development will be directed to sites within built up areas, or sites allocated for development, whilst the countryside will be protected from inappropriate development.
29. *Policy 39 (Landscape Character)* – States that proposals for new development will only be permitted where they would not cause significant harm to the character, quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh its impacts.
30. *Policy 41 (Biodiversity and Geodiversity)* – States that proposals for new development will not be permitted if significant harm to biodiversity and geodiversity, resulting from the development, cannot be avoided, or adequately mitigated, or as a last resort, compensated for.
31. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

32. *Environment Agency* has not raised any objections.
33. *Northumbrian Water* has not raised any objections to the proposed development. It has been indicated that Northumbrian Water will be contacting the developer direct to establish the exact location of their assets and ensure any necessary diversion, relocation or protection measures are undertaken.
34. *Durham County Highways Authority* has not raised any objections to the proposed development. Highway visibility improvements are also required along the main highway junction from Dunelm Road onto the A181.

35. *Police Architectural Liaison* has not raised any objections and has indicated that the developers have made an initial enquiry in relation to 'Secured by Design' certification which they should achieve.

36. *Thornley Parish Council* has not commented on the application.

INTERNAL CONSULTEE RESPONSES:

37. *County Spatial Policy Team* has stated that given the landscape impact of the site can be mitigated, the provision of affordable housing should be afforded weight in the determination of this application; and this represents a material consideration to justify support of this application.

38. *County Landscape Team* has not raised any objections to the principle of development. Additional soft landscaped screening along the boundary with the A181 is required.

39. *County Environmental Health (Noise and dust)* has not raised any objections but does advise that conditions are applied in relation to noise and dust mitigation.

40. *County Environmental Health (Contaminated land)* has not raised objections.

41. *County Ecology Section* has not raised any objections however further information is required to ensure protected species would not be adversely compromised.

42. *Sustainability Team* has indicated that proposals to improve the sustainability of the development are welcomed.

43. *County Housing Development and Delivery Team* has not raised any objections to the proposed development or the affordable housing requirement provision within the scheme.

PUBLIC RESPONSES:

44. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. 4 letters of objection have been received.

45. Concerns have been raised with regards to highway issues, in particular the dangerous access onto the A181 in which visibility is described as being poor. Local residents have indicated that the utility services in the area are poor with regular power cuts, poor water pressure and sewerage drainage problems; and this development would add more pressure on these services. It has been noted that the site in this application is not allocated within the emerging County Durham Plan and that the site was described in the Strategic Housing Land Availability Assessment (SHLAA) as not being suitable for development. It has been raised that there are other available housing sites within the village which are closer to services, facilities and amenities. Concerns are raised with regards to loss of outlook and privacy as well as overlooking concerns. Some residents are also concerned about the disruption which will be caused during the development stage including noise, mess and traffic congestion. Finally there are worries that the proposed development would see a devaluation in house prices of existing properties.

APPLICANTS STATEMENT:

The planning statement submitted with the application has considered the principle of the proposed development against the policy context set out within the National Planning Policy Framework and the Development Plan. The proposed development represents an affordable housing led scheme, with an element of 'self build' market housing to subsidise the purchase of the land (consistent with the Framework). In this respect the proposed development is contrary to a number of Development Plan policies although the overriding planning benefit of securing local needs housing for the local community provides justification for the proposed development in this location.

The following salient issues are identified to be taken into consideration in the determination of this planning application:

- The proposed development will assist in meeting an identified affordable housing requirement within Thornley;
- Allocations within the emerging Local Plan cannot deliver the 'full' objectively assessed affordable housing requirements. The development will contribute towards achieving this;
- One of the proposed allocations within Thornley may be deliverable over the Plan period although not until the latter stages and will not contribute to the immediate affordable housing shortage identified in the SHMA;
- The delivery of bungalows will cater for the increasing aging population of the area and release larger family housing;
- The proposed development incorporates a mix of residential types and sizes, including a 6 no. bungalows and a variety of 2 and 3 bedroom houses;
- The design and layout of the proposed development has taken into account the surrounding land uses, in accordance with the relevant policy discussed in
- The application has been considered in the context of other sites in and around Thornley and has demonstrated this is the only site which is currently deliverable for the proposed development within the context of the development proposed;
- The proposed development will result in a significant financial benefit to the local planning authority (in accordance with the material considerations set out at Section 143 of the Localism Act), in the form of New Homes Bonus; and,
- The proposal will result in the delivery of a highly sustainable development with all properties completed to Level 3 of the Code for Sustainable Homes and an average 14.85% reduction in energy requirements over 2010 building regulation standards.

Having considered the above salient issues it is concluded that the proposed development is entirely suitable for the application site and will represent a sustainable development in the context of the Framework. In this respect it is considered that the proposed development should be approved without delay, as set out in paragraph 14 of the Framework.

PLANNING CONSIDERATIONS AND ASSESSMENT

46. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of residential development of the site; highway and access issues; layout, design and visual amenity; residential amenity; affordable housing and section 106 contributions; and other issues.

47. This scheme proposes housing development on greenfield land that is located outside of the existing settlement boundary for Thornley. Sites located outside of boundaries are treated against countryside policies and objectives, and there is a general presumption against allowing development beyond a settlement boundary. Consequently, the development of the site for housing would be in conflict with policies 3 and 67 of the local plan on account the proposal does not comprise previously-developed land within the settlement. Therefore, there would need to be other material considerations to justify a departure from those policies.
48. A key material consideration in determining this application should be the NPPF. A strategic policy objective of the NPPF is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs. Local planning authorities are expected to boost significantly the supply of housing, consider housing applications in the context of the presumption in favour of sustainable development, and create sustainable, inclusive mixed communities in all areas both urban and rural. Housing should be in locations which offer a range of community facilities with good access to jobs, key services and infrastructure. The provision of affordable housing where a need has been identified is encouraged through the NPPF, and a range of dwelling types and sizes, including affordable housing and alternative forms of tenure to meet the needs of all sectors of the community should be provided.
49. In terms of the emerging County Durham Plan (CDP), the "Pre-Submission Draft" underwent consultation from October to December 2013. Within that draft are the raft of housing sites which are earmarked as allocations to meet housing need up to 2030. Thornley is recognised as a medium sized village (4th tier) within the Settlement Study in recognition that it possesses moderate access to services and facilities within the village, but also good connectivity by public transport to higher tier settlements which have a wider retail offer, employment opportunities and services.
50. Within Thornley two sites have been identified as housing allocations in the CDP. These are:
- H75: Dunelm Stables (SHLAA Ref: 5/TH/06) which is anticipated to be delivered over the medium-term (6-10 years) of the Plan; and,
 - H76: North of Hartlepool Street (SHLAA Ref's: 5/TH/01 & 5/TH/02) which is projected toward the later phases of the Plan.
51. The proposed site in this application has been assessed as part of the development of the CDP and has an unsuitable (amber) classification within the SHLAA. Consequently it has been discounted for housing, and it is not identified in the list of Housing Land Allocations within the CDP. The principal reason why the site was considered to be unsuitable for housing is the *"Development of this agricultural field, which slopes down to the main road, would significantly detract from the landscape and views from the road"*.
52. This clarifies that the issue regarding suitability of the application site is not concerned with whether it is sustainable to develop housing within Thornley, but rather technical issues primarily concerning the landscape impact of developing this particular site. At the time of the SHLAA assessment the proposer of the site was unable to prove that no demonstrable harm would result from development to the satisfaction of the Council, and the landscape impact of developing the site was considered to be significantly adverse to preclude development. The SHLAA

methodology is explicit that if evidence is provided demonstrating that the technical constraint can be overcome, or addressed with appropriate mitigation, the site classification may be reviewed to suitable.

53. As part of the submission of this application the proposed site layout shows the housing layout, and it is noted that the formal response from the Council's Landscape Team advises that they have no in-principle objections to the development. As addressing these issues leads to a form of development that is now considered acceptable in landscape terms, this represents the evidence required which could justify the grant of planning permission, subject to other material planning considerations, and the site would be amended to green/suitable in future reviews of the SHLAA.
54. Another matter to consider with the emerging CDP is whether the development of this non-allocated site would potentially undermine the two identified sites. More specifically it needs to be established if any harm would result in terms of undermining the deliverability of the two preferred sites if this site is also permitted.
55. Details submitted in the planning statement as part of the application have subsequently sought to address the concerns with regards to the other allocated sites within Thornley. In terms of the Dunelm Stables allocated site, the existence of a restrictive covenant (limiting use of the land for agricultural purposes) has been brought to the Council's attention by the applicant. This has been verified, and it is therefore acknowledged that an agreement (most likely financial) between all parties would need to be reached to have the covenant discharged. It is acknowledged that this will influence timescales for delivery and the Council are satisfied that this site can be discounted as an option for delivering the affordable housing proposed by this application over the short-term. The applicant has sought to discount this allocated site north of Hartlepool Street on the grounds that developing a portion of the site for affordable housing would not represent the most appropriate means of developing the site, and would not achieve the land values sought by the Council. To draw this conclusion without firstly speaking with the Council's Assets Team is highly presumptuous. If a proposal was tabled to Assets, there does not seem to be a reason why its disposal could not be accelerated to facilitate this development taking place on part of the allocated site. The justification for dismissing this site is therefore not accepted.
56. Notwithstanding the availability of the Hartlepool Street site, given that the landscape impact of developing the application site has now been found to be acceptable, the material harm that would accrue to the emerging CDP by permitting this application is not considered to be significantly adverse, given the low number of housing units involved, and the benefits which will accrue in terms of meeting housing requirements in the short term. The applicant's planning statement advises that 28 of the 34 dwellings will be affordable housing and partially funded through public subsidy by the Homes and Communities Agency (HCA). The applicant asserts that the subsidy is time limited and needs to be spent by March 2015, and this has been independently verified with the HCA.
57. It is important to address how much weight can be attributed to the emerging CDP at this stage. Paragraph 216 of the NPPF sets out in detail the weight which can be afforded to relevant policies in emerging plans. Essentially, the more advanced the plan is in its preparation, the greater the weight that may be given. Allied to this, the fewer and less significant the objections to the plan, the greater the weight that may be given. Although this proposal also contravenes policies 15 & 35 of the emerging plan, as both policies received objections during the recent consultation, little weight can be applied. Recent Secretary of State call-in decisions have attributed "limited"

and “little” weight to emerging Plans in recognition that they could be subject to further amendments in order to resolve issues likely to be discussed at the Examination in Public (EiP). The EiP for the CDP is scheduled to take place in summer 2014, so at the current stage whilst some weight can be attached to the emerging policies, it should not be a factor of decisive weight in appraising this application.

58. The application conflicts with the existing local plan however the strategy and approach of the local plan is no longer wholly consistent with the aims of the NPPF. The development does not accord with policies 15 and 35 of the emerging CDP, but given objections have been received on these policies through the most recent consultation it is considered that little weight can be afforded to these emerging policies. It is acknowledged that the scheme is delivering housing which will meet the housing needs of the settlement in the short term. It is not considered that the proposed development would compromise the long term deliverability of other allocated sites in Thornley and therefore the development would not undermine the deliverability of the CDP.
59. On balance, it is considered that the proposed development would be in line with the sustainable aims of the NPPF and would not compromise the deliverability of the emerging CDP; and therefore the principle of developing on this site can be supported in this instance.

Highway and access issues

60. The layout of the estate has been designed so the majority of the properties have 2no. car parking spaces each which is considered acceptable and in compliance with the Durham County Council’s Residential Car Parking Standards. The internal road layout and the driveways are also acceptable in highway terms. The proposed access into the site is from the east corner of the site onto the B1279 Dunelm Road. The Highway Authority has not raised any objections to the proposed access indicating that adequate visibility splays can be achieved.
61. The Highways Authority has raised a concern with regards to the existing junction sight visibility to the junction of the B1279 Dunelm Road with the A181. It is considered that this visibility issue and highway safety would be further compromised as a result of the increase in traffic from the proposed development. This issue is further highlighted as local residents have also raised concerns with regards to the existing visibility at this junction with the A181. In order to increase highway safety at this junction the developer is proposing to provide a financial contribution towards improvements to the junction which will provide verge hardening to the east of the junction which would significantly improve sight visibility. The Highways Authority have stated that providing these improvements are made to the A181 junction, there would be no adverse impact upon highway safety as a result of the proposed development. A condition is recommended ensuring these junction improvements are fully undertaken and completed.
62. Given the above, it is considered that the proposed development would not have an adverse impact on highway safety and the proposal would be in accordance with policies 36 and 37 of the local plan.

Layout, design and visual amenity

63. It is noted that the original SHLAA assessment for this site considered that development on this parcel of land would significantly detract from the landscape and views from the road. The County Landscape Officer has acknowledged that since

this SHLAA assessment, the previous Crossways Hotel site on the opposite side of Dunelm Road has been developed as a housing estate. The development of the Crossways Hotel site introduces a consolidated built environment along the front of the A181 and it is considered that it would be appropriate to introduce housing on the application site as it would balance the entrance to Thornley village by having housing on either side of the road.

64. In terms of the impact the proposed development would have on views from the A181, it is accepted that some of the housing would be visible. However the majority of the hedging along the south and east boundaries of the site are to be retained with some replacement hedging where required. This hedging would screen the main views of the housing and it is likely that only the upper floors or roofs of the properties would be visible from the A181. The layout has been designed to position some bungalows along the south boundary of the site which would lessen the visual impact from the A181.
65. It is considered that given the presence of the existing hedgerow, which provides a level of screening, and that the development would be balancing the built environment with the adjacent housing estate at the entrance to the village, that the proposed development would not compromise the visual appearance of the surrounding landscape.
66. The layout of the proposed estate and the design of the properties are considered to be typical of a modern housing estate. There is a mix of two storey detached, semi-detached and linked properties as well as bungalows proposed which provides a good range of different house types on the estate. The proposed properties are to be constructed from a mix of traditional materials with brick walls and roof tiles. Driveways and walkways are to be black tarmac with close boarded timber fencing for boundary treatment. A landscape plan has been provided which shows the retention of the hedging to the south, west and east of the site as well as replacement hedging along certain sections of the boundary. The proposed development represents a standard housing estate which would not appear visually intrusive within the surrounding area.
67. Overall, it is considered that the proposed development would not appear intrusive within the surrounding landscape and the design and layout of the properties and the estate would not have an adverse impact on the visual amenity of the surrounding area. The proposal is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.

Residential amenity

68. Internally within the site, the relationship between the proposed properties is acceptable, as the specified 21 metre and 13.5 metre separation distances described in the local plan are achieved between the dwellings. This would ensure that sufficient levels of privacy would be achieved for future occupiers of the new houses. Each new property would also have sufficient amounts of private rear garden amenity space. There are neighbouring properties located to the north and east of the site however these are sited over 21 metres from any proposed property which would ensure neighbouring occupiers would not be detrimentally affected in terms of overbearing or overshadowing impacts or loss of privacy.
69. Residents have raised concerns regarding loss of outlook, privacy and overlooking from the proposed development. As described above, adequate separation distances are achieved which are in line with guidance detailed in the local plan, therefore it is not considered the local residents would be compromised in terms of

loss of outlook, privacy and overlooking. It is also noted that loss of view is not a material planning consideration when determining a planning application. Concerns have also been raised over the general disruption which will occur during the construction works of the development. It is accepted that there will be some minor disruption during construction periods however this would only be limited to a short period whilst the development is being built. The Council's Environmental Health Team has not raised any objections to the proposed development. A condition has been recommended however restricting the construction working hours. In order to protect the local residents from any disruption outside of normal working day hours, a condition is subsequently recommended.

70. A number of residents have also commented that existing utility services are poor in the area, in particular low water pressure, sewerage blockages and regular power cuts. Concerns are raised that the proposed development would make the current utility situation worse for existing residents. The developer has submitted a utilities statement with the planning application indicating that they have liaised with utility companies Northumbrian Water, British Telecom and the Northern Powergrid. No objections have been raised from the utility companies and it has been indicated that the existing services in the area can adequately accommodate the proposed housing development. The concerns from the existing residents are noted however the evidence presented within this application, and given there have been no objections from utility companies, indicates that the proposed housing can be developed without adversely impacting upon the utility services. Therefore on this basis it is not considered a justifiable refusal reason could be substantiated on this particular issue.
71. Finally it is noted that some residents have concerns that the proposed housing development could result in the devaluation of house prices for the existing properties in the area. The devaluation of house prices is not a material planning consideration and is not a justified reason to refuse planning permission.
72. Overall, it is considered that the proposed development has been sensitively designed and would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.

Affordable housing and section 106 contributions

73. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”.
74. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 10% affordable housing across the East Durham Delivery Area, while the NPPF makes plain the importance of the SHMA in setting targets. The SHMA and the NPPF therefore provide the justification for seeking affordable housing provision on this site, which should be secured via Section 106 legal agreement. In this instance the applicant is proposing 28 of the 34 dwellings will be affordable housing equating to 82% of the site. The affordable housing provision is to be partially funded through public subsidy by the Homes and Communities Agency (HCA) and following completion of the development it is proposed that the affordable units will be managed by Home Group which is a recognised social landlord. It is considered the provision of 82% affordable provision provided on this site would go some way to meeting the short term housing

need in the locality and is subsequently supported. The provision of the affordable housing on this site would be secured through a Section 106 legal agreement.

75. Financial contributions are also being offered towards other local functions and facilities within the vicinity of the site. A contribution of £17,000, based on the sum of £500 per dwelling, is being offered towards the adequate provision for children's play space and outdoor recreation space in the locality. As discussed under the 'highways and access' section of this report a financial contribution is also to be made towards the improvements of the access junction of Dunelm Road with the A181. These contributions are to be secured through a Section 106 legal agreement.
76. The above contributions would help to support and improve facilities within the surrounding locality for the benefit of occupiers of the additional properties and also existing residents of the local community and would be in accordance with policy 66 of the local plan and requirements detailed in the NPPF.

Other issues

77. The Environment Agency, Northumbrian Water and the Police Architectural Liaison Officer have been consulted on the proposed application and no objections have been raised. The Council's Environmental Health Contamination Team and Sustainability Team have also not raised any objections to the proposed development.
78. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
79. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
80. As the green field nature of the site could mean that a protected species may be disturbed by the proposed development, the applicant has submitted a habitat survey which has been assessed by the Council's ecology officers. The survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion although further information is requested. Given this, there is no requirement to obtain a licence from Natural England and therefore the granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2010. Notwithstanding the above, a condition will be required which would ensure care is taken during construction in accordance with the recommendations in the submitted habitat survey. Subject to this mitigation, it is considered that the proposals would be in accordance with saved policy 18 of the Local Plan and part 11 of the NPPF.

CONCLUSION

81. The proposed development would not strictly accord with the existing local plan and the development does not accord with policies 15 and 35 of the emerging CDP. Given objections have been received on policies 15 and 35 of the CDP through the most recent consultation it is considered that little weight can be afforded to these emerging policies. It is acknowledged that the scheme is delivering housing which will meet the housing needs of the settlement in the short term. It is not considered that the proposed development would compromise the long term deliverability of other allocated sites in Thornley and therefore the development would not undermine the deliverability of the CDP. On balance, it is considered that the proposed development would be in line with the sustainable aims of the NPPF and would not compromise the deliverability of the emerging CDP; and therefore the principle of developing on this site can be supported in this instance.
82. The Highways Authority has confirmed that the internal road layout and parking provision for the development is acceptable. Adequate visibility can be achieved from the site access onto the Dunelm Road. Improvements would be sought to improve the visibility splays from the main junction where Dunelm Road meets the A181 which would ensure that the increase in traffic resulting from the proposed site would not compromise highway safety. Overall, the proposed development is considered acceptable in highway terms and would not adversely affect highway safety for pedestrians, vehicles or other highway users. The proposals would be in accordance with policies 36 and 37 of the local plan.
83. The proposed development would introduce a typical modern housing estate with the properties built from traditional materials that would not appear out of place within the local street scene. Hedging and landscaping are to be retained and introduced along the site boundaries which will help screen the development from the main roads. It is noted that with the development of the adjacent Crossways Hotel site, the construction of housing on this site would balance the built environment to the entrance of the village. It is not considered the proposal would appear intrusive within the surrounding area and from wider landscape perspectives. The proposals would be in accordance with policies 1, 35, 36 and 37 of the local plan.
84. Adequate separation distances are achieved between proposed properties and existing neighbouring dwellings, ensuring that there would be no loss of privacy or outlook and no adverse overbearing or overshadowing concerns would be created. Utility companies have been consulted with regards to the proposed development and no objections have been made indicating that the development can be adequately serviced. Overall, the proposed development would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.
85. The proposed development would deliver 82% affordable housing on the site which far exceeds the normal requirements for the East Durham area. The affordable housing provision is to be partially funded through public subsidy by the Homes and Communities Agency (HCA) and following completion of the development it is proposed that the affordable units will be managed by Home Group which is a recognised social landlord. A number of improvements would also be facilitated within the surrounding area arising from developer contributions that would improve the highway road network and enhance sport and recreational provisions in the

surrounding area. These would be secured through a proposed Section 106 Agreement.

86. A detailed ecology survey has been submitted with the application and this survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion. As such, it is considered that the proposed development would be in accordance with saved policy 18 of the District of Easington Local Plan and part 11 of the NPPF.

87. It is acknowledged that the proposal has generated some opposition from local residents which live close to the site. These concerns have been considered in the report and notwithstanding the points raised it is felt that sufficient benefits and mitigation measures are contained within the scheme to render it acceptable in planning terms and worthy of support as a justifiable departure from existing policy. It is also noted that there have been no substantial objections made from any statutory consultee bodies.

RECOMMENDATION

That Members are minded to **APPROVE** the application subject to the completion of a Section 106 Legal Agreement to secure the provision of affordable housing, and the payment of commuted sums towards highway improvements; and enhancements to sports provision and recreational areas in the locality; and subject to the following conditions;

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

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

2. The development hereby approved shall be carried out only in accordance with the approved plans and specifications contained within:

Plan Ref No.	Description	Date Received
120 001 L	Proposed Site Layout	31/01/2014
120 002 B	Proposed External Material Schedule	21/01/2014
120 F104-1 A	Proposed Floor Plans & Elevations – House Type F104	21/01/2014
120 F112-1 A	Proposed Floor Plans & Elevations – House Type F114	21/01/2014
120 F114-1 A	Proposed Floor Plans & Elevations – House Type F114	27/11/2013
120 PARK-13	Proposed Floor Plans & Elevations – House Type Parkwood	27/11/2013
120 DAL-12	Proposed Floor Plans & Elevations – House Type Dalton	27/11/2013

Reason: To meet the objectives of saved Policies 1, 35 and 36 of the Easington District Local Plan and parts 1 and 4 of the NPPF.

3. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify

those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period.

Reason: In the interests of the visual amenity of the area and to comply with policies 1 and 35 of the Easington District Local Plan.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenity of the area and to comply with policies 1 and 35 of the Easington District Local Plan.

5. No development works (including demolition) shall be undertaken outside the hours of 08:00am to 06:00pm Monday to Friday and 08:00am to 01:00pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: To safeguard the residential amenity of neighbouring residents and to comply with policy 1 of the Easington District Local Plan.

6. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Ecological Appraisal prepared by Brooks Ecological dated October 2013.

Reason: To conserve protected species and their habitat in accordance with the objectives of saved Policy 18 of the Easington District Local Plan and part 11 of the NPPF.

7. Prior to any development commencing on site a scheme for proposed highway verge hardening adjacent to the A181 must be submitted to and approved in writing by the Local Planning Authority. The approved scheme must be completed prior to the occupation of the first dwelling.

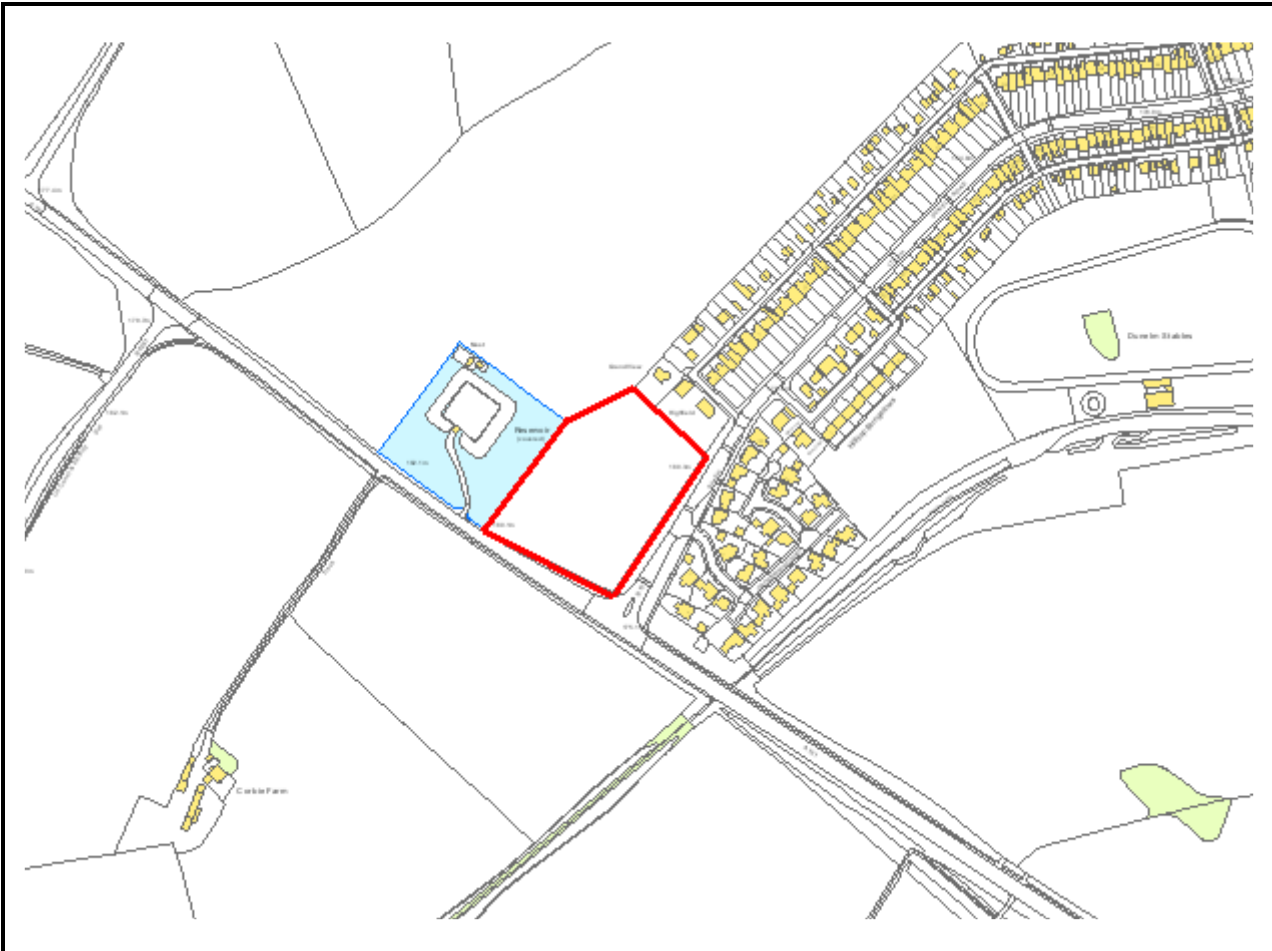
Reason: In the interest of highway safety and to comply with policies 36 and 37 of the Easington District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

8. In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- Environmental Statement
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



Planning Services

28no. Affordable Dwellings & 6no. Dwellings Including Landscaping and Access at Land North of Dunelm Road and A181, Thornley, Co. Durham Ref: CE/13/01554/FPA

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Comments

Date 11th February 2014

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/13/01578/FPA
FULL APPLICATION DESCRIPTION:	Conversion of communal hall into residential bungalow
NAME OF APPLICANT:	Durham City Homes Communal Hall 63 Marlene Avenue
ADDRESS:	Bowburn Durham DH6 5ER
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

SITE

1. Bowburn communal hall is a single storey building that sits in a residential area in the north of Bowburn. The building is semi detached in nature. Vehicular access is taken from Marlene Avenue that runs along the north eastern side of the site. Open ground lies to the rear elevation of the premises. The building matches the appearance of those in the surrounding area and is built on a similar footprint to other residential bungalows in the immediate area.

PROPOSAL

2. The application seeks planning approval to change the use of the premises from communal hall to a three bedroom residential bungalow. This would be carried out by converting existing store room and office space to bedroom accommodation and by subdividing the main hall into a bedroom and lounge. The kitchen area existing would be utilised for the same purpose. External changes to the building required to facilitate the changes would mainly be limited to the insertion of double doors into a window to the rear of the building.

3. In association with the proposed conversion an enclosed garden area is planned to the rear of the premises which would involve the erection of a 0.9mtr high close boarded fence. Also proposed to the rear of the premises is a modest concrete ramped access with galvanised handrails. To the front of the premises an area of hardstanding suitable for the parking of a motor vehicle would be created.

PLANNING HISTORY

4. There is no recent relevant planning history relating to the site.

PLANNING POLICY

NATIONAL POLICY

5. 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.

6. 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'

The following elements are considered relevant to this proposal:

7. *NPPF Part 6 - Delivering a wide choice of high quality homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.

8. *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.

9. *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.

LOCAL PLAN POLICY:

10. *Policy H3 - New Housing Development within the villages* – This Policy supports the provision of new housing consisting of windfall development of previously developed land and conversions.

11. *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.

12. *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

13. *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.

14. *Policy C9 - Loss of an existing community facility* - This policy states that planning permission will not be granted for a proposal which would result on the loss of an existing community facility unless it can be demonstrated that the facility is no longer financially viable, or there is no significant demand within the locality or where an equivalent alternative facility is available to satisfy the needs of the local community nearby.

15. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility* - states that the layout and design of all new development should take into account the requirements of all users.

16. *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.

17. *Policy U8A - Disposal of Foul and Surface Water* - requires that development proposals include satisfactory arrangements for disposing foul and surface water discharges.

EMERGING POLICY:

18. The emerging County Durham Plan is now in Pre-Submission Draft form, having been the subject of a recent 8 week public consultation, and is due for submission in spring 2014, ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF.

19. Policy 15 is particularly relevant, relating to development on unallocated sites. It states

20. All development on sites that are not allocated in the County Durham Plan or in a Neighbourhood Plan, will be permitted provided the development:

- a. Is appropriate in scale, design and location to the character and function of the settlement;
- b. Does not result in the loss of a settlement's last community building or facility (of the type which is the subject of the proposal) unless it can be demonstrated that it is no longer viable or has not been purchased by the community following the procedures set out in the Community Right to Bid;
- c. Is compatible with and does not prejudice any intended use of adjacent sites and land uses; and would not involve development in the countryside that does not meet the criteria defined in Policy 35 (Development in the Countryside).

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm> in relation to the City of Durham Local Plan and <http://durhamcc-consult.limehouse.co.uk/portal/planning/ps/> in relation to the County Durham Plan.

CONSULTATION AND PUBLICITY RESPONSES

CONSULTEE RESPONSES:

21. Highways Development Management has offered no objections to the application.

PUBLIC RESPONSES:

22. Councillors Williams and Blakey have raised concerns over the loss of the community facility and have requested the application be determined by the committee for this reason.

23. No letters of public objection have been received in relation to the proposals.

APPLICANTS STATEMENT:

24. Durham City Homes have continually monitored usage within the communal rooms owned and managed by Durham City Homes. Marlene Avenue is used around 7 times per calendar year. Generated income from bookings is £30 per year. Detailed breakdown of the usage shows that the room is not used by local residents, but from external groups requiring a base to host occasional meetings.

25. The proposed conversion of the hall to a 3 bedroom partially adapted bungalow would allow Durham City Homes to re-house a client / tenant with complex needs into suitable accommodation. The affected groups and their meetings would be transferred to another hall in Bowburn.

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://fred:8080/IDOXSoftware/IG_search?app_id=1002&menu=1&FormParameter1=CE1301578FPA&FormParameter2=100110741166&code=QVGKPHUGJX

PLANNING CONSIDERATIONS AND ASSESSMENT

26. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development at the site, the layout and design of the development, impact upon character and amenity and highways issues

The Principle of the development of the site

27. The building is located in a sustainable location within the Bowburn settlement boundary and would involve the conversion of an existing building. The application therefore fully accords with the aims of the National Planning Policy Framework and Policy H3 of the City of Durham Local Plan in this respect. The proposal also accords with emerging policy in the County Durham Plan, although the policies in this plan can only be given limited weight at present.

28. Policy C9 relates to the loss of community facilities. This policy states that planning permission will not be granted for a proposal which would result in the loss of an existing community facility unless it can be demonstrated that the facility is no longer financially viable, or where there is no significant demand within the locality or where an equivalent alternative facility is available to satisfy the needs of the local community nearby.

29. In this instance Durham City Homes have provided justification to address the matters raised above. It has been stated that the generated income per year for the hall is £30. Officers have concerns that this level of income is not realistic to support the provision of such a facility and consider it likely that the facility has limited financial viability.

30. It has been stated that on average the facility has only been used on 7 occasions per year. These bookings according to records supplied by Durham City Homes have included use for county and parish elections, use by Bowburn and Parkhill partnership, use for a flu clinic and use for a councillor surgery. Officers do consider 7 bookings per year limited and on the basis of the amount of use that has been evidenced; Officers consider it likely that there is not significant demand within the locality for the facility.

31. Officers also consider that an equivalent alternative facility is available nearby. Bowburn community centre is situated approximately 1 mile away to the south on Durham Road and is likely to be able to offer the same facilities that the communal hall offers. Officers understand this facility is well supported and has recently undergone partial refurbishments to improve facilities on offer at the premises.

32. Policy C9 requires that one of the above requirements must be met. Given the situation at the site Officers consider that all three points are met and that the application therefore accords with Policy C9 of the City of Durham Local Plan.

Layout and Design of the Development

33. Policy Q8 of the City of Durham Local Plan seeks to ensure that the layout and design of any new development is appropriate. It requires that development is appropriate in scale, form, density and materials to the character of its surroundings. It requires that adequate privacy and amenity is provided to each dwelling. Given that the bungalow would utilise the existing building on the site, which is of the same appearance, the scale of the development is considered appropriate. The form and density of the proposed bungalow would also be appropriate. The dwelling would utilise the existing window arrangement that is considered acceptable. This would mean that all separation distances in terms of facing windows to surrounding properties would be acceptable. Officers consider that adequate internal amenity space would be provided while fencing proposed to the rear would enable the provision of a garden area which would be very much similar in characteristics to those already serving residential properties in the area.

Impact upon character and amenity

34. Policy H13 of the City of Durham Local Plan 2004 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. Given the area is predominantly residential in nature; Officers consider that the use of the building as a residential bungalow would be acceptable. Such a use is unlikely to cause significant additional activity over and above that already noticeable in the locality and given that this is considered to be the case no significant adverse impacts are anticipated. Indeed, use of the premises as a residential property is more in keeping with the surrounding area, and likely to be less disruptive to neighbours than a communal facility.

Highways Issues

35. Highways Development management has offered no objections from a highways aspect and it is considered that the proposed development would be acceptable in relation to highway safety. A hardstanding area drawing access from Marlene Avenue would be provided with the development.

Other issues

36. The bungalow would provide appropriate access for those with a disability and therefore is considered acceptable in relation to general and accessible design principles. The existing service connections could be used at the premises in respect of any conversion of the property.

CONCLUSION

37. Officers consider that the principle of the development is acceptable as it would appear that the facility is no longer financially viable, that there is no significant demand within the locality and consider the application acceptable because an equivalent alternative facility is available to satisfy the needs of the local community nearby. The layout and design of the development is considered appropriate, while no significant adverse impacts upon the character or amenity of the area have been identified. The development is considered appropriate in relation to highways safety.

38. Taking all relevant planning considerations into account, Officers consider the application to meet the requirements of the National Planning Policy Framework Parts 6 and 7 and Policies H3, H13, T1, T10, C9, Q1, Q2, Q8 and U8A of the City of Durham Local Plan 2004.

RECOMMENDATION

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

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

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

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

Proposed Plans received 05th December 2013.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved Policies H3, H13, T1, T10, C9, Q1, Q2, Q8 and U8A of the City of Durham Local Plan 2004.

3. Prior to the commencement of development full details of the proposed hard standing area to the front of the building shall be submitted to and approved in writing by the Local Planning Authority. The hard standing area shall be implemented in accordance with the approved plan and maintained as such for the lifetime of the development.

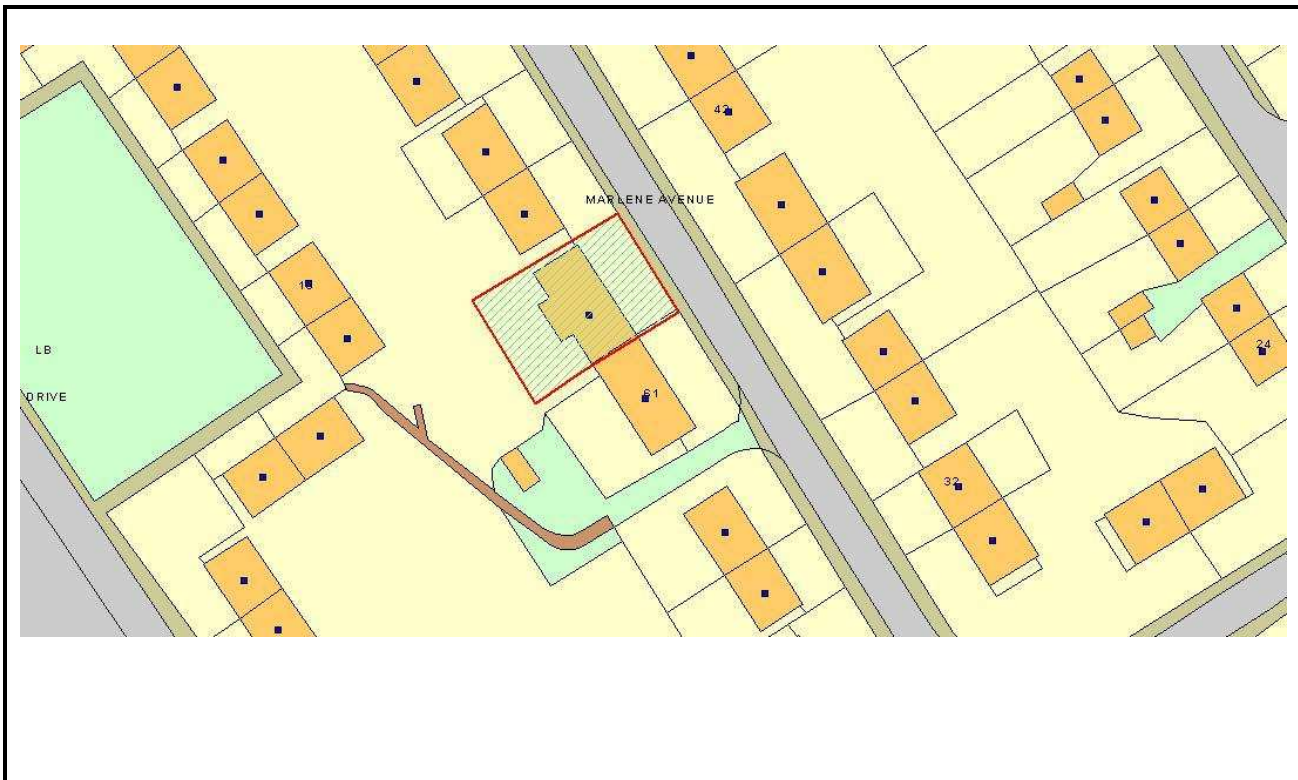
Reason: In the interests of the character and appearance of the area and to ensure proper drainage of the site in accordance with Part 10 of the NPPF and Policies H13 and Q8 of the City of Durham Local Plan.


4. Prior to the commencement of development full details of the proposed fencing to the rear of the building shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be implemented in accordance with the approved plan.

Reason: In the interests of the character and appearance of the area and in accordance with Policies H13 and Q8 of the City of Durham Local Plan.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
 National Planning Policy Framework
 City of Durham Local Plan 2004
 Response from Councillors Williams and Blakey
 Consultation response



 <p>Durham County Council Planning Services</p>	<p>Conversion of communal hall into residential bungalow</p>	
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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	4/13/01590/AD
FULL APPLICATION DESCRIPTION:	Retention of illuminated signage to building including free standing sign
NAME OF APPLICANT:	Mr G Kennedy Bells Fish Shop The Garth
ADDRESS:	Sunderland Road Gilesgate Durham DH1 2LG
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

SITE

1. Bells Fish shop is a single storey business premises which sit on Sunderland Road, Gilesgate, to the east of Durham City. There is a yard area to the rear of the premises and a parking area to the front.

2. To the west of the site sits Marshalls General Store, which is a two-storey property in mixed residential and commercial use. To the east of the site, sits a pharmacy housed within a single storey building. To the south of the site sit residential properties on St Josephs Close. To the north of the site sit two storey residential dwellings at Musgrave Gardens, which front towards Sunderland Road at varying angles. In a wider context, the Moorlands, a residential terrace sits beyond Marshalls Stores. To the east beyond the pharmacy lies a veterinary centre. Site levels are reasonably flat, although there appears to be a slight fall in land levels moving east to west.

PROPOSAL

3. The application seeks to retain illuminated signage that has been erected on the building itself and to the front of the building. All signs are circular in shape and bear the text 'Bells Fish & Chips' placed above and below the graphic of a fish. The signs are black with blue and white writing with illumination provided to the text and the symbol only.

4. The signage that has been placed on the building itself consists of two round illuminated signs. One sign is placed to the east facing side elevation of the premises. This sign is positioned 4.2m above ground level and has a diameter of approximately 1.5m. A further sign of the same size is placed to the front north facing elevation of the premises, this sign being placed 1.4mtrs above ground level.

5. A freestanding sign has been placed to the front of the premises. This sign is of the same dimension and design as the signs on the building itself and is placed on a matching supporting post at approximately 2mtrs above ground level.

6. The application has been called up to committee by Councillor Conway due to matters relating to the amenity of occupiers of the residential area opposite the site.

PLANNING HISTORY

7. A planning application was approved under delegated powers in 2013 for the conversion of a former residential bungalow on the site to a fish and chip shop.

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'

The following elements are considered relevant to this proposal:

10. *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.

11. *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. Paragraph 67 relates to advertisements and states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

LOCAL PLAN POLICY:

12. *Policy Q16 - Advertisements* states that advertisement consent will be granted for non illuminated and illuminated signs provided that their size, design, materials colouring, and in the case of illuminated signs on commercial premises for appropriate uses and particular opening hours, their form of illumination would not be detrimental to visual amenity or highway safety. The

Policy states that particular attention will be paid in relation to the impact of advertisements upon Conservation Areas and Listed Buildings.

13. *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.

14. *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

EMERGING POLICY:

15. The emerging County Durham Plan is now in Pre-Submission Draft form, having been the subject of a recent 8 week public consultation, and is due for submission in Spring 2014, ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The Following policy is considered particularly relevant.

16. Policy 18 Local Amenity – In order to protect the amenity of people living and working in the area of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity by way of noise, overlooking, privacy, vibration, dist, fumes/emissions, light pollution and loss of light and visual intrusion.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm> in relation to the City of Durham Local Plan and <http://durhamcc-consult.limehouse.co.uk/portal/planning/ps/> in relation to the County Durham Plan.

CONSULTATION AND PUBLICITY RESPONSES

CONSULTEE RESPONSES:

17. Highways Development Management has offered no objections to the application.

PUBLIC RESPONSES:

18. Councillor Conway has raised reservations about the free standing sign and the level of illumination and has also expressed concerns that the signs have been left on outside of trading hours.

19. Six letters of representation have been received relating to the application, these have included five letters of objection. Particular issue has been raised with regard to the freestanding sign that some objectors consider an unnecessary visual intrusion and road safety hazard.

20. Some objectors consider that the signs in general have altered the character of the locality giving it the feeling of a commercial area while mainly residential and consider that the signs set a precedent for further commercial adverts in the area. Light pollution is a cause for concern with objectors concerned about light shining into opposing properties, while some consider the signs too bright. Reservations have also been put forward surrounding the size of the signs. Concern is expressed that no consideration is being given

to the local residents of the area. Objectors suggest the signs have been left on 24 hours per day and draw objection to this matter.

21. One letter suggests that it may be reasonable for the chip shop to have the adverts illuminated during opening times but consider it unreasonable that the signage should be illuminated while the shop is closed.

APPLICANTS STATEMENT:

22. This document has been prepared in support of the current application outlining the justification for the advertising signs, their design and the lighting controls.

23. The current planning approval for the business premises indicates illuminated signage in the form of one disk shaped sign on each of the front and two side elevations. It is normal practice for business premises to advertise their business and particular the fast food service industry. With that in mind we had hoped originally that the signage would be visible to vehicles travelling in both directions along Sunderland Road. During the course of construction we determined that because of the close proximity and height of the adjoining shop one sign would be partially obscured from sight for vehicles travelling out of the City Centre. A stand- alone sign was considered to be the best solution to that particular problem which in principle is the same solution found in some fast food retailers, public houses and retail parks. This stand-alone illuminated sign would replace and not augment the original sign proposed for the West Gable Elevation.

24. The circular disk signage' graphics are the same both on the building and on the stand-alone sign and display the name and purpose of the business along with a fish logo identifying the brand image of Bell's Fish and Chip Shop. The colours were chosen to enhance the colour pallet used in the building materials and finishes, blending in with the boarding and window trim. The illumination level was considered and is in line with manufacturer's recommendations for it's location, to display the sign without causing glare to traffic using Sunderland Road. It is the owners intent that the signs will be illuminated only when the business is open and timers have been installed to control the lighting to that effect.

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://fred:8080/IDOXSoftware/IG_search?app_id=1002&menu=1&FormParameter1=CE1301590AD&FormParameter2=100110710881&code=EALJKISTSA

PLANNING CONSIDERATIONS AND ASSESSMENT

25. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development at the site, impact upon character and amenity of the area and highways issues.

The Principle of the development of the site

26. Policy Q16 of the City of Durham Local Plan relates to advertisements and states that advertisement consent will be granted for non illuminated and illuminated signs provided that their size, design, materials and colouring, and in the case of illuminated signs on

commercial premises for appropriate uses and particular opening hours, their form of illumination would not be detrimental to visual amenity or highway safety.

27. Officers consider that the advertisements are acceptable in relation to their size, design, materials and colouring. The signage has a modern appearance and design, which is in keeping with the recently opened fish and chip shop. In its built form, the signage does not appear alien to the surrounding street scene. The sizes of the signs are considered acceptable. They appear well proportioned in relation to the business premises and do not over dominate the building or plot. Officers acknowledge that the size of the freestanding sign is perhaps slightly large, although the size is not considered so excessive as to warrant the refusal of this aspect of the application. The materials used, being steel powder coated in RAL 7024 grey with vinyl signage are considered acceptable and such materials are fairly common for this type of signage. The colouring to the signs themselves is relatively low key and in keeping with the appearance of the premises as a whole.

28. Officers consider the principle of illuminated signage at the site acceptable, in the context of the recent planning permission for use of the premises as a fish and chip shop. The site sits outside of the City of Durham Conservation area and the premises have a justified evening use.

Residential Areas – Impact upon Character and Amenity

29. Policy H13 of the City of Durham Local Plan 2004 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. Officers acknowledge concerns of local residents over the development of the fish and chip shop and in relation to the signage that has been erected at the site.

30. Officers have taken the time to view the signage when illuminated from residential property across from the site on Musgrave Gardens. It is acknowledged that the signage introduces further development to the site following the development of the host premises. The signage does alter the outlook from windows to surrounding property, particularly on properties opposite during hours of darkness. However due to the type of illumination that is present, light overspill is limited. The illumination while clear and bright is built into the signage and illuminates only the text and symbols of the signs and is not considered to emit or produce a significant glare. Officers consider it reasonable that during hours of darkness and during the winter residents would generally draw curtains to habitable rooms, thus screening the signage from direct view.

31. Officers have also considered the distances at which the signage is viewed, particularly in relation to those properties opposite on Musgrave Gardens. The free standing sign would be viewed from habitable room windows at distances in excess of 30mtrs from 109 and 110 Musgrave Gardens and even longer distances in relation to 93 and 94 Musgrave Gardens. Officers consider these distances significant and do not consider that at this level of separation the signs would have a significant adverse effect on the amenities of surrounding residents in terms of visual intrusion. The signage is also viewed from properties opposite in the context of the illuminated internal ground floor of Marshalls Store, the illuminated internal areas of the chemist with large glass frontage, the illuminated pharmacy sign and the illuminated advert within the nearby bus stop.

32. The character of the area has been at the forefront of Officers minds when considering this application. The site is set within a run of properties on Sunderland Road that are commercial in nature. Although also housing residential accommodation to the rear and first floor, Marshalls Store sits to the west, while Whitfields pharmacy sits to the east. Beyond this sits a veterinary centre and a parade of shops. In summary, the premise sits on a reasonably busy road that forms one of the main routes into Durham from the East with the

immediate area being mixed commercial and residential. With this in mind commercial illuminated signage is not considered out of keeping with the character of the area. There are other areas in Durham where areas of residential development abut areas of commercial development that incorporate illuminated signage.

33. Officers do however consider it reasonable to limit the illumination of the signage to the opening times of the premises only, due to the presence of residential property in the locality. The opening times approved in line with the previous application at the site are between 11am and 9pm. Officers consider that this would go some way to addressing the concerns of surrounding occupiers.

Highways Issues

34. Highways Development management has offered no objections from a highways aspect. It is therefore concluded that the form of illumination to the signage would not be detrimental to highway safety. The signage scheme as a whole is not considered harmful to highway safety and is therefore considered to accord with Policies T1 and Q16 of the City of Durham Local Plan 2004 and Part 4 of the NPPF in this respect.

CONCLUSION

35. Officers consider that the principle of the development is acceptable as the proposed advertisements are considered acceptable in relation to size, design, materials and colouring, while illumination to signage at the site is considered acceptable given that the premises has an established night time use to 9pm.

36. Officers do not consider that the advertisements have a significant adverse effect on the character or appearance of the area, or the amenities of residents within it due to the distance of opposing residential property to the signage and due to the underlying character of the area, which is mixed commercial and residential development. The inclusion of a condition limiting hours of illumination to the signage is also considered key in this respect.

37. No issues relating to highway safety have been identified and Officers consider the scheme acceptable in this regard. Local Planning Authorities are required to exercise their powers under the advertisement regulations with regard to amenity and public safety and the advertisements are considered acceptable in relation to these matters.

38. Taking all relevant planning considerations into account, Officers consider the application to meet the requirements of the National Planning Policy Framework Parts 4 and 7 and Policies H13, Q16 and T1 of the City of Durham Local Plan 2004.

RECOMMENDATION

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

1. The development hereby approved shall be maintained in strict accordance with the following approved plans (Drawing MJH.1112.105 and supplementary photographs received 10th December 2013)

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

2. This consent to display the advertisement(s) is for a period of five years from the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

3. The signs approved under this application shall be illuminated during the opening hours of the premises only..

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

4. Any advertisements displayed and any site used for the display of advertisements shall be maintained in a condition which does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

5. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

6. Where any advertisement is required under these Regulations to be removed, its removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

7. No advertisement is to be displayed without the permission of the owner of the site or any person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

8. No advertisement shall be sited or displayed so as to obscure or hinder the ready interpretation of any road traffic sign, railway sign or aid to navigation by water or air, or so as to otherwise render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 7 of the NPPF and saved Policy Q16 of the City of Durham Local Plan 2004.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
 National Planning Policy Framework
 City of Durham Local Plan 2004
 Response from Councillor Conway
 Response from Objectors
 Consultation responses



Planning Services

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Retention of illuminated signage to building including free standing sign.

Date 11th February
 2014

Area Planning Committee (Central & East)

11 February 2014

Proposed Changes to Constitution – Code of Practice for Members and Officers Dealing with Planning Matters



Report of Head of Legal and Democratic Services

Purpose of the Report

1. To propose changes to Paragraphs 1.6, 3.2, 10 and 11 of the current Code of Practice to reflect updated guidance published by the Local Government Association relating to probity in planning.

Background

2. The Council's constitution includes a section entitled "Code of Practice for Members and Officers Dealing with Planning Matters". The Code was largely based upon the Local Government Association's Guidance Note of Good Practice issued in 2002. The latest guidance from the LGA, a copy of which is attached at Appendix 2, supersedes the 2002 publication. I have therefore reviewed the Council's current Code of Practice to identify whether any changes are required as a result of the new guidance.
3. The guidance on the conduct of work as agents for individuals pursuing planning matters within the authority area has been strengthened and recommends that officers and serving Councillors should not act as agents even if they are not involved in the decision making process. Paragraph 3.6 of our current Code implies that Members would not be restricted from acting professionally as agents for persons pursuing planning matters within Durham provided they played no part in the decision making process for those proposals. The change in the Code is recommended to reflect the more restrictive guidance which might be attributable to conflict situations reported nationally within the last year which attracted considerable media attention.
4. It is worthwhile clarifying our current rules on site visits whilst the Code is being revised. The LGA guidance suggests that site visits should be less common than may currently be the case in Durham and revised wording would reflect that they should not be regarded as standard practice for each application.
5. The new guidance also clarified that new documents should not be circulated at Planning Committee Meetings by supporters and objectors because of the risk that Members may not have sufficient

opportunity to give them proper consideration and officers may not have sufficient opportunity to check their accuracy or advise upon them. The Council's current practice is to circulate to members of the public a guide on procedures for speaking at Planning Committees and the detail is not included in the Code of Practice. This supplementary guidance will be updated to clarify that circulation of documents will not be permitted.

The LGA guidance "Probity in Planning" was considered by the Council's Standards Committee on 25 June 2013 and the Committee endorsed the proposal that Council be recommended to make these proposed amendments in order to comply more closely with the updated guidance. A copy of the proposed amended Code of Practice is attached at Appendix 3. Constitution Working Group considered the proposals on 8th October 2013 and requested that the views of Planning Committee be sought, and if the committee was agreeable to make the recommendations to Council then this be undertaken without being referred back to the Group.

7. Whilst reviewing the Code it is considered prudent to amend paragraph 3.2. The Localism Act has cast doubt on whether the previous exception permitting members with prejudicial interests to speak at Committee when members of the public can speak has been retained under the revised Code of conduct. It is therefore no longer appropriate to state this right exists until this point has been tested and clarified.

Recommendation

8. It is recommended that the Committee note the proposed changes to the Code of Practice for Members and Officers Dealing with Planning Matters which amendments will be presented to Council to approve the necessary change to the Constitution.

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Appendix 1: Implications

Finance – None

Staffing – None

Risk – Compliance with LGA guidance strengthens the Council's position in the event of criticism or challenge.

Equality and Diversity / Public Sector Equality Duty – None

Accommodation - None

Crime and Disorder - None

Human Rights - None

Consultation – The proposal has been submitted to and approved by Standards Committee.

Procurement - None

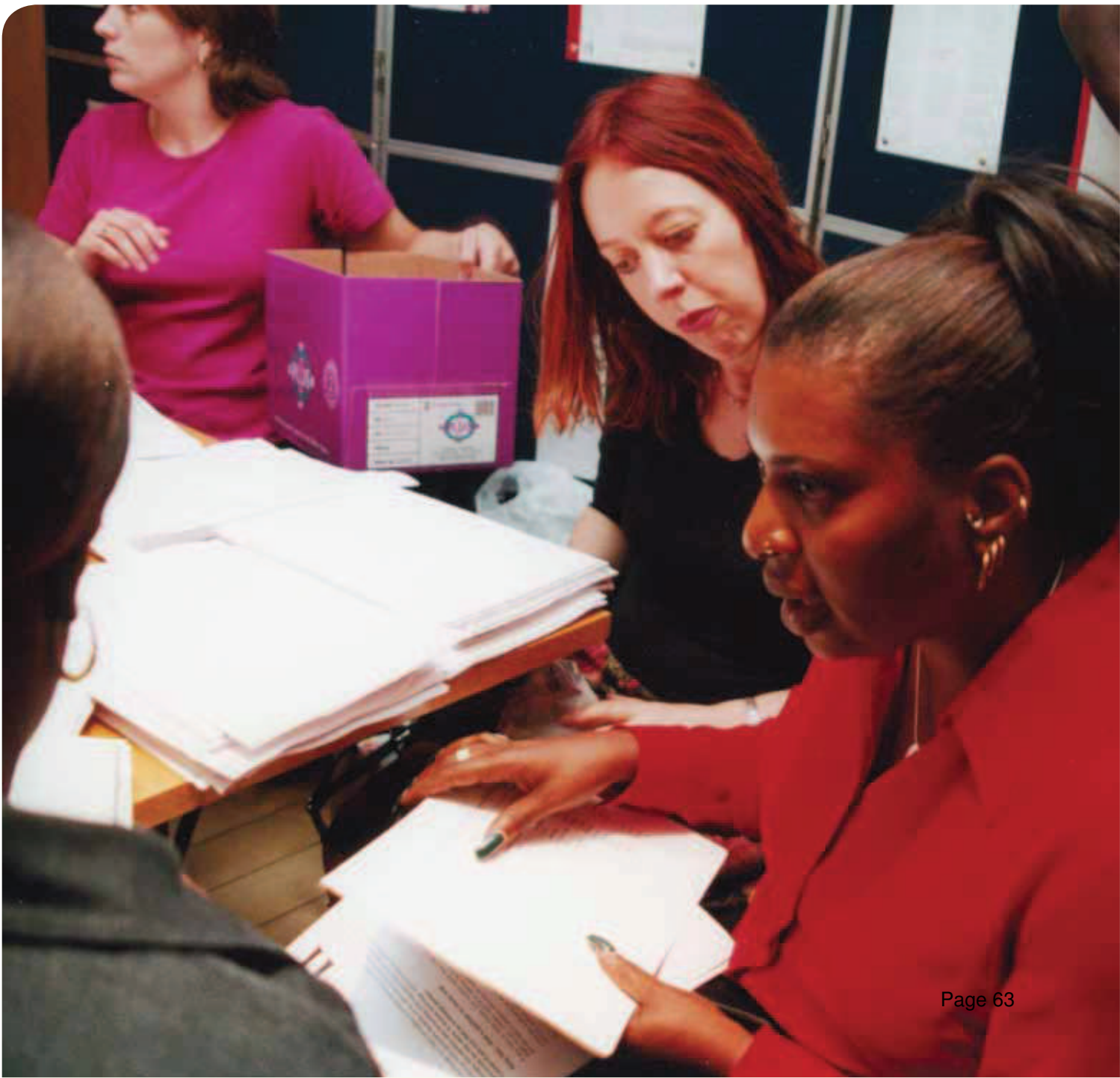
Disability Issues – None

Legal Implications – Contained in the Report.

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Probity in planning

for councillors and officers



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This publication was prepared by Trevor Roberts Associates for the Planning Advisory Service. It also includes contributions from officers from various councils.

April 2013

Foreword

This 2013 update to the 2009 version of the Local Government Association's Probity in Planning guide reflects changes introduced by the Localism Act 2011. It clarifies how councillors can get involved in planning discussions on plan making and on applications, on behalf of their communities in a fair, impartial and transparent way.

This guide has been written for officers and councillors involved in planning. Councillors should also be familiar with their own codes of conduct and guidance.

This guide is not intended to nor does it constitute legal advice. Councillors and officers will need to obtain their own legal advice on any matters of a legal nature concerning matters of probity.

Introduction

Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

Planning decisions involve balancing many competing interests. In doing this, decision makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.

It is recommended that councillors should receive regular training on code of conduct issues, interests and predetermination, as well as on planning matters.

Background

In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today's place-shaping context, early councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.

This guidance is intended to reinforce councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.

One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.

Whilst councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.

The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

This guidance is not intended to be prescriptive. Local circumstances may provide reasons for local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.

This guidance refers mainly to the actions of a local authority planning committee as the principal decision-making forum on planning matters. It is recognised, however, that authorities have a range of forms of decision-making: officer delegations; area committees; planning boards, and full council.

This guidance applies equally to these alternative forms of decision-making. Indeed, it becomes very important if the full council is determining planning applications referred to it, or adopting local plans and other policy documents, that councillors taking those decisions understand the importance of this guidance. The guidance also applies to councillor involvement in planning enforcement cases or the making of compulsory purchase orders.

The general role and conduct of councillors and officers

Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the council as a whole. Officers advise councillors and the council and carry out the council's work. They are employed by the council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.

Both councillors and officers are guided by codes of conduct. The 2011 Act sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. All councils had to adopt a local code by August 2012.

The adopted code should be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

It should embrace the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other councillors, staff, and the public. Many local authorities have adopted their own, separate codes relating specifically to planning although these should be cross referenced with the substantive code of conduct for the council.

Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. Many authorities will have adopted a code of conduct for employees and incorporated those or equivalent rules of conduct into the contracts of employment of employees.

In addition to these codes, a council's standing orders set down rules which govern the conduct of council business.

Councillors and officers should be cautious about accepting gifts and hospitality and should exercise their discretion. Any councillor or officer receiving any such offers over and above an agreed nominal value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Guidance on these issues for both councillors and officers should be included in the local code of conduct

Employees must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

Officers and serving councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.

Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

Finally, as planning can sometimes appear to be complex and as there are currently many changes in planning taking place, the LGA endorses the good practice of many councils which ensures that their councillors receive training on planning when first appointed to the planning committee or local plan steering group, and regularly thereafter. The Planning Advisory Service (PAS) can provide training to councillors (contact pas@local.gov.uk).

Registration and disclosure of interests

Chapter 7 of the 2011 Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.

For full guidance on interests, see *Openness and transparency on personal interests: guidance for councillors*, Department for Communities and Local Government, March 2013. (This guidance note does not seek to replicate the detailed information contained within the DCLG note). Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.

The provisions of the Act seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate.

Each council's code of conduct should establish what interests need to be disclosed. All disclosable interests should be registered and a register maintained by the council's monitoring officer and made available to the public. Councillors should also disclose that interest orally at the committee meeting when it relates to an item under discussion.

A councillor must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.

A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the councillor from the committee. In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business.

If a councillor has a (non-pecuniary) personal interest, he or she should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.

It is always best to identify a potential interest early on. If a councillor thinks that they may have an interest in a particular matter to be discussed at planning committee he or she should raise this with their monitoring officer as soon as possible.

See Appendix for a flowchart of how councillors' interests should be handled.

Predisposition, predetermination, or bias

Members of a planning committee, Local Plan steering group (or full Council when the local plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.

The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is alright, the former is not and may result in a Court quashing such planning decisions.

Section 25 of the Act also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.

This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.

For example, a councillor who states "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a councillor who states: "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area."

If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter.

This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). If the Council rules allow substitutes to the meeting, this could be an appropriate option.

Authorities will usually have a cabinet/ executive member responsible for development and planning. This councillor is able to be a member of the planning committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.

Development proposals submitted by councillors and officers, and council development

Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by councillors and planning officers:

- if they submit their own proposal to their authority they should play no part in its consideration
- a system should be devised to identify and manage such proposals
- the council's monitoring officer should be informed of such proposals
- such proposals should be reported to the planning committee and not dealt with by officers under delegated powers.

A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They do have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as applicant, should also not seek to improperly influence the decision.

Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

Lobbying of and by councillors

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

As noted earlier in this guidance note, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.

In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.

Councillors can raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision-making committee, they would be well advised to withdraw once any public or ward member speaking opportunities had been completed in order to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.

It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.

A local code on planning should also address the following more specific issues about lobbying:

- Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors.
- Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
- Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern.

As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

Pre-application discussions

Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. Now, through the Localism Act and previously the Audit Commission, the LGA and PAS recognise that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors lead on community issues and helps to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' approach.

The Localism Act, particularly S25, by endorsing this approach, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken. In addition to any specific local circumstances, guidelines should include the following:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- An acknowledgement that consistent advice should be given by officers based upon the development plan and material planning considerations.
- Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.

- Confirmation that a written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
- A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.
- The scale of proposals to which these guidelines would apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. The Nolan Committee argued that keeping a register of these conversations would be impractical and unnecessary. Authorities should think about when, however, discussions should be registered and notes written.

Authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers of discussions to enable councillors to raise issues, identify items of interest and seek further information
- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken)
- ward councillor briefing by officers on pre-application discussions.

Similar arrangements can also be used when authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.

The Statement of Community Involvement will set out the council's approach to involving communities and other consultees in pre-application discussions. Some authorities have public planning forums to explore major pre-application proposals with the developer outlining their ideas and invited speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although still bearing in mind the need to avoid pre-determination.

Officer reports to committee

As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.

- Reports should have a written recommendation for a decision to be made.
- Reports should contain technical appraisals which clearly justify the recommendation.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.

Any oral updates or changes to the report should be recorded.

Public speaking at planning committees

Whether to allow public speaking at a planning committee or not is up to each local authority. Most authorities do allow it. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the council in writing.

New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

Decisions which differ from a recommendation

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.

Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- discussing the areas of difference and the reasons for that with planning officers beforehand (as part of a standard 'call-over' meeting where all items on the agenda are discussed)
- recording the detailed reasons as part of the mover's motion
- adjourning for a few minutes for those reasons to be discussed and then agreed by the committee
- where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'.

The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.

All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

Committee site visits

National standards and local codes also apply to site visits. Councils should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already
- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
- where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply.
- keep a record of the reasons why a site visit is called.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing or
- the proposal is particularly contentious.

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.

This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

Annual review of decisions

It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

Complaints and record keeping

All councils should have a complaints procedure which may apply to all council activities. A council should also consider how planning-related complaints will be handled, in relation to the code of conduct adopted by the authority.

So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

List of references

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Royal Town Planning Institute Code of Professional Conduct:
<http://www.rtpi.org.uk/membership/professional-standards/>

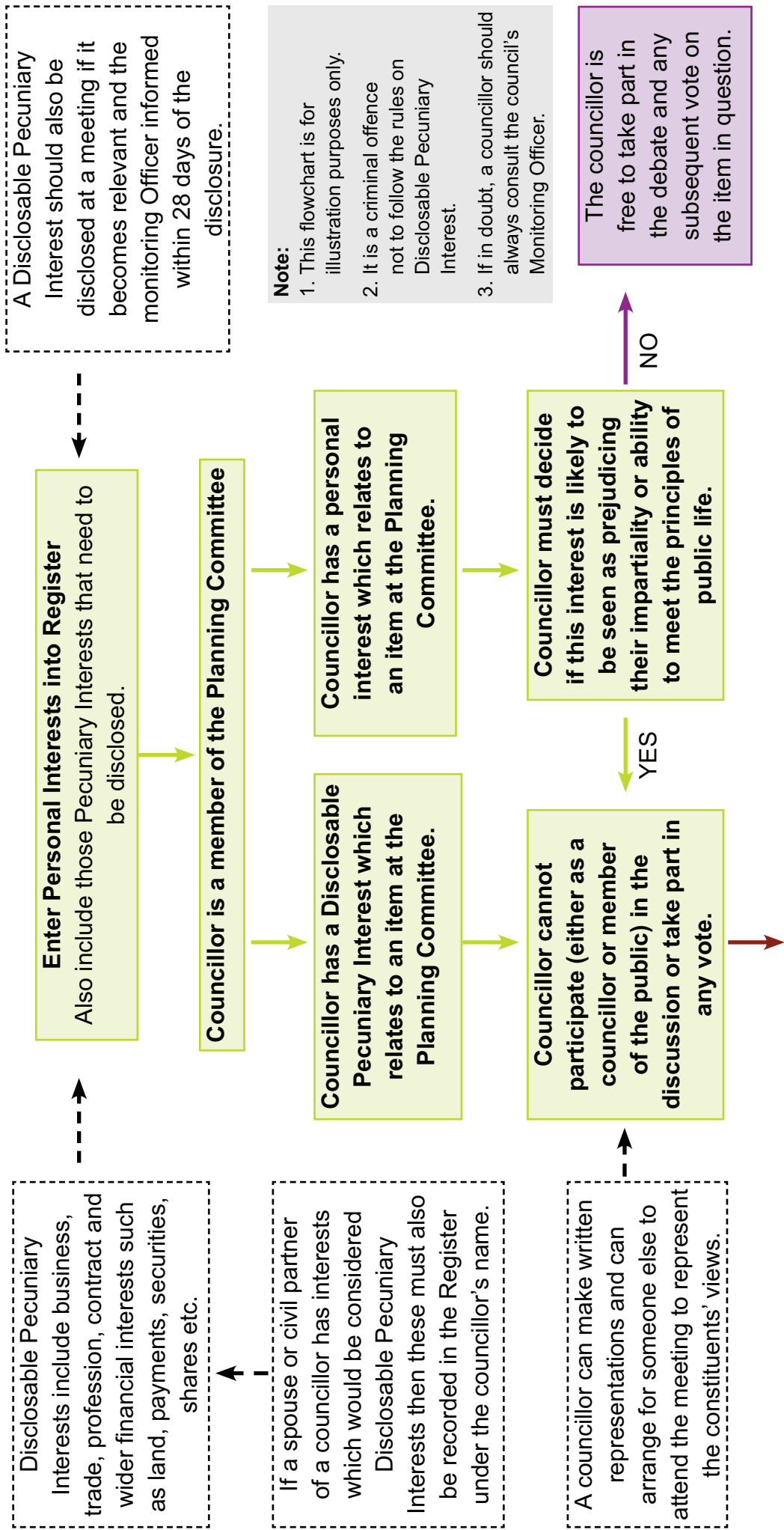
The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Openness and transparency on personal interests: guidance for councillors,
Department for Communities and Local Government, March 2013
<https://www.gov.uk/government/publications/openness-and-transparency-on-personal-interests-guidance-for-councillors>

The Planning System – matching expectations to capacity
Audit Commission, February 2006
http://archive.audit-commission.gov.uk/auditcommission/sitecollectiondocuments/AuditCommissionReports/NationalStudies/Planning_FINAL.pdf

‘Standards Matter’ Kelly Committee Jan 2013
<http://www.official-documents.gov.uk/document/cm85/8519/8519.pdf>

Flowchart of councillors' interests



Councillor must leave the room if Council's Standing Orders require it or if continuing presence is incompatible with the Council's code of conduct or it would contravene the principles of public life. Special dispensation can be sought in exceptional circumstances.



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Code of Practice for Members and Officers Dealing with Planning Matters

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1. INTRODUCTION

1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.

1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between members and officers and between the public and the council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.

1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:

- Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- Members should not place themselves in situations where their honesty or integrity may be questioned.
- Members should make decisions on merit.
- Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- Members should respect the impartiality and integrity of officers.

1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgment and for justifiable reasons.

1.5 This Code of Practice sets out practices and procedures that members and officers of the County Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

1.6 This code is largely based upon the Local Government Association's Guidance entitled Probity in Planning for councillors and officers published in April 2013, which takes account of the ethical framework for local government. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Audit Commission, the Commissioners for Local Administration in England and the National Planning Forum. It complements the Council's Code of Conduct for Members. This code is consistent with meeting the requirements of Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. In respect to the advice contained at paragraph 7 regarding Member engagement in pre-application advice, account has been had of advice issued by the Planning Advisory Service, the Standards Board for England and the LGA advice leaflet 'Positive Engagement' issued in 2009.

1.7 Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS

2.1 Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.

2.2 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.

2.3 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgment and make a decision in the interests of the County as a whole.

2.4 Whilst members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

2.5 Members should treat with extreme caution any offer of a gift or hospitality which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.

2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.

2.7 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its members or other officers, have prevailed upon the officer to put forward his or her professional view as something other than it really is.

2.8 The County Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.

2.9 The County Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. A superior officer shall not have the power to overrule the professional advice of the head of the planning service.

2.10 Officers shall follow the guidance on their standards of conduct as set out in the County Council's Staff Guidance, the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000 (as amended).

3. DECLARATION OF NON REGISTERABLE PERSONAL INTERESTS

3.1 The Council's Code of Conduct advises members on the disclosure of a non-registerable personal interest and whether it is a prejudicial interest which would lead to non participation in Council business. Personal interests include those of members of your family or any persons with whom you have a close association or their employer, any firm in which they are a partner or company of which they are a director or shareholder. Members of your family are defined in the Code. You have a close association with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour that person when deciding on a matter which affects them. Friends are not defined but it is suggested that it is someone well known to the member and regarded with liking, affection and loyalty, that is a closer relationship than mere acquaintance. If in doubt the Monitoring Officer's advice should be sought.

3.2 If the non-registerable interest is personal and prejudicial the member shall declare it at the earliest opportunity, must not participate in any discussion or vote taken on the matter at the meeting, must leave the room where the matter is being considered and must not try to influence those making the decision or take any part in the consideration or determination of the matter.

3.3 Where a member has a non-registerable personal interest that is not prejudicial under the Council's Code of Conduct, the member, when attending a meeting of the Council at which the matter is considered, shall declare it at the

commencement of the meeting and may participate in the discussion and vote on the matter.

3.4 New rules in relation to bias and predetermination have been introduced by section 25 of the Localism Act 2011. The new rule applies if there is an issue about the validity of a decision and it is relevant to that issue whether a member had or appeared to have a closed mind when making the decision. Under the new rules a member is not to be taken to have had, or appeared to have had a closed mind when making the decision just because she or he had previously done anything that directly or indirectly indicated the view the member took, or would or might take, in relation to a matter relevant to the decision,

3.5 The principle that members must not participate in decisions where they are perceived to be biased remains. An example would be a member who was a governor of a school which was putting forward a planning application

3.6 Serving members should not act as agents for persons pursuing planning matters within their authority. If they submit their own proposal to the authority on which they serve, they should play no part in its consideration. When submitting proposals on behalf of themselves, the member shall inform the Monitoring Officer of the submission.

3.7 Officers must always act impartially. An officer who believes he or she may be seen to have a personal and prejudicial interest in a planning matter, shall declare it at the earliest opportunity, so advising the Head of Planning and the Monitoring Officer and have no further involvement in the processing or consideration of that matter.

3.8 Planning officers shall never act as agents for persons pursuing a planning matter within the county or one outside significantly affecting the county.

4. 'DUAL-HATTED MEMBERS'

4.1 The Council's Code of Conduct does not automatically prevent members from considering the same issue at more than one tier of local government, including speaking and voting at both tiers.

4.2 For example, if a member is also a member of a parish council, and the parish council is consulted on a planning application to be determined by the Planning Committee, the member may participate in the discussion and vote at the parish council meeting; but it would be prudent to inform the parish council that the member will reconsider the matter taking into account all the information that is put before the Planning Committee. At the subsequent meeting of the Planning Committee the member should declare a personal (but not prejudicial) interest as a member of the parish council which has already expressed a view on the matter, but make it clear that this view does not bind the member who will consider the matter afresh. The member will be free to participate in the debate and vote on the matter.

4.3 However, if the Planning Committee considers a planning application by an authority or body on which a member serves, then the member should declare

a non-registerable personal and prejudicial interest and withdraw from the meeting.

5. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY

5.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.

5.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

5.3 Members of the planning committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a non registerable personal and prejudicial interest and take no part in the discussion and determination of that proposal.

5.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

6. LOBBYING OF AND BY MEMBERS

6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a planning committee. However, reacting to lobbying can lead to the impartiality of a member being called into question and require that member to declare an interest.

6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

6.3 The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.

6.4 A planning committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-

making meeting. Members should make clear that they reserve their final decision on a proposal until the committee meeting.

6.5 Members of the planning committee shall not, in general, organise support or opposition for a proposal, or lobby other members (other than when addressing the planning committee). Members of the Council shall not put improper pressure on officers for a particular recommendation.

6.6 The local member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting but not vote. The member of an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the planning committee, be allowed to attend and speak but not vote. A local member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.

6.7 If a member of the Planning Committee identifies himself or herself with a group or individual campaigning for or against an application, he or she shall declare a non-registerable personal and prejudicial interest and not vote or decide on the matter. However, that member shall be given the opportunity to address the Committee.

6.8 Members of a planning committee must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the committee meeting shall not be used to decide how members should vote at the planning committee.

7. PRE-AND POST-APPLICATION DISCUSSIONS AND NEGOTIATIONS

7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is actively encouraged in accordance with the Council's protocol on pre-application advice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.

7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the officer only, and are provisional.

7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.

7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.

7.5 Members need to preserve their role as impartial decision makers and should not ordinarily take part in pre-or post-submission discussions and negotiations with applicants regarding development proposals. The exception to this is for those major schemes which are considered to be of importance to the

County or schemes that are likely to be highly contentious and are therefore subject to the Council's Pre-Application Member Engagement protocol which provides for structured arrangements with officers and a prospective developer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.

7.6 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by members should be provided to the officers dealing with the application.

8. OFFICER REPORTS TO COMMITTEE

8.1 The Head of Planning will submit written reports to the Planning Committee on planning applications to be determined by the County Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application including those made by the applicant. The Head of Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.

8.3 The Head of Planning will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

9. THE DECISION MAKING PROCESS

9.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.

9.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.

9.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

9.4 Where the Planning Committee decide to adopt the recommendation of the Head of Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.

9.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning, agreement shall be reached at the meeting on the reasons for that decision. They shall be fully minuted by the Head of Legal and Democratic Services.

10. SITE VISITS BY THE COMMITTEE

10.1 A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing or
- the proposal is particularly contentious.

10.2 Site visits will be organised in accordance with the following procedures:

(i) The Head of Legal and Democratic Services will invite the local County Councillor to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chairman of the Planning Committee, the local County Councillor for the adjacent division will also be invited.

(ii) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.

(iii) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.

(iv) On assembling at the site, at the time specified, the Chairman will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning, or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning, the Chairman will bring the site visit to a close.

(v) When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application.

11. REPRESENTATIONS ON PLANNING APPLICATIONS

11.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members of the Council will be given the opportunity to inspect all letters received before the decision on the application is made.

11.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will apply:

- (i) The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. Both the applicant and the objectors will also be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do this and, if so, they will be invited to the meeting at which the decision is to be made.
- (ii) Each group of speakers (objectors and supporters) will be allowed a maximum of five minutes (except at the discretion of the Chairman) to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.
- (iii) At the meeting the Head of Planning will present his / her report first.
- (iv) The objectors will make their representations, subject to a time limit of 5 minutes (except at the discretion of the Chairman), and may be asked questions by the Committee.
- (v) The applicant will then make his or her representations, subject to a time limit of 5 minutes (except at the discretion of the Chairman), and may be asked questions by the Committee.
- (vi) Officers may comment on the representations and the merits of the application.
- (vii) The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.
- (viii) Where a representative of a Parish/Town Council wishes to speak they will address the meeting before the objectors.
- (ix) New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

12. REVIEW OF DECISIONS

12.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

12.2 Visits to application sites previously considered by the County Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.

12.3 Attendance at the review site visits shall be restricted to members of the committee and the local County Council members.

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