



## Area Planning Committee (South and West)

**Date** Thursday 18 July 2013  
**Time** 2.00 pm  
**Venue** Council Chamber, Council Offices, Spennymoor

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. The Minutes of the Meeting held on 20 June 2013 (Pages 1 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined
  - a) 7/2013/0026/DM - Land North of South View, Middlestone Moor, Spennymoor (Pages 11 - 28)  
46 dwellings, new access and associated works
  - b) 6/2013/0135/DM/VP - The Laurels, 16 High Green, Gainford, Darlington (Pages 29 - 40)  
Variation of condition 3 of 6/2005/0327/DM to allow external seating on east side of front courtyard
  - c) 3/2013/0199 - Dellside House, Willington, Crook (Pages 41 - 52)  
Construction of 14 dwellings
6. 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  
10 July 2013

To: **The Members of the Area Planning Committee (South and West)**

Councillor M Dixon (Chairman)  
Councillor J Buckham (Vice-Chairman)

Councillors D Bell, D Boyes, J Clare, K Davidson, E Huntington,  
S Morrison, G Mowbray, H Nicholson, G Richardson, L Taylor,  
R Todd, C Wilson and S Zair

**DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Crook on **Thursday 20 June 2013 at 2.00 pm**

**Present:**

**Councillor M Dixon (Chairman)**

**Members of the Committee:**

Councillors J Buckham (Vice-Chairman), J Alvey (substitute for E Huntington), D Bell, J Clare, K Davidson, S Morrison, G Mowbray, H Nicholson, G Richardson, L Taylor, R Todd, C Wilson and S Zair

**Also Present:**

A Caines – Principal Planning Officer

A Inch – Principal Planning Officer

C Cuskin – Legal Officer

D Stewart – Highways Officer

**1 Apologies for Absence**

An apology for absence was received from Councillor Eunice Huntington.

**2 Substitute Members**

Councillor J Alvey substituted for Councillor E Huntington.

**3 Minutes**

The Minutes of the meeting held on 18 April 2013 were confirmed as a correct record and were signed by the Chairman.

**4 Declarations of Interest**

Councillor H Nicholson declared a non-registerable interest in application numbered 6/2010/0188/DM – Land west of Victoria Cottages, Butterknowle as he knew the agent for the applicant. Councillor Nicholson left the meeting during consideration of the application.

## **5 Applications to be determined**

### **5a 6/2013/0026/DM/OP - Land South of HMYOI Deerbolt, Startforth Park, Barnard Castle**

The Committee considered a report of the Principal Planning Officer regarding an outline application for residential development with all matters reserved except for access (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

Members were advised of written representations received from Councillor R Bell, local Member.

Councillor Bell did not object to the application but wished to comment on paragraph 48 in the report regarding the adoption of the existing estate roads. His understanding was that this had been requested by Durham County Council and declined by the Ministry of Justice. Accepting that Durham County Council could not force the ultimate developer to contribute to adoption via Section 106 monies, he endorsed the residents' comments about loss of amenity, and noted the considerable disruption they would suffer during the building phase.

Accordingly he asked the Committee to support his request that Durham County Council should ask the ultimate developer at the Reserved Application stage to adopt the existing estate roads.

P Estall addressed the Sub-Committee as Chair of Startforth Park Residents Association.

In opening he referred to the Site Location Plan which displayed land outside the ownership of the applicant and stated that this situation should be rectified with the plans reviewed and amended accordingly. The land ownership issue was raised at a public meeting in 2010 but was never followed up.

If the application was approved and the land was sold to a developer he questioned responsibility for the provision and upkeep of the street lighting for Startforth Park.

There was no evidence to show that there was an improvement to employment prospects in Barnard Castle and the amount of houses proposed was disproportionate to the need in the area. There were a lot of brownfield sites nearer to employment centres which would make more sustainable sense.

If approved residents strongly requested that they be consulted and directly involved in all consequent development proposals to include all pre-consultation and pre-application discussions with the developer.

The proposed development provided an ideal opportunity for the developer to build an extension to the existing housing development which would enable the new

residents to enjoy the benefits of moving into a 'well-balanced development' and share and enjoy equal and mutual benefits for all residents, existing and new. If the new development was designed and built to be sympathetic to the existing Estate, it could become a beneficial development for the good of all the residents of Startforth.

C Lindley, the applicant's agent stated that all salient points had been addressed in the Planning Officer's report. The principle of the development accorded with the National Planning Policy Framework and emerging guidance in the County Durham Plan. The site was a short distance from services and facilities and presented an opportunity to re-use brownfield land.

The development would provide local employment opportunities in the construction industry, support public transport provision in the area, secure the long term retention of a recreation area for the local community and retain formal footpath linkages to the town centre.

The application was underpinned by a comprehensive range of technical reports and no substantive objections had been received relating to key considerations such as highways, ecology, flood risk, drainage capacity, landscape, archaeology and education.

Whilst objections had been raised about the accuracy of the location plan C Lindley advised that he was unaware of any inaccuracies but would be happy to review the situation should any material come to light.

It was therefore reasonable to conclude that there would be no adverse impact on the amenity of local residents.

The Ministry of Justice had been a key part of the community for many years and had listened and responded to concerns wherever possible. In the interests of maintaining good relationships with neighbours, the applicant had pledged to enter into early dialogue with the local residents group, and remained committed to ensuring a high quality scheme which reflected the local character of the area, whilst integrating with its surroundings in a harmonious manner.

The Principal Planning Officer responded to the comments made and confirmed that the land ownership issue did not prevent Members from reaching a decision on the outline application. If part of the site was in the ownership of another person then the boundary could be amended and the site plan revised.

D Stewart, Highways Officer stated that the adoption of the existing highways at Startforth Park, as requested by residents, was not pertinent to the planning application being determined but that Durham County Council Highways would consider any approach from the Ministry of Justice for the Council to adopt these roads. He advised that the Ministry of Justice had agreed to Durham County Council Public Transport's request for £55,500 for bus service improvements.

In response to a question from the Chairman the Agent assured Members that residents would be fully consulted as early as possible, and during the reserved matters stage.

In deliberating the application Members acknowledged that land ownership was not a consideration for the Planning Committee in their determination of the outline planning application, but that it should not impact on the delivery of the scheme. The proposals were deemed to be acceptable in highway terms and the concerns of the residents had been addressed in the report.

**Resolved:**

That the application be approved subject to the conditions outlined in the report and to the completion of a Section 106 Legal Agreement to secure the provision of 25% affordable housing; the payment of commuted sums of £55,500 towards local public transport service improvements; and £4,000 towards maintenance costs of the open space on site.

**5b 3/2012/0134 - Former Fire Station, Watling Road, Bishop Auckland**

The Committee considered a report of the Principal Planning Officer regarding an application for the erection of a health centre with pharmacy and associated parking and landscaping (for copy see file of Minutes).

A Inch, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

In presenting the report the Officer advised that concerns expressed by a local resident about landscaping had now been satisfactorily addressed by the developers.

D Stewart, Highways Officer stated that site visibility at the junction with Watling Road was acceptable and proposed conditions would ensure highway safety on the surrounding network. In response to a question from Councillor Buckham he advised that, in determining the level of parking for the health centre, priority was given to the number of disabled spaces in the public parking areas. Disabled parking provision in the staff area was an issue for the applicant to determine.

Councillor Richardson referred to the yellow box junction at the access to the Police and Ambulance Services and the Highways Officer confirmed that this would not be removed as part of the proposed highway works. This was welcomed by Councillor Mowbray who noted that the access was also used by visitors to the Chiropody Centre.

J Baird, the agent informed the Committee that highway consultants had been employed to assess the most appropriate location for the site entrance which had been located at the furthest point possible from the access used by the Police and Ambulance Service. The highway works proposed by condition were acceptable to

the applicant and would be carried out prior to the development being brought into use.

In determining the application Members welcomed the proposals which would enhance local facilities for local residents and would bring back into use a site that had stood derelict for 2 years.

**Resolved:**

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

**5c 7/2012/0397 - Land East of Bradbury Services, Bradbury**

The Committee considered a report of the Principal Planning Officer regarding an application for a veterinary hospital and associated works including access and landscaping (for copy see file of Minutes).

A Inch, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

In presenting the report the Officer referred to a proposed amendment to condition 3 regarding details of the walling and roofing materials.

**Resolved:**

That the application be approved subject to the conditions outlined in the report and to condition 3 being amended to read as follows:-

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

**5d 3/2013/0074 - Units 5 and 8 Teescraft Engineering, Longfield Road, South Church Enterprise Park, Bishop Auckland**

The Committee considered a report of the Principal Planning Officer regarding an application for two single storey extensions to the northern elevation (for copy see file of Minutes).

**Resolved:**

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

At this point Councillor H Nicholson left the meeting.

**5e 6/2010/0188/DM - Land West of Victoria Cottages, Butterknowle, Bishop Auckland**

The Committee considered a report of the Principal Planning Officer regarding an outline application with some matters reserved for the erection of 12no. dwellings (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had viewed the location during the site visits that day.

In presenting the report the Officer referred to a proposed amendment to condition 4 requiring the scheme to contain no less than 2 bungalows which were to be constructed prior to the occupation of the 4<sup>th</sup> dwelling on the site. Following a request from the applicant for more flexibility it was considered reasonable to require the construction of the bungalows prior to the occupation of the 8<sup>th</sup> dwelling.

J Lavender, the applicant's agent informed Members of developments which had resulted in the removal of the affordable housing element from the scheme. Following unsuccessful negotiations with Registered Social Landlords and Housing Associations, discussions with Planning Officers had resulted in a viability assessment being carried out. This assessment had established that the scheme would not be viable with the inclusion of affordable housing.

Notwithstanding these developments J Lavender considered that the scheme was in accordance with NPPF Policy, and was subject to material planning considerations, one of which was a contribution towards the provision of open space in the area. A draft S106 Agreement had been presented to the Local Planning Authority.

Councillor Clare referred to the original report considered in November 2010 which stated that any decision on the scheme was 'finely balanced' and that the provision of the affordable housing units was in response to a recognised need. It was therefore clear at the time that key to the approval of this application was the provision of affordable housing.

At the time Officers had looked at whether the community could sustain additional houses. Councillor Clare advised that there were currently 15 houses for sale in Butterknowle which demonstrated that the village could not support 12 new properties but needed affordable homes.

He therefore asked if, through no fault of the applicant, the absence of affordable housing would prejudice development of the whole site.

By way of clarification C Cuskin, Legal Officer stated that the key issue for Members was whether the development should be approved without a S106 Agreement to secure 4 affordable dwellings. The decision taken by Members in



2010 to approve the application remained, as the scheme was physically unchanged.

The Principal Planning Officer responded to comments and questions from Members. He confirmed that the need for affordable housing remained but the assessment undertaken by the Local Planning Authority had concluded that it was not viable on this site. The proposals had been assessed under the revised policy framework of the NPPF which recognised the need for flexibility to take account of changing market conditions. The greenfield/brownfield consideration given to the application in 2010 was much less important now, with sustainability being the key criteria of the NPPF.

In view of the responses provided by the Legal Officer and Principal Planning Officer, and as there was no economic viability for the development of affordable housing on the site, Councillor Clare supported the proposals.

In expressing his support to the application Councillor Buckham appreciated how difficult it was to bring schemes forward in the current economic climate and agreed with the proposed amendment to condition 4.

Councillor Mowbray concurred with the comments made by Members and Officers noting that no Registered Social Landlords or Housing Associations had come forward, and that policies in the NPPF were now relevant to the consideration of the scheme. He also welcomed the S106 contribution to open space provision and maintenance in the area.

Councillor Richardson stated that he could not support the proposals without the inclusion of affordable housing.

Following a question from Councillor Zair Members were advised that the S106 contribution had been calculated using criteria set out in the Local Plan. The Parish Council would decide how the contribution was allocated.

Councillor Davidson expressed disappointment that the scheme could only go ahead if the affordable housing element was removed, however following the comments made by Officers and the agent, and the extensive work carried out as part of viability assessments, he was satisfied that it would not be viable on this site.

Following much discussion it was **Resolved:**

That the application be approved subject to

(i) the conditions outlined in the report with condition 4 being amended to read as follows:

‘4. The Scheme hereby approved shall contain no less than 2 bungalows which shall be constructed prior to the occupation of the 8<sup>th</sup> dwelling on the site.’

- (ii) the completion of a new Section 106 Agreement for a contribution of £12,000 towards the provision and maintenance of recreational open space in the local area.

Councillor H Nicholson returned to the meeting.

#### **5f 3/2013/0060 - Land at East End, Stanhope**

The Committee considered a report of the Principal Planning Officer regarding an application for 23no. affordable dwellings including landscaping and access (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

The Chairman welcomed the proposals which would provide housing in an area that was in need of affordable homes.

This was reiterated by Councillors Clare and Mowbray who stated that there was an identified need for this development which would help young people to continue to live in the Dale.

Councillor Richardson expressed concern that this was a fast stretch of road and asked if the 30mph speed limit sign could be re-located to include the development. The Highways Officer responded that reference would be made to the Council's Speed Management Strategy which would take into account 'nature of place', but it would not be appropriate to include a planning condition to extend the speed limit as this was dealt with by separate legislation.

With regard to concerns expressed regarding the safety of the site access the Highways Officer advised that the access was deemed to be in a safe location with visibility in excess of guidelines.

#### **Resolved:**

That the application be approved subject to the conditions outlined in the report and to the completion of a Section 106 Legal Agreement to ensure the dwellings remain affordable in perpetuity, and to secure the cessation of use of the generator and installation of a mains electricity supply at the adjacent garage site.

## **6 Appeal Updates**

The Committee considered a report of the Principal Planning Officer which gave an update regarding the following appeals which were upheld:-

**Appeal Ref: APP/X1355/C/12/2187968-9**  
**LPA Ref: ENF/7/2011/017**

Appeal against the issue of an Enforcement Notice relating to the unauthorised change of use of land at 1 Glebe Houses, Ferryhill.

**Appeal Ref: APP/X1355/C/12/2185950**  
**LAP Ref: ENF6/2007/082**

Appeal against the issue of an Enforcement Notice relating to the unauthorised erection of a bungalow and garage/storage building, Newmoor Yard Cottage, Evenwood Gate.

**Resolved:**

That the appeal decisions be noted.

The Chairman agreed that in order to keep Members informed the following item of business could be considered.

**7 Introduction of New Permitted Development Rights**

Consideration was given to the briefing note of the Planning Development Manager which informed Members of recent changes to Permitted Development Rights as enacted by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (for copy see file of Minutes).

**Resolved:**

That the information given be noted.

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	7/2013/0026/DM
<b>FULL APPLICATION DESCRIPTION:</b>	46 dwellings, new access and associated works
<b>NAME OF APPLICANT:</b>	Keepmoat Homes
<b>ADDRESS:</b>	Land north of South View, Middlestone Moor, Spennymoor, County Durham
<b>ELECTORAL DIVISION:</b>	Spennymoor
<b>CASE OFFICER:</b>	David Walker, Senior Planning Officer 03000 261054, <a href="mailto:David.Walker2@durham.gov.uk">David.Walker2@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site measures 1.43 ha and is located to the north of South View, Middlestone Moor. The site, which is irregularly shaped, is currently undeveloped and given over to grass. To the east, south and west, the site is bound by existing residential development whilst the northern boundary fronts onto an existing allotment garden area. The site forms part of the open space around the former Middlestone Moor County Junior Mixed School which was closed several years ago. The site is centrally located in the Middlestone Moor area of Spennymoor.

### The Proposals

2. Planning permission is sought for 46 dwellings (reduced from 48 during the course of the application). The proposed housing would predominantly be 2 storey in height, with 8 of 2.5 storeys in height. The proposed layout contains 10 different house types providing 2, 3, and 4 bedroom properties in a mix of detached dwellings, semi-detached housing and a number of short terraces. Of the 46 dwellings proposed, 7 would be provided as affordable housing.
3. The proposed development would be served by a new vehicular access from South View and includes a pedestrian link to the site with the existing footpath that abuts the eastern boundary of the site. An area of open space would be provided centrally within the site and would extend to some 1100sqm, and a second area of open space would be provided along the sites eastern boundary and would extend to some 1485sqm.

4. The dwellings would be constructed of facing brickwork in red or buff and with a mix of grey and red roof tiles
5. The application has been referred to committee in accordance with the Council's scheme of delegation which requires that all major applications for ten or more dwellings be presented before the Planning Committee.

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## **PLANNING HISTORY**

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6. The application site has not been the subject of any planning applications. However, part of the former school site adjacent to the application site has been the subject of a number of applications. The most relevant include an outline application (7/2003/0275) for eight dwellings, a detailed application (7/2004/0096) for eight dwellings, and a further detailed application (7/2006/0733) to erect five dwellings (increasing unit numbers from 8 to 10).

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The National Planning Policy Framework (NPPF) is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. Three main dimensions to sustainable development are described; economic, social and environmental factors. The presumption is detailed as being a golden thread running through both the plan-making and decision-taking process.
8. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
9. Paragraph 7 of the NPPF sets out the three dimensions to sustainable development: economic, social and environmental. The economic role is to contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.
10. Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. Paragraph 17 contains the 12 core land-use principles that planning should underpin decision-taking. These include:
  - be genuinely plan-led, empowering local people to shape their surroundings;
  - proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
  - always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
  - take account of the different roles and character of different areas, promoting the vitality of our main urban areas;
  - encouraging the effective use of land by reusing land that has been previously developed, provided it is not of high environmental value;

- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and,
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

11. Paragraphs 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 47 recognises the desire to boost the supply of housing and Paragraph 50 seeks to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. This recognises the need to identify the size, type, tenure and range of housing required in a particular location, reflecting local demand and including provision for affordable housing where required.

12. Paragraphs 69 and 73 recognise that the planning system can play an important role in creating healthy inclusive communities and that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well being of communities. This states that planning policies should be based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sports and recreational provision are required.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>*

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

13. The following policies of the Sedgefield Borough Local Plan are considered consistent with the NPPF and therefore relevant in the determination of this application:

14. *Policy E15 (Safeguarding of Woodlands, Trees and Hedgerows)* expects development proposals to retain important groups of trees and hedgerows wherever possible and replace any trees which are lost.

15. *Policy L1 (Provision of sufficient open space to meet the needs of for sports facilities, outdoor sports, play space and amenity space)* this Policy uses the National Playing Fields Association standard of 2.4 ha per 1,000 population of outdoor sports and play space in order to bench mark provision.

16. *Policy L2 (Open Space in New Housing Development)* sets out minimum standards for informal play space and amenity space within new housing developments of ten or more dwellings.

17. *Policy L5 (Protection for areas of Open space)* states that planning permission which would result in the loss of an area of open space will not normally be allowed other than in a small number of scenarios including where the development itself relates to the provision of new recreational facilities related to the open space, that this relates to the development of a small part of the site which would allow the remainder to be enhanced or when an alternative area of open space of similar or improved quality and accessibility will be provided.
18. *Policy H17 (Housing on backland and infill sites)* requires housing development to be served by a satisfactory means of access and adequate car parking provision, to provide satisfactory amenity and privacy for both new and existing dwellings and to be in keeping with the scale and form of adjacent dwellings and the local setting of the site.
19. *Policy H19 (Provision of a Range of House Types and Sizes including Affordable Housing)* seeks to ensure that affordable housing is provided within developments of 15 dwellings or more.
20. *Policy H20 (Provision of special needs housing)* seeks to encourage the provision of housing for the elderly or disabled.
21. *Policy D1 (General principles for the layout and design of new developments)* requires the layout and design of all new developments to take account of the site's relationship to the adjacent land uses and activities.
22. *Policy D3 (Design for access)* seeks to ensure new development makes satisfactory provision for all road users and pedestrians.
23. *Policy D5 (Layout of new housing development)* sets criteria for the layout of new housing developments.
24. *SPG Note 3 (The layout of new housing)* sets amenity/privacy standards for new residential development.

*The above represents a summary of those policies considered most relevant. The full text, criteria, and justifications of each may be accessed at <http://www2.sedgefield.gov.uk/planning/SBCindex.htm>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

25. *Spennymoor Town Council* objects because the scheme would result in the loss of amenity and informal play space.
26. *The Highway Authority* is satisfied that the proposed vehicular access from South View is satisfactory and the proposed level of onsite car parking provision is acceptable. As such, no objection is raised subject to the applicant making a number of small changes to the internal layout of the proposed development. These minor modifications have subsequently been implemented within the revised layout.
27. *Sport England* objects because there is an existing deficiency in the provision of playing fields in the area which would be exacerbated by the proposed development. Although proposals have been put forward to improve provision in the area in the future Sport England would not support the redevelopment of this site unless it can be demonstrated that there is a surplus of provision both now and in the future.



28. *The Environment Agency* has no objection but has provided advice in relation to surface water run-off and that the sewerage undertaker be consulted to ensure there is sufficient capacity to accommodate additional flows without causing pollution.
29. *Northumbrian Water Limited* has no objection provided the scheme is carried out in accordance with details and restrictions set out in the submitted flood risk assessment, including that foul water cannot be accepted due to the Tudhoe Mill Sewerage Treatment Works serving the site being at full capacity. It is expected that upgrades to the sewerage treatment works will be completed by June 2015.
30. *The Coal Authority* has raised no objection being satisfied with the findings of the site investigation report which stated that the shallow mine workings present in the area do not pose a risk.

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

31. *Sport and Leisure Section* have highlighted the impending availability for public use of the Tudhoe Grange Upper School site for the provision of play pitches, secured through a Community Use Agreement. The pitches will be configured to assist us in mitigating a shortfall in junior pitch supply identified in the playing pitch strategy supply and demand calculations.
32. *Spatial Policy Section* advise that the site is wholly contained within the settlement of Spennymoor, which is recognised as a main town with a good range of employment, shopping and leisure opportunities, and is well served by public transport. On this basis, the development would have good access to facilities and would be a sustainable form of development. Alternative playing pitch provision which is forthcoming could provide the justification to permit development against the principles of Local Plan Policy L5.
33. *Landscape Section* has raised no objection to the proposal in principle; however, concern has been expressed that the proposed layout and access arrangements would result in the loss of several trees which are of high amenity value and that the proposed layout would result in a fragmented distribution of open space. Although the applicant has been unable to revise the layout in order to safeguard the existing hedge and trees fronting South View, the layout has subsequently been amended in order to consolidate the open space within the site.
34. *Design and Historic Environment Section* considers the proposed layout to provide adequate private and shared amenity space with good levels of permeability and surveillance across the site. It was acknowledged that the proposed dwellings are standard house types but the scale and treatment proposed is considered appropriate for the area.
35. *Arboriculture Officer* has no objection.
36. *Ecology Section* has no objection subject to the imposition of a planning condition relating to the mitigation details outlined in the ecology reports and the arboricultural impact assessment.
37. *Environment Health and Consumer Protection Section* has no objection subject to the imposition of planning conditions relating to lighting details, a dust control plan detailing how residential amenity will be safeguarded during construction and a restriction to limit noisy activities and the use of noisy plant on site.
38. *Contaminated Land Section* has no objection.

## PUBLIC RESPONSES:

39. The application has been publicised by way of press and site notices, and individual neighbour notification letters. As a result, 19 letters and a 5 signature petition have been received objecting to the proposal. A summary of the key points raised are outlined below:

- The proposed development would result in a direct and unacceptable loss of this well used area of public open space which should be retained for sport and recreational use by future generations. The fact that this site was previously used for junior football has been cited and the objection from Sport England regarding the loss of the existing open space was noted.
- The retention of this site for recreational use is particularly important because this is one of the last remaining areas of open space available for informal recreation in Middlestone Moor. Rather than being sold for housing this should be retained and monies spent to further enhance the area. Although it was acknowledged that some small areas of open space are to be retained within the proposed housing development these do not compensate for the loss of open space within the current undeveloped site
- The additional housing proposed is not necessary given that 1600 houses were already planned around the Middlestone Moor and Spennymoor areas. It was also stated that many of those houses which have already been constructed remain unsold.
- The submitted Open Space Assessment uses incomplete information and does not take into account views of local football teams, the Football Association or Sport England.
- This parcel of land is one of the last remaining areas of undeveloped open space and it was felt that this proposal represented unacceptable town cramming.
- The proposal represents a high density low cost development that would be out of character with the existing housing in this area, particular concerns were raised in relation to the density of development.
- The existing road network at South View would be unable to cope with the additional traffic resulting from the proposed development and the proposed access was considered to be a potential hazard.
- That the proposal would lead to a loss of light and privacy for existing householders and because the ground level of the application site is higher than the surrounding land the proposed dwellings would 'tower' over adjacent housing.
- The proposed removal of some trees and hedgerows would result in reduced privacy and security for the existing housing.
- The affordable housing proposed was not required and one respondent raised concern that the affordable housing proposed was clustered in one small corner of the site.
- The proposed building works would inevitably lead to construction noise, dust and disturbance. Several respondents expressed concern that given the uncertainty in housing market this site could take several years to complete.

- Concern was also raised that this proposal could lead to off site flooding.
- The proposed sale and development of the site has been pre-planned covertly with the removal of the goal posts previously located on site, the erection of security fencing which at one point prevented public access, the commencement of exploratory ground works and limited public consultation once the planning application had been submitted. Concern was raised that Durham County Council, as landowner, has a vested interest in the development of the site for housing because Keepmoat and the County Council are partners in the Durham Villages Regeneration Company.
- Loss of view and devaluation of property was cited by a number of respondents and two respondents stated that they would seek financial compensation from the Council were this scheme to be approved.
- Concern was raised that at the time when the former school situated on this site was relocated a covenant was signed stating that this site would be protected as a recreational area for the benefit of the public.
- One respondent expressed concern that the proposal would contravene Articles 1 and 8 of the Human Rights Act.

40. Six further written representations were also received following a reconsultation on receipt of amended plans and a summary of those points raised are outlined below:

- Several respondents raised queries in relation to the site boundaries adjacent to Nos. 60 and 64 Durham Street. It was stated that the residents of the houses constructed on the site of the former school building had previously extended their gardens into the former playing field site. Although a new fence line was subsequently erected in the correct location this has resulted in a separate parcel of land being enclosed but outwith the boundary of the existing housing and the proposed application site. Several respondents sought clarification as to the future status of the land with one respondent seeking clarification as to how to purchase part of this area.
- The existing sewer serving Nos. 59-63 South View bisects the application site and appropriate measures would need to be taken to safeguard this sewer during on site construction.
- Two resident sought clarification as to which hedgerows along the site boundary were to be retained.
- Two residents requested that the application site be re-instated to its original state following the completion of site investigation works and it was requested that goal posts be re-installed on site so that the area can once again be utilised for informal recreation.
- The retention of the open space which forms part of the sewer easement along the eastern boundary of the site was welcomed.

## APPLICANTS STATEMENT:

41. The applicant specialises in providing desirable homes predominantly for first and second time buyers.
42. The proposed layout has been specially designed to respect the character and appearance of the existing housing in the area with the scheme presents a strong frontage onto South View. The scheme has also been designed so that the housing on each side of the estate entrance forms a gateway feature. A number of dual fronted properties have also been proposed within the layout in order to present an active street scene and provide a good degree of natural surveillance.
43. The proposal involves a mix of 2, 3 and 4 bedroom properties and 7 of the dwellings would be utilised to provide affordable housing within this scheme.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file.*

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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44. 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 key issues are the principle of the development, the loss of the existing open space, design and layout, residential amenity, highway safety, affordable housing, ecology, drainage and flood risk and arboricultural implications.

### Principle of development

45. The National Planning Policy Framework (NPPF) sets out the Governments overarching objectives for the planning system, promoting sustainable development as a key objective. It is noted that the NPPF does not change the statutory status of the development plan as the starting point for decision making, constituting guidance for Local Planning Authorities and decision-makers both in drawing up plans and as a material consideration in determining applications. In this case, the development plan does not contain saved policies in relation to the location of new housing, and at that time, the policies contained in the emerging County Durham Plan are considered to carry very little weight as the plan has not been subject to examination in public. As such, the key principles for determining the acceptability, or otherwise, of the proposals in principle, are those policies set out in the NPPF. In particular, paragraph 49 which sets out that planning applications for housing should be considered in the context of the presumption in favour of sustainable development.
46. The application site is located within the built up area of Middlestone Moor as part of the Spennymoor settlement, and is largely surrounded by residential development. In sustainability terms, the site is well served by public transport, with bus stops located within 200m of the site on South View serviced by two bus routes. A further bus service is provided 300m to the north on Clyde Terrace. These bus services enable good access into Spennymoor and further afield, providing access to employment and services. In closer proximity to the site and within a short walking distance of around 250m are a number of services including public houses and convenience store. As such, the site is considered to be a sustainable location, and its redevelopment for housing would accord fully with the aims of the NPPF in terms of the presumption in favour of sustainable development, representing infill residential development in a residential area without causing an incursion into the countryside. The proposed development is therefore considered acceptable in principle.

## Loss of open space

47. The application site is identified as a playing field in the Local Plan, and formed part of the open space associated with the former Middlestone Moor County Junior Mixed School which closed several years ago. Since then the site has been used at the Council's discretion for informal recreation and as a playing field, however, the latter use ceased in 2010, as the pitch was considered to be of a poor quality, suffering in particular, from poor drainage. Policy L5 states that planning permission which would result in the loss of an area of open space will not normally be allowed other than where the development itself relates to the provision of new recreational facilities on site or when an alternative area of open space of similar or improved quality and accessibility will be provided. Whilst the redevelopment of the site for housing would clearly result in the loss of the open space, and would depart from the aims of the development plan in this respect, a significant amount of work has been undertaken recently, in terms of a Playing Pitch Strategy (PPS) and a subsequent Playing Pitch Action Plan for Spennymoor (PPAP).
48. The PPS has identified the existing supply and demand of playing pitches across the County and the PPAP seeks to assess future development proposals and evaluate their actual or potential implications for the provision of playing pitches and where appropriate identify compensatory measures. This assessment takes into account both an assessment of existing supply and demand of playing pitch provision and also takes into account additional forecasted demand taking into account projected housing growth.
49. In the Spennymoor area there is an apparent oversupply of senior and mini football pitches but there is a deficiency in provision of junior pitches. The PPAP acknowledges that the former football pitch on the application site is not marked out and has not been used for a number of years because of issues relating to the site's poor drainage and lack of changing facilities. It has, therefore, been suggested that the site be considered for disposal subject to securing alternative provision.
50. It has been identified that significant potential exists to provide improved playing pitch quality and accessibility by developing Whitworth School as a hub site based around securing community use agreements to facilitate access for the public. Whilst this is likely to occur in the future, there is no certainty or timescales for this to happen at this time. However, the playing pitches associated with the recently closed Tudhoe Grange Upper School site have the capacity to address the need for multi pitch provision and in particular to address the current deficiency of junior pitches in the area as the site could accommodate the equivalent of five senior pitches. The playing pitches are the subject of a Community Use Agreement, which comes into affect at the end of July 2013, when the playing pitches at the site will become available for community use for the first time, having been only previously available for use in association with the school. The site lends itself to multi-pitch provision, and will, it is considered, address the loss of the playing field at Middlestone Moor.
51. In addition, the pitches at Tudhoe Grange Upper School are of a better quality than the pitch at Middlestone Moor. Therefore, there will be new and better quality publicly available pitches in Spennymoor. To this end, whilst not directly related to the redevelopment of the site subject of the application, there would be alternative provision provided in the area, and this would meet with aims of paragraph 74 of the NPPF which states that playing fields should not be built upon unless an assessment has been undertaken which has clearly shown it to be surplus to requirements or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Both circumstances are considered to apply in this case.

52. Sport England has however, formally objected to the proposed development of the former school playing pitches because this development would result in the loss of this former playing pitch and because it has been identified that this area already demonstrates an under supply of junior football pitches and this position would be further exacerbated by the loss of the former football pitch on this site. Whilst they recognising that Tudhoe Grange Upper School would address the demand issue, their objection remains as there would not be a surplus or oversupply of the required range of pitches. Accordingly, if the Local Planning Authority were minded to approve this application against contrary to the objection from Sport England this proposal would need to be referred to the National Planning Casework Unit for their consideration.
53. In addition to the site's value as a formal football pitch the application site has in recent years also been available to the public, at the Council's discretion as landowner, for informal recreational use. The area is utilised for both dog walking and informal play and several residents have expressed concern that this area is one of the last remaining areas of open space which remains available and accessible to local people. Whilst the objections to the loss of the site for informal use are understandable, it must be borne in mind that the use of the site for public access could be terminated at any time by the landowner. The proposed housing scheme does include for the provision of two areas of open space in line with Local Plan Policies L1 and L2 to serve the new residential properties, and given the permeability of the site, it would also be available for existing residents.
54. Whilst noting the objection from Sport England, it is considered that the loss of the poor quality pitch and the forthcoming availability of a larger quantity and better quality pitches in Spennymoor outweighs any conflict with Policy L5 of the Local Plan, whilst two areas of open space for wider public use would be retained within the proposed housing scheme, in accordance with Local Plan Policies L1 and L2.

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

55. The NPPF and Local Plan Policies H17, D1 and D5 seek to promote good design in new developments, ensuring a comprehensive and coordinated approach to new development which takes into account adjacent land uses. The development of this undeveloped site will inevitably alter the character and appearance of the area. The construction of the new access to serve the development will, for instance, result in the removal of several trees and the existing hedgerow in this location. However, it should be noted within the constraints of the site the proposed scheme has been sensitively designed in order to respect the scale of the existing housing and in order to safeguard satisfactory levels of privacy and amenity for both new and existing residents.
56. The existing housing in this area is made up of a number of different ages and styles. The older housing can be characterised by the densely developed two storey terraced housing to the north of the site at Wood Street, Watson Street and Gibbon Street. The housing to the east of the site at High Croft is made up of two storey semi-detached housing. The older properties at South View consist of a mix of two storey semi-detached houses and bungalows whilst the more recently constructed houses primarily consist of two storey detached properties. The proposed housing would predominantly be 2 storey in height, however, 8 of the proposed houses would be 2.5 storeys in height. The height of these properties would not be dissimilar to that of those houses constructed on the site of the former school building.

57. Objectors have raised concerns that the scheme is high density, however, at 32 dwellings per hectare (dph), it is considered to not be unduly dense, noting density targets set out at Policy 35 of the emerging County Durham Plan which states that a density of around 30dph is appropriate in more peripheral locations within settlements.
58. Because of the infill nature of the site, the most prominent part of the scheme is that part which fronts onto South View. Although the formation of the new access will result in the removal of several of the existing trees and the hedgerow along this section of South View, the five houses in this area have been sensitively designed to provide a strong outward facing frontage onto South View. The housing on either side of the access road has also been designed to be dual fronted so as to provide a strong gateway feature leading into the site. The garaging in this area serving Plot Nos. 1 and 2 has also been located to provide a graduated increase in height between the existing bungalows to the west and the 2 storey housing proposed.
59. The layout of the site has also been heavily influenced by on site factors including the 9.5m wide easement which runs along the eastern boundary of the site. The existing hedgerow along the eastern boundary of the site is to be retained except where a pedestrian link from the proposed development will link through to the existing footpath network which runs along the eastern boundary of the site. The area of open space provides an important clearance area between the new development and the existing housing to the east at Highcroft.
60. As such, it is considered that the proposal complies with design principles set out in the NPPF and Local Plan Policies H17, D1 and D5.

#### Impact on residential amenity

61. The layout of the housing has been designed in such a manner that a separation distance of 21 m is retained between the habitable rooms of the proposed houses on the eastern edge of the site and the existing housing at Highcroft. The properties along the southern boundary of the site are approximately 30m from the existing housing to the south whilst the housing to the north fronts onto the existing allotment garden area. The existing properties at South View and those located on the footprint of the former school will inevitably experience some impact on their amenity from the development of the site in terms of outlook. However, plots 6-14 have been laid out so that the main aspect of these houses is an east-west orientation to avoid habitable room windows facing one another, and with appropriate separation distances, and as such, the amenity of existing residents will not be significantly adversely affected.
62. The housing on plots 15-18 at the north eastern corner of the site are abuts two of the existing houses on the site of the former school building. Some reduction in privacy would result between the front of the existing buildings and the rear elevation of the proposed housing, however, the private garden areas of these properties would not be overlooked.
63. The inter relationship between 60 South View and the gable end of plot 6 is in part, because of the staggered arrangement of the rear elevation, approximately 1m below the 14m separation distance cited in SPG3. However, SPG3 acknowledges that it is appropriate to accept reduced separation distances in developments consisting of starter homes such as this, and in addition, the roof of plot 6 would be hipped in order to minimise the impact of the development, and bearing in mind the orientation between the properties concerned, with the new dwellings located to the north, the proposed separation distance is considered acceptable in this case.

64. Concern has been expressed that the proposed construction works associated with the development of the site would give rise to noise, dust and pollution. Whilst it is acknowledged that construction works would inevitably give rise to some increase in noise and disturbance, the working hours on site can be controlled via the imposition of suitably worded planning condition, together with informatives to the developer in relation to working practices in order to minimise disturbance to existing residents.

#### Highway safety

65. This proposal includes the formation of a new vehicular access from South View. Notwithstanding the concerns of local residents, the Highway Authority have reviewed the submitted details and have not raised any objections to the proposed access or the impact of the development on the wider highway network. In terms of car parking spaces, there would be 76 spaces including garages, driveways and visitor bays for the 46 dwellings (1.63 spaces per unit). The Highway Authority considers this level of provision to be more than adequate for the scale of the development.
66. Similarly, the internal road layout is also compatible with the Council's adoption standards. The proposed development would not compromise highway safety and would be in accordance with Local Plan Policies H17 and D3.

#### Affordable Housing

67. The provision of affordable housing where a need has been identified is encouraged through the NPPF, Local Plan Policy H19 and the County Durham Strategic Housing Market Assessment (SHMA). For developments of this size and in this area, 15% affordable housing would normally be required to be provided.
68. This proposal would incorporate the provision of 7 affordable houses consisting of two pairs of 2 bedroom semi-detached houses and a small row of three 3 bedroom properties. Although noting the comments from residents that the affordable housing is clustered in the north eastern corner of the site, they are interspersed with market housing.
69. Therefore, subject to the completion of a section 106 agreement to secure the affordable housing provision, the proposal would be in accordance with the aims of the NPPF and Local Plan Policy H19.

#### Ecology

70. An Ecology Report was submitted with the application, providing an ecological assessment of the site. The Ecology Report found that there were no protected species at the site and there were no sites of conservation interest in close proximity of the site that would be affected by the proposed development. The Ecology Section has considered the findings of the report and considers that there would be no adverse affect on protected species or biodiversity generally, however, they do recommend that a condition is imposed in relation to ensuring that the development is carried out in accordance with the mitigation methodology described in the Ecology Report, which primarily seeks to ensure that tree, scrub and hedgerow clearance works should be undertaken outside of the bird nesting season of mid-March to August inclusive. It is therefore considered that the proposed development would not impact on protected species or their habitats in accordance with aims of Paragraph 118 of the NPPF.



## Arboricultural implications

71. An Arboricultural Impact Assessment has been carried out and identifies existing trees and hedges within the site, how the development affects these features and how to manage the development to safeguard those trees to be retained. The assessment has identified that the development of the site would require the removal of several trees located within the site, these are primarily located along the southern boundary of the site fronting onto South View. Whilst this is regrettable this is the only access point into this infill site. The built development at this part of the site has, however, been sensitively developed so that this is outward facing and provides an attractive street scene. Where possible trees and hedges have been retained within the proposed layout including the hedgerows along the eastern and northern boundaries of the site.

## Drainage and Flood Risk

72. The development of the site for residential development will result in increased levels of sewerage being created. Northumbrian Water do not object to this proposal but have advised that the existing sewerage treatment works at Tudheo Mill which serves the site is currently at full capacity and it is estimated that the necessary upgrade of the system will not be complete until June 2015.

73. This matter has been raised with the developer who has expressed their intention to collect the sewerage on site and then remove this by tanker until the necessary infrastructure improvements have been completed. Such a mechanism has been used in similar circumstances at Bowburn for a larger scheme and where such a method operated without complaint. Given the timescale for the additional capacity to become available and likely first occupation of the site by future residents, it is considered that the extent of such an interim solution is likely to be very short-term. A condition requiring the submission of details of the position and capacity of the on-site tank, together with details of the arrangements for the collection of the waste from the site would be appropriate in the circumstances.

74. Concerns regarding flooding were expressed by one respondent, however, the submitted Flood Risk Assessment has been reviewed and found to be acceptable by the Environment Agency and Northumbrian Water, who consider that the site is neither at risk of flooding nor would it result in an increased likelihood of flooding elsewhere as a result of surface water run-off.

## Other matters

75. Several residents have expressed concern that Durham County Council have a vested interest in the development of the site as landowner and because the application has been submitted by Durham Villages Regeneration (DVR) Company which is partnership between Durham County Council and Keepmoat Homes. Whilst, it is correct to acknowledge that Durham County Council is both the land owner and is in partnership with Keepmoat these matters are not material planning considerations, and it is not uncommon for the Local Planning Authority to determine applications that are either submitted by the County Council on its own land or applications made in partnership with the County Council.

76. The Local Planning Authority do not control legal covenants and any legal restrictions which may apply restricting the use of the site for recreational use for the benefit of the public would need discharged independently of this planning application

77. Several respondents stated that they was no need to develop this site for more housing because of the significant number of houses which have been approved, many of which are under construction. Whilst it must be acknowledged that the Spennymoor area has been the subject of a significant number of residential development schemes in recent times, Spennymoor has been identified as a main town because of its good range of employment, shopping and leisure opportunities and its good public transport links. Taking into consideration that the majority of these residential sites are located at Spennymoor itself it is considered that the release of this site is unlikely to detrimentally effect the deliverability of those sites previously approved. In addition, it is note that a number of the schemes with planning permission are only in outline form, unlike the proposed scheme, which has a greater likelihood therefore, of coming forward in the short-term.

78. Loss of view and devaluation of property and are not material planning considerations.

79. Whilst this Council acknowledges the importance of the Human Rights Act it is considered that these would not justify the refusal of this planning application.

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## **CONCLUSION**

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80. The application site is considered to be in a wholly sustainable location, and when considered in the context of the presumption in favour of sustainable development, the site is considered acceptable in principle for residential development. Whilst the redevelopment of the site will result in the loss of a playing field, and to which Sport England have objected, it is of poor quality, and the forthcoming community use of the Tudhoe Grange Upper School will ensure that the deficit in junior football pitches is addressed both quantitatively and qualitatively. Similarly, whilst the site has some informal recreational value, such use currently takes place at the landowners discretion, whilst the proposed scheme includes two areas of public open space that would be made available for existing as well as prospective residents.

81. The scale and design of the development is considered to be comparable with the be characteristics of the existing housing within this area and the layout has been designed so that adequate separation distances would be achieved with neighbouring properties to avoid an unacceptable loss of amenity to those properties.

82. The proposed development is therefore considered to accord with relevant national and local plan policies, and subject to the imposition of appropriate planning conditions and the applicant entering into a Section 106 agreement to secure the provision of 7 units of affordable housing within this site, approval of the application is recommended subject to referral of the application to the National Planning Casework Unit in accordance with The Town and Country Planning (Consultation) (England) Direction 2009.

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## **RECOMMENDATION**

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That Members be **MINDED TO APPROVE** the application subject to referral of the application to the Secretary of State through the National Planning Casework Unit: and, in the event that the application is not called in for determination by the Secretary of State, that the application be **APPROVED** subject to the completion of a Section 106 Obligation to secure the provision of 7 affordable houses 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. Development hereby approved shall be carried out in strict accordance with the following approved plans:

QD652-LP-01 - Location Plan  
QD652-01-01 Rev. F - Planning Layout  
QD652-65-02 Rev. A - Proposed Section  
QD652-95-02 - Fence Type Details  
QD652-665-01 - House type 665  
QD652-763B-01 - House type 763  
QD652-828-01 - House type 828  
QD652-836-01 - House type 836  
QD652-858FE-01 - House type 858  
QD652-869-01 - House Type 869  
QD652-961-01 - House type 961  
QD652-999-01 - House type 999  
QD652-1011-01 - House type 1011  
QD652-1176-01 - House type 1176  
QD652 GD01 - Garage Plan  
QD652 GD02 Rev. A - Garage Plan  
c-925-01 Rev. A - Landscape proposal  
c-925-02 Rev. A - Landscape proposal

*Reason: For the avoidance of doubt and in the interests of proper planning.*

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

*Reason: In the interests of the appearance of the area and to comply with Policy D1 (General principles for the layout and design of new developments) of the Sedgfield Borough Local Plan.*

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

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

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

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

Replacements will be subject to the same conditions.

*Reason: In the interests of the visual amenity of the area and to comply with Policy H17 (Backland and infill housing development) of the Sedgefield Borough Local Plan.*

5. No development shall take place unless in accordance with the mitigation and recommendations detailed within section 5 of the ecology report prepared by Dendra, dated December 2012 and Section 4 of the Aboricultural Implications prepared by Dendra dated December 2012.

*Reason: To conserve protected species and their habitat in accordance with Part 11 of the NPPF.*

6. Notwithstanding any information submitted, development shall not commence until a scheme demonstrating how CO2 reduction and energy efficiency measures will be incorporated into the approved development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented and retained in accordance with the approved scheme thereafter.

*Reason: In order to minimise energy consumption and to comply with Paragraphs 95 and 97 of the NPPF.*

7. No development shall take place until details and plans of protective fencing for retained trees has been submitted, inspected and approved by the Local Planning Authority. The location and design of protective fencing details shall follow the guidelines set out in BS 5837:2012 Trees in relation to construction, design and demolition. Works shall be carried out in accordance with the approved details thereafter.

*Reason: In the interests of the visual amenity of the area and to comply with Policy E15 (Safeguarding of woodland, trees and hedgerows) of the Sedgefield Borough Local Plan.*

8. No development shall commence until a scheme which specifies the provisions to be made for the control of dust and particulate matter emanating from the site during the demolition and construction works has been submitted to and approved in writing by the Local planning authority. The scheme, as approved, shall be implemented before the development is brought into use. The contractor shall have regard to the relevant parts of BS 5228 2009 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

*Reason: In order to prevent an unacceptable risk of noise pollution for future residents and to comply with Paragraphs 109 and 120 of the NPPF.*

9. No development shall commence until details of an interim means of disposing of foul sewage from the site has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include detail of the location of on-site storage and its capacity, together with the frequency of waste removal and the route of associated vehicular movements to and from the site. The agreed scheme shall be operated until such time as the Tudhoe Mill Sewerage Treatment Works is able to accept foul drainage flows from the development, and the development has been connected to the Tudhoe Mill Sewerage Treatment Works.

*Reason: In order to ensure a satisfactory means of foul drainage is provided for the site as an interim measure pending the upgrade of the sewage treatment works and in accordance with Policy D1 of the Sedgefield Borough Local Plan.*

10. No construction work shall be undertaken before 0800 hours on weekdays and 0800 hours on Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays, not at any time on Sundays, Bank Holidays and Public Holidays.

*Reason: In order to prevent an unacceptable risk of noise pollution for existing residents and to comply with Paragraphs 109 and 120 of the NPPF.*

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## **REASONS FOR THE RECOMMENDATION**

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1. The proposed development would be located in a suitable and sustainable location and as such would accord with the NPPFs presumption in favour of sustainable development, and whilst the scheme would depart from the aims of Policy L5 of the Sedgefield Borough Local Plan 1996, by resulting in the loss of a playing field and an informal recreation area, these matters are considered to be addressed through the delivery elsewhere in Spennymoor of a greater quantity of better quality publicly accessible pitches than would be lost and through the provision of open space within the development at levels in accordance with Policies L1 and L2 of the Sedgefield Borough Local Plan 1996.
2. The amount, layout, scale and appearance of the development is considered to be acceptable in terms of its impact on the character of the area and in terms of ensuring that the amenity and privacy of both existing and prospective occupiers would be safeguarded. In addition, there would be no detriment to highway safety.
3. In arriving at this recommendation, the public consultation responses received have been considered, however, on balance, the issues raised are not considered sufficient to warrant refusal, and matters can be considered further through the submission of reserved matters and through the imposition of planning conditions.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority has worked with the applicant in a positive and proactive manner in, seeking improvements to the layout of the site.

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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans

Planning Statement

Design and Access Statement

Ecology Report

Flood Risk Assessment

Archaeological Assessment

Geoenvironmental Appraisal

Noise Assessment

Statement of Community Involvement

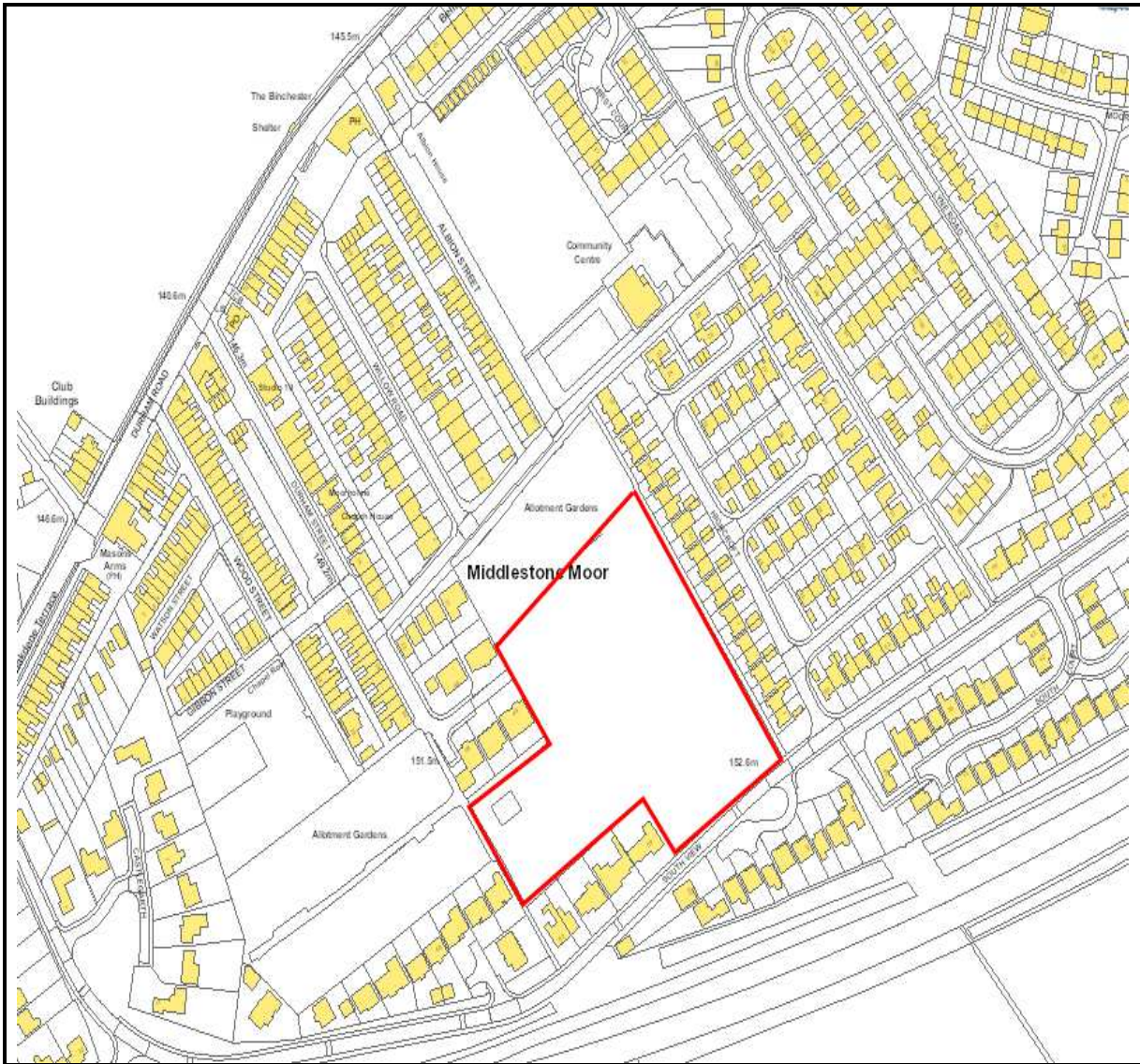
Tree Survey

National Planning Policy Framework (NPPF)

Sedgefield Borough Local Plan 1996

Consultation responses from Sport England, Highway Authority, Environment Agency, Northumbrian Water and Coal Authority, Spennymoor Town Council and local residents.

Internal responses from the Landscape, Design and Historic Environment, Arboricultural, Ecology, Land Contamination, Environmental Health and Consumer Protection Sections



**Planning Services**

46 dwellings, new access and associated works on Land north of South View, Middlestone Moor, Spennymoor (7/2013/0026/DM)

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19 July 2013

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	6/2013/0135/DM/VP
<b>FULL APPLICATION DESCRIPTION:</b>	Variation of condition 3 of 6/2005/0327/DM to allow external seating on east side of front courtyard
<b>NAME OF APPLICANT:</b>	Mrs Karen Birch
<b>ADDRESS:</b>	The Laurels, 16 High Green, Gainford, Darlington. County Durham, DL2 3DL
<b>ELECTORAL DIVISION:</b>	Barnard Castle East
<b>CASE OFFICER:</b>	Adrian Caines <a href="mailto:adrian.caines@durham.gov.uk">adrian.caines@durham.gov.uk</a> 03000263943

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## DESCRIPTION OF THE SITE AND PROPOSALS

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The site

1. The Laurels is a Grade II listed Georgian building located on the northern side of Gainford Village Green and within the conservation area. The buildings either side are also grade II listed.
2. The property is in use as a coffee shop on the lower floors. The coffee shop is accessed from the front where there is a cobbled patio either side of a path which leads from a short flight of steps to a central front door. The property is flanked to west by a dwelling no.15 High Green, which has a fence and trellis along the common boundary, and to the east by the Academy Theatre with flats above. To the south is the village green.

The proposal

3. The application seeks to vary condition 3 of permission 6/2005/0327/DM to allow external seating for the coffee shop, but restricted to the eastern side of the forecourt only and limited to the hours between 11.00-17.00 Monday to Saturday and 11.00 to 16.00 on Sundays. The space could accommodate about 5 small tables, which will remain outside to avoid the need to set up and take down.
4. Permission 6/2005/0327/DM relates to the original change of use of the property from a doctors surgery to a tea room. Condition 3 states:

*There shall not be any external seating outside of the property without the prior written consent of the Local Planning Authority.*

*Reason: In order to protect the residential amenities of the locality and the occupiers of adjoining residential properties.*

5. The application has been called to the Committee by Councillor Rowlandson because of the planning history and concerns about noise.

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## **PLANNING HISTORY**

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6. Since permission was first granted for the change of use to a tea room/café (6/2005/0327), there have been a number of unsuccessful attempts, including a failed appeal, to gain planning permission for removal and variation of conditions 3 and 2 for outside seating and extension of opening hours.
7. 6/2008/0121 was refused on 02.05.2008 for removal of condition 3 to allow outdoor seating and variation of condition 2 to extend opening hours to 23.00, as well as variation of condition 4 to allow functions.
8. 6/2008/0297 was refused on 26.08.2008 for variation of conditions 2 and 3 to allow outdoor seating and extend opening hours to 20.00.
9. 6/2008/0429 was refused on 14.01.2009, and then dismissed at appeal, for variation of conditions 2 and 3 to allow outdoor seating on the east side of the patio and extend opening hours to 20.00.
10. 6/2009/0319 was refused on 18.11.2009 for variation of condition 2 to extend opening hours to 19.30, 50 days per year.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

11. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). This supersedes all previous PPS and PPG documents. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
12. A key aim of the NPPF in chapter 1 is building a strong competitive economy. It says significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should act proactively to meet the development needs of business and support an economy fit for the 21st century. Another key aim in chapter 3 is supporting a prosperous rural economy. It says that local authorities should promote the retention and development of local services and community facilities that benefit businesses communities and visitors in rural areas. Chapter 12 emphasises the desirability of sustaining and enhancing the significance of heritage assets and the requirement for new development to make a positive contribution to local character and distinctiveness.



## **LOCAL PLAN POLICY:**

13. The following saved policies of the Teesdale District Local Plan are considered to be consistent with the NPPF and therefore relevant in the determination of this application:
14. *Policy GD1 (General Development Criteria)* Development will be permitted where among other things it is in keeping with the character of the area and would not unreasonably harm the amenity of occupants of adjoining sites.
15. *Policy BENV3 (Development Affecting Listed Buildings)* Development which would adversely affect the character or the setting of a Listed building will not be permitted.
16. *Policy BENV4 (Development within Conservation Areas)* Development within conservation areas will only be permitted provided that among other things the proposal respects the character of the area and does not generate excessive environmental problems which would be detrimental to the character and appearance of the conservation area.

*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.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

17. Gainford Parish Council – No objection, but would like to see the tables and chairs removed each night.
18. Highways Authority – Confirmed they did not wish to be consulted on this proposal and had no comments to make. They had no objection to the original proposal.

### **INTERNAL CONSULTEE RESPONSES:**

19. Design and Conservation – no objection
20. Environmental Health – Discussions with the Environmental Health Officer suggested there was no need to consult because the hours of use for the patio would be tighter than what they would be likely to recommend and the premises is not licensed for alcohol. Comments on previous applications were only in relation to internal sound attenuation, which is not relevant to this proposal.

### **PUBLIC RESPONSES:**

21. The application was publicised in the press, a site notice was posted outside the property and letters were sent to adjoining properties.
22. 4 objections have been received. In summary the concerns raised relate to the potential noise and odour impact on neighbouring properties and the area, loss of

privacy to neighbouring properties, the potential for the presence of tables and chairs to attract vandals, as well as added competition for parking spaces because of additional customers. Attention is also brought to the planning history for the site which includes refusal of similar proposals and a dismissed appeal.

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

23. In making this application the applicant hopes to improve the quality and feel of the service provided by the coffee shop so strengthening the amenity provided to the village and the sustainability of the business.
24. The majority of customers using the Laurels are walkers and older residents of the village supplemented by a smaller amount of passing trade. Given this profile it is certainly not anticipated that the use of a small number of outside tables on limited hours will in any way detract from the peaceful atmosphere of the village green, indeed it must surely be seen as an enhancement.
25. Historically the area of the village green has been the centre of the commercial life of the village sustaining a significant number of small businesses which along with institutions such as the school, pubs and theatre give the village the sense of community and vitality which allow it to sustain an individual identity rather than simply become a dormitory suburb to the larger nearby towns.
26. The Laurels recently endured a period of closure during which the owners reassessed the overall viability of the business. It reopened to general and wide support but viability continues to be an issue and the applicants humbly request the committee grant this application to provide support to their efforts to make a success of the business both for themselves and for the village and people of Gainford.

*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 Spennymoor Council Offices..*

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#### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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27. 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 impact on the residential amenity of neighbours and impact on the character, appearance and setting of the conservation area and listed buildings.

Principle of development.

28. The proposal seeks to remove condition 3 from permission 6/2005/0327, which prevents use of the patio for outdoor seating. The reason for applying condition 3 in the first place was *"In order to protect the residential amenities of the locality and the occupiers of adjoining residential properties"*. The proposal must therefore be considered in respect of the potential impact on the living conditions of neighbouring properties from potential noise and disturbance associated with use of the patio in conjunction with the coffee shop.

29. The planning history for the site details a number of attempts to remove the outdoor seating restriction from permission 6/2005/0327, all of which have been refused. The refusal of application 6/2008/0429, which included limiting the outdoor seating area to the eastern side of the patio is the most relevant to this new proposal. That refusal was taken to appeal, but the appeal was also unsuccessful. The planning history and appeal decision are material considerations to take into account.
30. Particular attention has therefore been paid to the Inspector's decision from the 2009 appeal in which he concluded that external seating on the eastern side of the patio to the front of the premises between 08.30 and 18.00 would have an unacceptable impact on neighbours.
31. This latest application is however materially different to the previously refused proposals. Unlike all the other applications, this one does not propose any extension of the permitted opening hours of 08.30 to 18.00 and the patio use is to be further restricted within these hours from 11.00-17.00 Monday to Saturday and 11.00 to 16.00 on Sundays, whereas the refused proposal was for use between the whole of the current permitted hours 08.30 to 18.00.
32. There has also been a material change in planning policy since the previous decisions with the national Planning Policy Framework (NPPF) coming into force. There is now much stronger emphasis in the NPPF to support the needs of local business, particularly where it would promote the retention and development of local services and facilities that benefit communities and visitors in rural areas. It says that significant weight should be placed on the need to support economic growth through the planning system. The protection of neighbour amenity must therefore be weighed against the aims of supporting economic growth and the viability of the business and service it offers to the community.
33. The patio presents itself visually as a suitable and obvious location for outdoor seating and its elevated position provides an attractive outlook over the village green. The patio also benefits from its southerly aspect. It is therefore understandable why the coffee shop would want some outdoor seating in this area and outdoor seating would no doubt add to the vitality of the premises and attractiveness to customers, which would benefit the business economically. The NPPF advises that this factor should carry significant weight in the balancing exercise.
34. In respect of balancing the economic benefits with protection of neighbour amenity, it is important to understand the nature of the current restriction. Condition 3 only prevents outdoor seating; it does not prevent use of the patio. It is therefore entirely possible for customers to still congregate around any part of the patio, including right on the boundary with no.15, so long as they are not making use of any seating. All customers entering and leaving the premises also walk along the path at the front so there is already activity in this area and potential for people to stop and talk, or even carry their drink outside.
35. In terms of privacy concerns raised by no.15, restricting the outdoor seating to the eastern half of the patio would certainly help reduce the impact on the adjacent dwelling no.15 by keeping the use away from that property's boundary and bay window. The existing boundary treatment, combined with the separation should ensure that there would not be any unacceptable loss of privacy to no.15 from the seating area and the situation would not be materially worse than the current one of people coming and going from the shop, or potentially being able to stand around any part of the patio. Concerns expressed about loss of privacy to

properties across the green at Low Green are completely unfounded given the distance from the end of the patio to the front of those properties is over 57m and there are already many windows in the properties along High Green which look across the green.

36. In respect of noise, properties adjacent and above will be sensitive to noisy activity from the premises. Some of those properties have habitable rooms to the front and single glazing. When the Inspector dismissed the appeal for outdoor seating in this same area in 2009 he specifically noted that it was the potential noise impact from commencement of the use at 08.30 and movement of tables and seating into the area at this time that would conflict with the quiet enjoyment which the occupiers of no.15 (adjacent) & 17c (above) might reasonably expect, particularly at weekends. This suggests it was the early morning activity which was of specific concern. This proposal only seeks to use the outdoor area from 11.00, thus avoiding early morning disturbance and to cease use at 17.00 Monday to Saturday and 16.00 on Sundays, avoiding early evening activity. Those hours are within typical business hours when the coffee shop would normally already be in busiest use. They are also possibly times when neighbours are most likely to be out, particularly in the week; although it is accepted neighbours wouldn't always be out and the occupiers of no.15 may want to use their garden at these times. It is also proposed to keep the tables and chairs outside to alleviate concerns about noise from setting up and taking down, although they might be taken away for storage during winter and brought back afterwards, which is an insignificant number of events in a year in respect of noise creating activity. The tables and chairs themselves should be wood or plastic, or have plastic feet to reduce noise from scraping on the ground and this could be secured in a condition.
37. Another important factor to take into consideration is that an outdoor seating area is most likely to be a seasonal use during the summer months and even then would be limited further by the weather generally (rain, cloud, temperature). Realistically, the actual number of days use in a year would probably be a relatively small proportion of the year meaning neighbours would not be subject to any unreasonably relentless or prolonged noise disturbance.
38. Taking all these factors into account, while there will be some associated noise from the seating area, typically from talking, the stir of a teacup, or movement of a chair, it will not be at unsociable times and frequency will be limited by the seasons and weather. The potential for current use of the patio, apart from seating, is also a factor that carries some weight in the balance of consideration. There is therefore no reason to believe that the potential noise arising from the proposed arrangement would be at a level and frequency that would cause significant harm to the living conditions of the properties adjacent and above. The significant weight that must be given to the support of business and economic growth is therefore considered to outweigh any less than significant harm to residential amenity in this case.
39. For all these reasons it is considered that the current proposal addresses previous reasons for refusal and the Planning Inspector's concerns on amenity grounds. Any impact on amenity would be within the bounds of reasonableness. It is therefore concluded that the proposed use of the patio as an outdoor seating area, limited to the east side and within the suggested times, as well as the likelihood that the amount of use of the patio would be naturally limited by the weather, would be a reasonable balance of the competing issues of supporting the needs of the business while also protecting neighbour amenity to a reasonable extent. The proposal is therefore in accordance with local plan policy GD1 and the national planning guidance in the NPPF in this respect.

Impact on the character, appearance and setting of the conservation area and listed buildings.

40. The property itself is Grade II listed, as are the adjoining buildings, and the property lies within the conservation area. Special regard must therefore be given to sections 72 and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, there would be no physical development involved in this proposal. Although the intention is to keep the tables and chairs outside during the summer months when the patio would be in use, the placing of tables and chairs within the patio would be temporary features, easily removable and would not involve any physical alteration of the listed building. The patio is naturally suited to the placing of chairs and tables and such temporary features, possibly including umbrellas, would not have a detrimental impact on the character and appearance of the conservation area, or the setting of the listed buildings. If anything, this would add some vitality into what is currently an empty and somewhat stark space. The comments from the Parish Council about removing the tables and chairs each night is noted, but this would not be necessary for the reasons above and in addition, would not be desirable from a residential amenity perspective because the Planning Inspector noted previously that the activity could create noise that would disturb neighbouring properties.
41. The proposal would not therefore cause harm to the significance of the relevant heritage assets and is in accordance with local plan policies GD1, BENV3, BENV4, as well as the national planning guidance in the NPPF in this respect.

#### Other issues

42. Some comments have been received about the potential for the presence of tables and chairs to lead to anti social behaviour and vandalism. There is no foundation for these assumptions and they should not carry weight as material considerations. There is no evidence that tables and chairs in gardens lead directly to anti social behaviour and vandalism. There are also other controls outside the planning system to deal with these matters.
43. Comments have also been received from neighbouring residents about how the proposal will potentially exacerbate competition for parking along the green, but the road is a public highway and no one has a given right to park directly outside their home. If someone chooses to drive a car, but does not have a private driveway on which to keep it, then he or she has to park it legally wherever they can. Neighbours may well have to park further from their property if customers' cars are parked in the road, but this can happen at present and there are other commercial premises nearby, like the hairdressers, post office and academy theatre, to which this applies as well. The coffee shop is however a local facility in the village centre, which is easily reached by walking and cycling. Through the week the majority of customers are local and customer car use is unlikely to be high. Use of the small outdoor seating area during the proposed hours and seasonally, should not itself exacerbate the situation to an unacceptable extent. Use of the patio for seating would normally be permitted development and the restriction was not originally placed for highway reasons.
44. Neighbours have also expressed concern that they will not be able to open windows at the front because of smells. However, given the nature of the coffee shop activity and that the outdoor seating would take place in an open environment

it is unlikely that smells would be of such an extent that they would make the neighbouring properties a completely undesirable place to live. While there may be smoking outside, there is nothing preventing this taking place at present.

45. Finally, although not a factor carrying any weight because condition 3 effectively removed permitted development rights for the outdoor seating on amenity grounds, Durham County Council does normally take a positive approach to outdoor seating for cafes on courtyards because of the benefits they bring to the vitality and economy of town and village centres, and regards it as an activity that doesn't normally require planning permission. The proposal has however been determined on its merits in respect of the impact on amenity and the surrounding area, as set out in this report.

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## **CONCLUSION**

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46. The existing conditional restriction on outdoor seating was applied by the local planning authority to protect the amenity of neighbouring residential properties adjacent and above the premises.
47. Nevertheless, in assessing the particular details of this proposal under the changes in planning policy context introduced by the NPPF and in respect of material differences in the proposal to previously refused applications, it is considered that the proposed use of the patio as an outdoor seating area, limited to the east side only and within the suggested times, as well as the likelihood that the amount of use of the patio would be seasonal and naturally limited by the weather, would be a reasonable balance of the competing issues of supporting the needs of the business, bringing vitality to the premises and local economy, while also protecting neighbour amenity to a reasonable extent. In coming to this conclusion significant weight has been afforded to the key aims of the NPPF to support economic growth and the retention and development of local business. In addition, it is considered that the proposal would not have a detrimental impact on the character and appearance of the conservation area, or the setting of the listed buildings.
48. The proposal is therefore in accordance with local plan policies GD1, BENV3, BENV4, and the national planning guidance in the NPPF.

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## **RECOMMENDATION**

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**Recommendation that condition 3 of permission 6/2005/0327/DM is varied to allow outdoor seating on the east patio between the hours of 11.00am-17.00pm Monday to Saturday and 11.00am-16.00pm on Sundays, and subject to the original remaining conditions covering use of the premises as a whole:**

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

Location Plan	Received 17 May 2013
Proposed Alterations	Received 8 July 2005
Proposed Outdoor Seating	Received 17 May 2013

*Reason:* To define the consent and ensure that a satisfactory form of development is obtained.

2. The use of the premises shall not be open to customers other than between the hours of 8.30am and 18.00pm.

*Reason:* In order to protect the residential amenities of the occupiers of adjoining residential properties. In accordance with Teesdale Local Plan Policy GD1.

3. External tables and seating shall only be placed within the eastern side of the front patio, as shown on the plans hereby approved, and notwithstanding the provisions of condition 1, the use of these external tables and chairs, including setting up or taking down, shall not be permitted other than between the hours of 11.00am-17.00pm Monday to Saturday and 11.00am-16.00pm on Sundays. The tables and chairs shall not have metal feet and shall only be removed from the patio for winter storage, repair or disposal.

*Reason:* In order to protect the residential amenities of the occupiers of adjoining residential properties. In accordance with Teesdale Local Plan Policy GD1.

4. The premises shall be used as a tea room, coffee shop, café or snack bar and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes Amendment) Order 2005, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order without Modification).

*Reason:* To enable the Local Planning Authority to retain control over the development in the interests of residential amenity. In accordance with Teesdale Local Plan Policy GD1.

5. No mechanical extraction or ventilation systems shall be installed in the property without the prior formal written approval of the Local Planning Authority.

*Reason:* In order to protect the residential amenities of the occupiers of adjoining residential properties. In accordance with Teesdale Local Plan Policy GD1

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## **REASONS FOR THE RECOMMENDATION**

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49. The recommendation to grant permission has been taken having regard to the policies and proposals in the Teesdale District Local Plan and to all the relevant material considerations, including the National Planning Policy Framework and the circumstances below.

50. In particular, it is considered that the proposed use of the patio as an outdoor seating area, limited to the east side and within the suggested times, as well as the likelihood that the amount of use of the patio would be naturally limited by the weather, would be a reasonable balance of the competing issues of supporting the needs of the business, bringing vitality to the premises and local economy, while also protecting neighbour amenity to a reasonable extent. In coming to this conclusion significant weight has been afforded to the key aims of the NPPF to support economic growth and the retention and development of local business. In addition, it is considered that the proposal would not have a detrimental impact on the character and appearance of the conservation area, or the setting of the listed buildings.

51. The proposal is therefore in accordance with local plan policies GD1, BENV3, BENV4, and the national planning guidance in the NPPF.

## **STATEMENT OF PROACTIVE ENGAGEMENT**

52. In arriving at the recommendation to approve the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant and to ensure the development delivers wider public benefits.

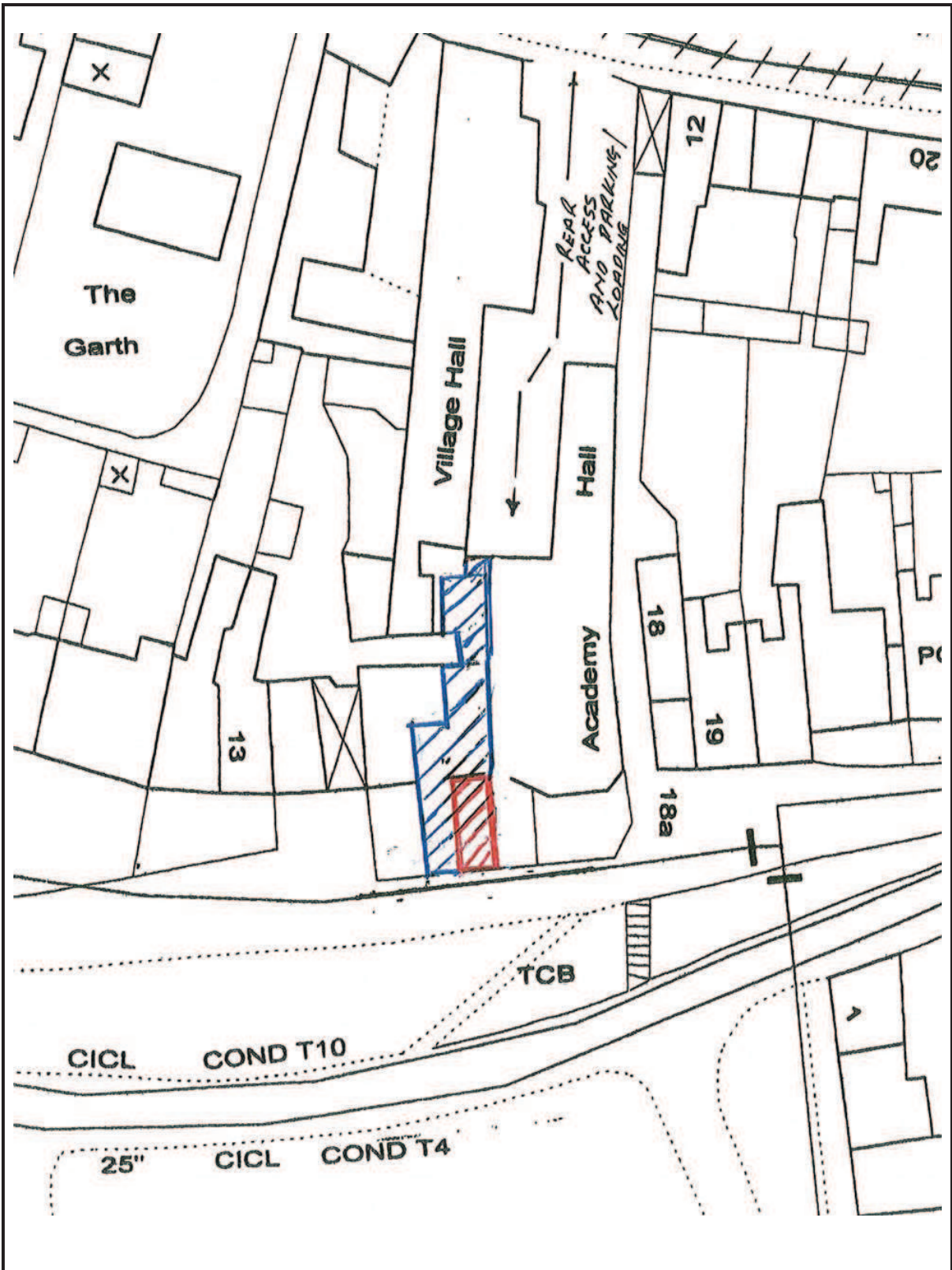
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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans
- Teesdale Local Plan
- National Planning Policy Framework.
- Consultation Responses and representation
- Planning history





 <p><b>Durham</b> County Council</p> <p><b>Planning Services</b></p>	<p>Variation of condition 3 of 6/2005/0327/DM to allow external seating on east side of front courtyard</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p><b>Site</b></p>	<p>The Laurels, 16 High Green, Gainford</p>
	<p><b>Date 18/07/2013</b></p>	<p><b>Scale 1:2500</b></p>

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	3/2013/0199
<b>FULL APPLICATION DESCRIPTION:</b>	Construction of 14 dwellings
<b>NAME OF APPLICANT:</b>	MR SMITH SWALE VALLEY CONSTRUCTION LTD
<b>ADDRESS:</b>	Dellside House ,Willington, Crook, DL15 0DH
<b>ELECTORAL DIVISION:</b>	Willington and Hunwick
<b>CASE OFFICER:</b>	Chris Baxter 03000 263944 chris.baxter@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site lies to the south of the A690 highway in Willington. The site is 'L' shaped with the Dellside House building located to the north of the site. Dellside House is a former Wear Valley District Council building which is no longer in use. The south of the site is currently vacant land made up of a mix of grassed and tarmac areas and used to be occupied by council houses. Three residential properties (No. 71, 72 & 73 Low Willington) are located directly north of the site with No. 71 being of particular interest as it's a grade II listed building. Residential properties are located directly to the east of the site and a public area, with seating and car parking is situated to the west. There is a belt of mature trees along the south boundary with open fields beyond. The site has an existing vehicular access directly onto the A690 to the north.

#### The Proposals

2. This is a revised scheme to application 3/2012/0525 which was for 11 dwellings, but did not include demolition of Dellside House. Planning permission is now sought for the demolition of Dellside House and erection of a further 3 dwellings in its place resulting in a proposal for a total of 14no. dwellings on the whole of the site. The proposed dwellings would be a mix of 3 and 4 bedroom properties and would be set out as four sets of linked properties and two detached properties. They are all to be of two storey construction, built from brickwork to the walls and concrete tiles to the roof, with white upvc windows and doors. A total of 25no. car parking spaces are proposed within the site.
3. The intention is for all the proposed properties to be transferred to Prince Bishop Homes which is a subsidiary of the registered social landlord Derwentside Homes.
4. The application is being reported to the Committee in line with the Scheme of Delegation because it is a major application of more than 10 dwellings.

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## **PLANNING HISTORY**

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5. Application 3/2012/0525 for 11 dwellings on part of this site was reported to committee on 21<sup>st</sup> February 2013. Members were minded to approve this application subject to the signing of a section 106 agreement in relation to 2 affordable dwellings and a contribution of £11,000 for open space.
6. It is also noted that a number of Council houses were demolished on the site under a demolition notice in 2004.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The Government has consolidated all planning policy statements and guidance notes into a single policy statement, the National Planning Policy Framework (NPPF).
8. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 50 seeks to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. This recognises the need to identify the size, type, tenure and range of housing required in a particular location, reflecting local demand and including provision for affordable housing where required.
9. Paragraphs 69 and 73 recognise that the planning system can play an important role in creating healthy inclusive communities and that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well being of communities.
10. Paragraph 129 states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

### **LOCAL PLAN POLICY:**

11. The following policies of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 are considered to be consistent with the NPPF and therefore relevant in the determination of this application:
  12. *Policy GD1 (General Development Criteria).*
  13. *Policy BE4 (Setting of a Listed Building).*
  14. *Policy H3 (Distribution of Development).*
  15. *Policy H24 (Residential Design Criteria).*
  16. *Policy H22 (Community Benefit).*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

18. *Highways Authority* has stated that parking levels and internal layout are adequate and a safe access can be achieved with the A690 highway. A speed camera advisory sign would have to be relocated as part of access works.
19. *Greater Willington Town Council* welcomes the redevelopment of Dellside House and the additional residential accommodation. It is suggested that this site has been subject to land subsidence and it is requested that this issue is given consideration during the determination of the application.

### **INTERNAL CONSULTEE RESPONSES:**

20. *County Sustainability Section* has no objections subject to a scheme to minimise energy consumption on the development.
21. *County Ecology Section* has no objection subject to adherence to the mitigation in the submitted reports.
22. *County Housing Section* has provided support for this scheme stating that the Prince Bishop Model for this residential development is one which assists access to the housing market without the need for significant deposits; it additionally allows the customer to gain equity in the property through the model. This model is encouraged and provides additional choice to residents, however it is noted that this model is not considered to be strictly defined as affordable housing.

### **PUBLIC RESPONSES:**

23. A site notice was posted and the application was advertised in the local press. Neighbouring properties were also notified in writing. No representations have been received.

### **APPLICANTS STATEMENT:**

24. The proposal is to provide 14 modern, spacious, high quality family houses for rent, with first preference accorded to persons from the Willington/Crook areas who have limited means. It draws on funding assistance awarded under the Government's recently launched "Build to Rent" initiative following a successful bid made by Derwentside Homes [the parent company to Prince Bishop Homes] aided by the support of its strategic partner, Durham County Council. The Willington scheme is one of a limited number of such developments within England to secure funding under the new scheme.
25. The development will be undertaken by Prince Bishop Homes through its innovative "Rent to Buy" scheme, which leads to the opportunity for tenants to achieve home ownership after a minimum of 4 years rental of their home. The scheme delivers innovative financial assistance to tenants to make that step by providing 50% of the increase in property value accrued from when it was first constructed that is returned to the tenant as a "subsidy" to act as or add to resources they may have already saved to provide the initial deposit when seeking a mortgage.

26. This enables families who cannot otherwise access the housing market for the type and size of accommodation they need, the ability to initially rent, but later buy when their circumstances allow, new modern homes designed and equipped to provide decent family housing. Built to a high standard they provide security of tenure with the added assurance of the management and maintenance support given throughout the duration of their tenancy by the parent company [Derwentside Homes], a well-established and highly regarded Registered Social Landlord.
27. The Rent to Buy model is entirely distinguishable from the commercial developer approach to new housing in that it re-cycles all profits made from rental income, and from the remaining 50% of accrued value. When sale of homes to tenants occurs, directly back to the parent company's Affordable Housing Fund to be used to provide social housing in its more conventional forms i.e. for Social or Intermediate Rent. This re-cycling ultimately adds to the overall stock of homes that can be provided to those on limited means who otherwise struggle to attain a decent home and aspire to home ownership.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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28. Having regard to the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004 the development plan policies and relevant guidance, and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact on residential amenity, visual impact and effect on heritage assets, highway issues, open space contributions, housing provision, impact on protected species and other issues.

### Principle of development

29. The site is brownfield land located within the settlement boundaries of Willington. It is within close walking distance to shops, community facilities and local services. There is a history of residential development on the site, as well as the previous Committee resolution to approve 11 dwellings on part of the site. The proposal is therefore in accordance with policy H3 of the Wear Valley local plan and is considered to be a sustainable location for the scale of development proposed. The proposal is therefore in principle wholly in accordance with the core principles of the NPPF and the presumption in favour of sustainable development.

### Visual impact and effect on heritage assets

30. The site lies to the rear and side of no.71 which is a grade 2 listed building. In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority must pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990). In this case it is the setting of the listed building that warrants consideration.
31. No.71 is a dwelling located within a residential area and has its own clearly defined curtilage. It is considered that its setting is largely limited to its immediate curtilage. The application site lies to the rear and side of no.71 and has no important association with the listed building. The previous Committee resolution to grant permission for 11 dwellings on the site is a material consideration, as is the presence of the existing building on the site. It is considered that the addition of a further 3

dwellings in the place of the existing building (Dellside House) would not result in a materially significant impact on the setting of the listed building. The scale of the dwellings would be appropriate to the scale of the listed building and because the site is to the rear and side, the development would be unlikely to obscure any important public views of the listed building. There is sufficient separation distance between the proposed properties and the listed building to ensure that the significance of the listed building and its setting would not be adversely compromised.

32. The proposed houses are the same as previously considered acceptable, being of an uncomplicated design to be constructed from Ibstock Dilston Blend brick, Double Roman Light Grey concrete interlocking roof tiles and will have white upvc windows and doors, and black gutters and downpipes. The proposed scheme would not have an adverse impact upon the street scene and it is considered that the visual impact on the immediate locality and listed building would be minimal. The main estate road running into the site would be tarmac with all other hard standing areas to be Brindle Set block paving. There are to be no fencing or walls to the front of the properties and the rear gardens of the houses will be bounded by 1.5 metre high close boarded fencing. A landscaping plan has been provided which shows the gardens to be grassed with hedging and trees scattered through the site.

33. The proposal would not therefore be detrimental to the visual amenity of the surrounding area, or setting of the nearby listed building. This would be in accordance with policies GD1 and BE4 of the Wear Valley Local Plan, as well as the guidance in the NPPF.

#### Impact on residential amenity

34. The layout of units 1-11 is unchanged from application 3/2012/0525 which Members considered to be acceptable in respect of separation distances to neighbouring dwellings, privacy and garden provision.

35. The proposed additional units of 12 to 14 are located on the same footprint as the Dellside House building, and it is considered that the relationship between No. 69 and proposed unit 14 would not differ much from the existing relationship between No. 69 and the Dellside House building. It is therefore considered that the relationship between the proposed dwellings and the existing neighbouring properties would be acceptable and in accordance with Wear Valley local plan policies GD1 and H24.

#### Highway issues

36. There is an existing access into the site from the A690 highway which is to be used for the proposed development. 25 car park spaces are to be provided within the site for the future residents. County Highway Officers have not raised any objections to the proposed access and have stated that the proposed car parking levels are acceptable. The proposed internal road layout is also compatible with the County adoption standards. The proposed development would not compromise highway safety and would be in accordance with policies GD1 and T1 of the Wear Valley local plan.

#### Open space contributions

37. The NPPF places emphasis on the planning system playing an important role in facilitating social interaction and creating healthy, inclusive communities. The

provision of high quality open spaces and opportunities for sport and recreation can make an important contribution to health and well being of communities and new housing places a demand on existing facilities. Wear Valley local plan policy H22 requires that on sites of 10 or more dwellings the local planning authority will seek to negotiate contributions towards the provision or maintenance of recreational facilities.

38. The proposed scheme does not provide any useable open space areas within the development. To compensate for this the developer has agreed to enter into a section 106 agreement to provide a contribution of £14,000 for the provision and maintenance of related social, community and/or recreational facilities within the nearby locality. This is in accordance with Wear Valley local plan policy H22 and the aims of the NPPF.

#### Housing provision

39. A key aim of the NPPF is to deliver a wide choice of high quality homes. It further states that to boost significantly the supply of housing, local planning authorities should objectively assess needs for market and affordable housing.
40. The whole of this scheme is to be transferred to Prince Bishop Homes (PBH) which is a subsidiary to the Registered Social Landlord, Derwentside Homes. It is intended that all 14 of the houses on this site would be under the 'Rent to Buy' scheme. The 'Rent to Buy' scheme is designed for those people who wish to purchase a home, but cannot afford a mortgage or access funding. The scheme provides an opportunity for residents to acquire the property after occupying the home for 4 years by giving a discount which can be used as a deposit when applying for a mortgage.
41. The Council's Housing Section has provided support for this scheme as it provides a form of intermediate housing which offers choice to customers who are looking to purchase their own homes during the current difficult economic climate. The 'Rent to Buy' model is not considered to strictly accord with the definition of affordable housing, however this would not be classed as market value housing either. In this instance, it is considered that the intermediate housing, which will be provided through the 'Rent to Buy' model, is acceptable as an alternative to affordable housing on this site, particularly as it would cover the entire development of all 14 units. In addition, all profits made from rental income and from the remaining 50% of accrued value would be recycled directly back to the parent company's Affordable Housing Fund to be used to provide social housing in its more conventional forms elsewhere thereby indirectly contributing to affordable housing provision. The proposal would therefore be in accordance with criteria detailed in the NPPF in terms of delivering a wide choice of homes.

#### Impact on protected species

42. The presence of protected species is a material consideration. The Conservation of Habitats and Species Regulations 2010 establishes a regime for dealing with derogations, which involved the setting up of licensing system administered by Natural England. Under the requirements of the Regulations it is criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.
43. Notwithstanding the licensing regime, the local planning authority (LPA) must discharge its duty under Regulation 9(3) of the 2010 Regulations which requires the



LPA, in exercising its functions, to have regard to the requirements of the Habitats Directives in so far as they may be affected by the exercise of those functions.

44. Bats are a protected species and the ecology reports submitted with the application indicate that Dellside House does contain a historic maternity bat roost in the roof, however it appears that this roost has been abandoned and does not contain a breeding colony of bats. Activity surveys and remote monitoring of the roost did not find evidence that bats were still roosting within the building. It is likely that arson and vandalism in the building has contributed to the abandonment of the roost. The reports conclude that it is therefore unlikely that a licence will be required to demolish Dellside House, however a mitigation strategy is recommended during development. The mitigation strategy would provide further monitoring and recording of Dellside House and ensures that the building is demolished before onset of the hibernation season in November. The mitigation strategy also ensures that bat roosting opportunities are provided within the trees to the south of the site (2 bat boxes) and on dwellings within the site (3 bat boxes).
45. The Council's Ecology Section is satisfied with the findings of the ecology reports and suggested mitigation. It is agreed that the requirement for a licence is unlikely because the roost is not active. Therefore, subject to the imposition of an appropriate condition, the LPA can discharge its duty under Reg 9(3) and the proposal accords with policy GD1 of the Wear Valley District Local Plan and the objectives of the NPPF.

#### Other issues

46. The Council's Sustainability Team have commented on the application indicating that the development should contribute towards minimising carbon emissions. The developer has proactively worked towards providing a scheme which shows that the proposed development would minimise carbon emissions from the site. It is proposed that a total of 10kwp of Solar Photovoltaic panels will be installed in plots 4,5,6, 7 and 8. This accords with Local Plan policy GD1 and the aims of the NPPF.
47. The Greater Willington Town Council has raised concerns with regards to previous subsidence on the application site. A site investigation report and a phase 1 desk study report of the site have been submitted with this application. These reports do not indicate any concerns with regards to the stability of the land and the development of the site for housing. The reports do provide detailed advice with regards to the type of foundations that should be undertaken when constructing the proposed properties and this would be sufficient to address the issue.

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## **CONCLUSION**

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48. The redevelopment of a brownfield site within the development limits of Willington and with a product which addresses affordability, accords with the main thrust of the National Planning Policy Framework in terms of securing sustainable patterns of development. The principle of redeveloping the site for residential is therefore acceptable and would be in accordance with policy H3 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
49. From a more detailed perspective, the layout, scale and design of the development is such that it would not harm the setting of the nearby grade II listed building and adequate separation distances would be achieved with neighbouring properties to avoid loss of amenity to those properties. The development would therefore be in

accordance with policies GD1, BE4 and H24 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

50. The reuse of the existing access is acceptable and would not compromise highway safety. Adequate levels of parking would be provided within the site. The development would therefore be in accordance with policies GD1 and T1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.
51. Although a historic bat roost was found in Dellside House, it appears to have been abandoned and it is unlikely that a licence will be required. Mitigation proposals would ensure that the development would not be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range. The proposal accords with policy GD1 of the Wear Valley District Local Plan and the objectives of the NPPF.
52. A Section 106 legal agreement will be entered into to secure a contribution of £14,000 for the provision and maintenance of social, community and/or recreational facilities within the nearby locality.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the completion of a Section 106 legal agreement to secure the payment of a commuted sum of £14,000 in lieu of on-site open space provision; and subject to the conditions below;

### **Conditions:**

1. The development shall not be begun later than 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:

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
	Site Location Plan	10/06/2013
EVO 331/01G	Proposed Site Plan	04/07/2013
EVO 331/03	Proposed Elevations Plots 1-3	10/06/2013
EVO 331/04	Proposed Floor Plans Plots 1-3	10/06/2013
EVO 331/05A	Proposed Plans and Elevations Plot 4	10/06/2013
EVO 331/06	Proposed Floor Plans Plots 5-7	10/06/2013
EVO 331/07	Proposed Elevations Plots 5-7	10/06/2013
EVO 331/08A	Proposed Plans and Elevations Plot 8	10/06/2013
EVO 331/09	Proposed Floor Plans Plots 9-11	10/06/2013
EVO 331/10	Proposed Elevations Plots 9-11	10/06/2013

EVO 331/17	Proposed Floor Plans Plots 12-14	10/06/2013
EVO 331/18	Proposed Elevations Plots 12-14	10/06/2013

*Reason:* To define the consent and ensure that a satisfactory form of development is obtained.

- All planting, seeding or turfing shown on the plans hereby approved 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 policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

- No development hereby approved shall take place unless in accordance with the mitigation, recommendations and conclusions within the Ecology Report dated 13<sup>th</sup> November 2012 by Dendra Consulting Ltd; and the Bat Survey dated 5<sup>th</sup> June 2013 by Dendra Consulting Ltd; including but not restricted to:
  - the use of a precautionary method statement when undertaking the demolition of the building; and
  - provision of new bat roosts within the trees (x2 bat box as detailed), and the buildings on site (x 3) as detailed in the Mitigation strategy and Mitigation Plan included in Appendix 2 of the report.

*Reason:* To conserve protected species and their habitat in accordance with criteria within the NPPF and policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

- The development hereby approved shall incorporate a total of 10kwp of Solar Photovoltaic panels onto plots 4,5,6,7 and 8 as detailed in the submitted “CO2 Reduction assessment” by Richmond Thermal Solutions. No dwelling on plots 4,5,6,7 and 8 shall be occupied until the photovoltaic system has been installed and is ready for operation on the dwelling.

*Reason:* In the interests of sustainable construction and energy generation to comply with the aims of the NPPF and policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

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## **REASONS FOR THE RECOMMENDATION**

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- The proposal is considered to represent an acceptable housing development on this brownfield site within the physical framework of Willington. The proposal would be acceptable in terms of its impact upon the character of the area, setting of a nearby listed building, access, parking, the privacy and amenity of surrounding residents, impact on protected species and subject to completion of a S106 agreement to secure a financial contribution towards maintenance and provision of open space in the locality.

2. The decision to grant planning permission has been taken having regard to the National Planning Policy Framework and Policies GD1, H3, BE4, H24, H22, and T1 of the Wear Valley District Local Plan and to all relevant material considerations.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority has determined the application in a timely manner and has had dialogue with the applicant throughout the determination to address issues about sustainability and to reach agreement on the open space contribution.

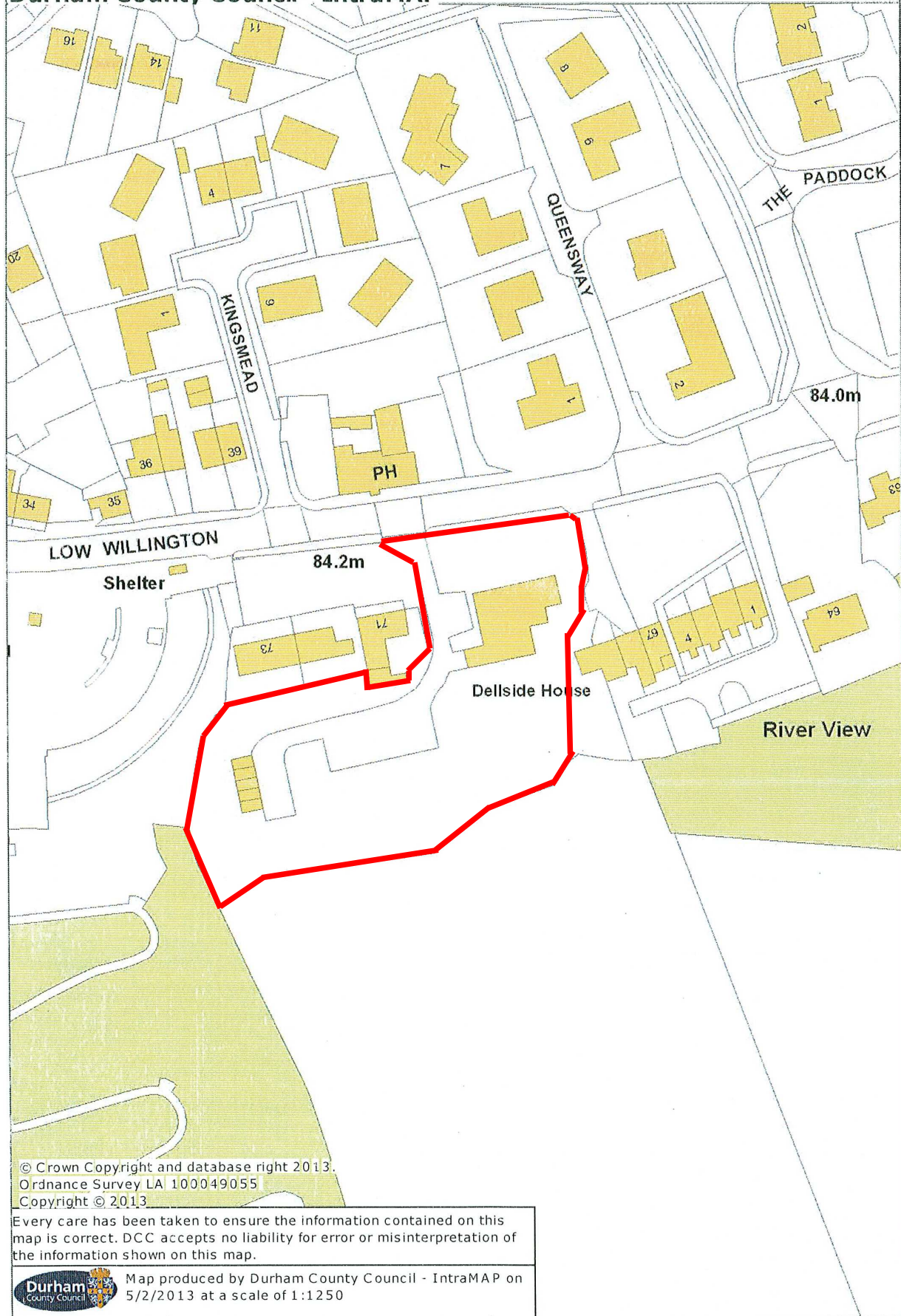
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## **BACKGROUND PAPERS**

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- Submitted Application Forms, Plans and supporting documents
- National Planning Policy Framework
- Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007
- Circular 11/95: Use of conditions in planning permission
- Consultation responses and representations


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 <p><b>Durham</b> County Council</p> <p><b>Planning Services</b></p>	<p>3/2013/0199 Construction of 14no. dwellings At Land at Dellside House, Willington</p>	
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	<p><b>Date</b> 18<sup>th</sup> July 2013</p>	<p><b>Scale</b> 1:1250</p>