



## Area Planning Committee (Central and East)

**Date** Tuesday 9 December 2014  
**Time** 1.00 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meetings held on 21 October and 11 November 2014 (Pages 1 - 34)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) DM/14/01858/OUT - Land to the east of Prospect Place, Commercial Road East, Coxhoe (Pages 35 - 66)  
Construction of 103 residential dwellings comprising of 40 affordable dwellings and 63 open market dwellings with associated infrastructure, landscaping and engineering works (outline application, all matters reserved except access) (revised description)
  - b) DM/14/01821/FPA - Land at Kepier House, The Sands, Durham (Pages 67 - 86)  
Demolition of Kepier House & erection of 35 apartments with associated external works
  - c) CE/13/00862/OUT - Land At Brackenhill House, Brackenhill Avenue, Shotton Colliery, Durham (Pages 87 - 102)  
Outline application with all matters reserved except access and layout for residential development of 6 executive dwellings

- d) DM/14/02388/FPA - Land At The Airfield, Shotton Colliery, Durham (Pages 103 - 114)  
Construction of helicopter centre comprising helicopter museum, workshops, learning centre, exhibition space, café and gift shop
- e) DM/14/03360/FPA - 4 Foxton Way, High Shincliffe, Durham, DH1 2PJ (Pages 115 - 124)  
Retention of single-storey extensions at side and rear of dwelling and excavation/boundary works to rear
- f) DM/14/02423/FPA - Land To The West Of 4 South Terrace, Framwellgate Moor, DH1 5EN (Pages 125 - 136)  
Retention of 2 no. 6 bedroom small HMO's (C4 use class) with associated works (part retrospective)
- g) DM/14/03093/FPA - Bristol Street Motors, Abbey Road, Pity Me, Durham, DH1 5DQ (Pages 137 - 144)  
Alterations to front elevation to create extra floor space to existing showroom area
- h) DM/14/02796/FPA - Land to the South of Bradyll Street, Kelloe, Durham (Pages 145 - 154)  
Earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential)

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  
1 December 2014

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

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

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



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**DURHAM COUNTY COUNCIL**

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

At a Meeting of **Area Planning Committee (Central and East)** held in Council Chamber, County Hall, Durham on **Tuesday 21 October 2014 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors J Clark, P Conway, M Davinson, K Dearden, C Kay, A Laing (Vice-Chairman), B Moir, J Robinson and D Stoker

**Apologies:**

Apologies for absence were received from Councillors G Bleasdale, S Iveson, J Lethbridge and R Lumsdon

**1 Apologies for Absence**

Apologies for absence were received from Councillors G Bleasdale, D Freeman, S Iveson, J Lehtbridge and R Lumsdon.

**2 Substitute Members**

Councillor D Stoker as substitute Member for Councillor D Freeman.

**3 Minutes**

The Minutes of the meeting held on 9 September 2014 were confirmed as a correct record and signed by the Chairman.

**4 Declarations of Interest**

There were no declarations of interest.

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

**a DM/14/02104/FPA - Land to the north of Local Avenue and Front Street Sherburn Hill, County Durham**

The Committee considered a report of the Senior Planning Officer regarding the erection of 81 dwellings and associated access and landscaping works on land to the north of Local Avenue and Front Street, Sherburn Hill, County Durham (for copy see file of Minutes).

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

The Senior Planning Officer informed the Committee of the following updates since the circulation of the committee report:

- Councillor D Hall, local member, had expressed his support for the application;
- Condition 8 of the Planning Permission – the applicant had submitted a construction management statement which was to the satisfaction of Environmental Health and therefore the condition could be removed;
- Condition 9 referred to a bronze level Workplace Travel Plan, however, this related more to office-type developments and would need to be amended to be more reflective of a residential development;
- Condition 10 – final improvements to the sections of the rear lane to be delayed until completion of the 54<sup>th</sup> dwelling. The Highways Authority had confirmed that this was acceptable.
- A condition needed to be added to ensure the relocation of the play area.

Mr Andrew Lawson, local resident, addressed the Committee to object to the application because he lived on Local Avenue and would be directly affected by the proposed development. He informed the Committee that plans for the development were only available on line for members of the public to examine, and it was difficult for the community to either access or download these. He had made a number of comments and asked questions about access and egress through Local Avenue to which he had received no detailed replies. The access statement with the application made no reference regarding access from the main road and the main road and junctions through the development did not meet design regulations. Local Avenue was heavily used for parking and negotiating access to proposed development would be difficult, with an additional 27 houses and approximately 40 cars and the current proposed layout of the development was not suitable for the number of cars. During the winter the road was not gritted which resulted in cars being abandoned and refuse collection problems which would be exacerbated should this development be approved. There were no specific details regarding plant access to the site during the construction period, which could damage the road surface and be a health and safety hazard due to cars parked on Local Avenue. There were currently 52 houses for sale in the Sherburn Hill area and Mr Lawson queried the need for any more.

The Senior Planning Officer replied that while public access to consultation and plans for applications was encouraged on line, members of the public could raise queries with Planning Officers by telephone or could inspect plans in the office. John McGargill, Highway Development Manager, replied to the issues raised around highway design issues and street parking. The Highway Authority considered access to the development from Road A181 and Local Avenue to be acceptable. Highways designs within the development would need to be done to County Council specification before they were adopted and there was acceptable parking proposed on site which would result in no displaced parking. The condition

of the road surface on Local Avenue would be inspected prior to and during development to ensure any damage was repaired.

**Moved** by Councillor Laing, **Seconded** by Councillor Moir and;

**Resolved:**

That the application be approved subject to the conditions detailed within the report, as amended in the Senior Planning Officer's presentation and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.

**b DM/14/02105/FPA - Land to the south of Oakfield Crescent, Bowburn**

The Committee considered a report of the Senior Planning Officer regarding the erection of 40 dwellings, associated access and landscaping works on land to the south of Oakfield Crescent, Bowburn (for copy see file of Minutes).

Andrew Inch, Strategic Team Leader provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

Councillor J Blakey, local Member, addressed the Committee. A previous application for the site had been refused planning permission in 2013, and this refusal was upheld on appeal. Although this application was now for fewer houses than the 2013 application, Councillor Blakey expressed serious concerns regarding drainage and flooding at the location, with a serious flooding issue taking place in Bowburn as recently as 6 August 2014. Until such drainage issues could be satisfactorily resolved, Councillor Blakey asked that the application be refused or deferred.

Councillor Mike Syer of Cassop cum Quarrington Parish Council addressed the Committee to object to the application. Mr Syer informed the Committee of local concern that the proposed development would adversely affect any future provision for a new primary school in Bowburn. The proposed development site, which was next to the current Bowburn Junior School, was the only site within Bowburn for a new school and as such should be reserved for future school provision. A new head teacher had recently been seconded to the current Junior School to bring about the amalgamation of the Infant and Junior Schools in Bowburn and officers in Children and Adult's Services had stated the intention to build a new school, when finances permitted, on the field of the current Junior School. Since the current Junior School was built in 1975 the size of Bowburn had increased considerably and any new school would need to have 600 places, and the current school playing field was not large enough to accommodate a school of this size. Access to the current school playing field would also need to be taken through this proposed development.

Colin Reed, local resident, addressed the Committee to object to the application. A document received from Mr Reed outlining his objection to the proposal had been circulated to Committee Members (for copy see file of Minutes). The previous application had been refused on appeal because of the overbearing nature of the

proposed dwellings on the residents of Oakfield Crescent. While this application had replaced some of the proposed dwellings with single storey properties, others were 3 storeys properties with windows in the upper storey, which would still be overbearing on properties in Oakfield Crescent. The bungalows proposed in this development did not offset the impact of these proposed 3 storey houses which would overlook Oakfield Crescent. The Planning Inspector had referred to Policy Q8 of the City of Durham Local Plan regarding impact on the occupants of existing nearby properties being minimised and Policy Q8 was consistent with the NPPF.

Mr Reed referred to the Infrastructure Delivery Plan (IDP) which he had been told was not applicable because Bowburn was not identified as a strategic development. However, the IDP was currently undergoing a review, and Mr Reed requested that this application be deferred until the new IDP was produced.

Simon Longstaff, Drainage and Coastal Protection Manager informed the Committee that the development site had been designed to accommodate a 1 in a 100 year event allowing for 30% climate change. The potential for the proposed development to flood the primary school had been addressed with increased storage provision now being proposed on site. Currently the site was greenfield which presented the risk of flooding from surface water run-off, and the proposed development mitigated this risk.

Gavin Scott, Area Planning Team Leader informed the Committee that the IDP was one document prepared in preparing the County Durham Plan. It was a plan for the future to ensure appropriate infrastructure was in place, for example, drainage and education. The IDP was not undergoing a review, but would be examined during the examination of the County Durham Plan, which was currently taking place. Planning practice and guidance stated that applications could only be resisted on grounds of prematurity if they were major developments. Discussions had taken place with Children and Adults Services when preparing the County Durham Plan and it was considered that no new land needed to be allocated in the County Durham Plan to meet future education needs.

Andrew Inch, Strategic Team Leader informed the Committee that discussions had taken place with the Local Education Authority regarding future education provision and the possibility of the existing junior school site accommodating a new school. The LEA was satisfied that a school with 593 places, including a 68 place nursery provision, could be built on a site of 20,000 m<sup>2</sup>. The land currently available for any school redevelopment was 23,500 m<sup>2</sup> and there was therefore no need for any of this application site to form any part of a future merged school. This was outlined in paragraph 82 of the report. Referring to amenity, the Strategic Team Leader informed the Committee that this application was a direct response to the issues raised by the Planning Inspector at the previous planning appeal with the introduction of bungalows and different house types, an increase in separation distances and gaps to break up what the Inspector had described as a 'wall of development'. Although properties with three floors of accommodation rather than three storeys were still proposed, the difference in height to a normal two storey property was only 0.4 metres. The roof lights proposed for the properties would be above head height and were intended only as a source of light and would not therefore allow overlooking to occur.



Councillor Clark referred to the proposed site layout and asked how much integration here would be into the village of Bowburn for pedestrians. The Strategic Team Leader replied that while pedestrian access to the north of the development would not be possible because of existing gardens on Oakfield Crescent, or to the west due to the school playing fields, there would be a pedestrian link onto the public footpath on the eastern side of the site.

Councillor Robinson referred to the comments made by the Coal Authority detailed in paragraph 51 of the report and asked whether an assessment could be enforced by way of condition. He also referred to paragraph 67 of the report and asked whether only half the site could be developed as a compromise to alleviate local concerns regarding land for any future new school.

Councillor Kay informed the Committee that he had moved to refuse the previous application because access to the site was on the bend of a 40 m.p.h. road. He asked what the Planning Inspector's view had been regarding this highways issue and also asked how the Committee could be sure that the compromise proposed by the developer would not be overbearing, as referred to by the Planning Inspector. Councillor Taylor replied that the recommendations contained within the report were based on sound planning policy.

The Strategic Team Leader informed the Committee that the comments of the Coal Authority were that the area contained mining features, but these were only relevant to the area of the south of the site, which was not to be developed. Referring to the development of only half the site, the Strategic Team Leader informed the Committee that it could only assess the merits of the planning application as it was submitted, and the Local Education Authority (LEA) was satisfied that the site could be developed in its entirety. During the planning appeal into the previous application, the Strategic Team Leader informed the Committee that the Inspector had examined highways issues and was satisfied that the proposed development was satisfactory in highway safety terms.

Councillor Stoker referred to the point raised by Councillor Syer regarding the site for a future primary school, which the LEA had said was appropriate to cope with current educational demand in the area, and expressed concern that there appeared to be no future-proofing for future demand. Councillor Conway also expressed concern at the apparent lack of future-proofing for educational demand.

The Strategic Team Lead informed the Committee that the provision of a combined primary school would currently require 20,000 m<sup>2</sup> of land, and there was an additional 3,000 m<sup>2</sup> available on the school field, and therefore any future demand could be accommodated within the site of the current junior school. Issues regarding field drainage and discharge rates were covered by planning conditions, with both the Environment Agency and Northumbrian Water raising no objections.

Councillor Laing informed the Committee that the issues raised by the Planning Inspector had now been resolved and **Moved** that the application be approved. Councillor Davinson agreed with Councillor Laing and **Seconded** approval of the application.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions detailed within the report and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.

**c DM/14/00941/FPA - Village Farm, The Village, Murton, SR7 9RP**

The Committee considered a report of the Senior Planning Officer regarding the demolition of existing barns and development of 10 residential dwellings and retention of existing farmhouse at Village Farm, The Village, Murton (for copy see file of Minutes).

Barry Gavillet, Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

Councillor Moir informed the Committee that he did not consider the application to be a contentious development and **Moved** that the application be approved. **Seconded** by Councillor Laing and

**Resolved:**

That the application be approved subject to the conditions detailed within the report and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.

**d DM/14/02108/FPA - Nevilles Cross Club, Nevilles Cross Bank, Durham, DH1 4PJ**

The Committee considered a report of the Senior Planning Officer regarding the partial demolition of existing building, refurbishment and change of use to form 1 no. flats for use as a House in Multiple Occupation, associated landscaping and car park at Neville's Cross Club, Neville's Cross Bank, Durham (for copy see file of Minutes).

Barry Gavillet, Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

The Senior Planning Officer informed the Committee that a representation had been received from Councillor N Martin, local member, expressing his support for refusal of the application on the grounds stated in the report and also on the fact that there were more than enough student HMO premises in the Crossgate area to satisfy current and foreseeable demand. The design of the premises was such to encroach on the amenity of the neighbouring Cross View House which had living space only 5 metres from living space in the premises with no obscured glass installed, against the Council policy on directly facing lived-in rooms.

Mr Doig, local resident, addressed the Committee to object to the application. He referred to Policy 32 of the emerging County Durham Plan which stated that houses in multiple occupation and student accommodation would not be permitted where the site was located within 50 metres of a postcode area where more than 10% of the total number of properties were already used as licenced HMO's or student accommodation and informed the Committee that the area had already reached a 20% student ratio which was an over-provision of student accommodation. Currently, the first and second floors of the property were being used for student accommodation, although there was a legal challenge to this. Referring to Policies H9 and H16 of the City of Durham Local Plan, Mr Doig informed the Committee that the application would have a significant adverse impact on the amenity of local residents. The application estimated a 50% car ownership which was an underestimate and had no conditions attached regarding noise and smoking in the vicinity of the property. The application was also contrary to Policy Q8 of the City of Durham Local Plan due to its proximity to Cross View House.

Environmental Health had significant concerns about the application and had objected to the proposals. The application was also contrary to paragraph 123 of the NPPF which stated that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

The Senior Planning Officer replied that the application site did have a 25% proportion of HMO's within 50 metres and the policy referred to by Mr Doig was a policy within the emerging County Durham Plan. Referring to the proximity to Cross View House, the Senior Planning Officer informed the Committee that the windows in the application property were existing windows but were not in habitable rooms. The usage of the upper floors at the property were not part of this application. Councillor Moir informed the Committee that the report contained a well-crafted reason for refusal of the application and he **Moved** the recommendation contained in the report, adding that while the property was previously a drinking establishment, insufficient information had been provided by the applicant regarding noise and disturbance.

Councillor Conway **Seconded** approval of the recommendation.

Mr D Ridley, Planning Consultant, informed the Committee he had identified a possible problem for the Committee to deliberate the application. Paragraph 62 of the Planning Officer's report stated that no applicant's statement had received, however, a statement had been submitted and was currently available on line. Mr Ridley expressed concern that Members of the Committee had not seen this statement.

Claire Cuskin, Planning and Development Solicitor informed the Committee that as part of a planning application, the applicant had submitted a statement. The reference within the report to the applicant's statement was to a separate statement which had been requested from the applicant specifically for inclusion within the report and which had not been received. This was not a matter to prevent the Committee making a determination on the application, unless the Committee considered differently.

Upon a vote being taken it was

**Resolved:**

That the application be refused for the reason detailed in the report.

**e DM/14/02769/FPA - Unit 1, Durham City Retail Park, McIntyre Way, Durham**

The Committee considered a report of the Senior Planning Officer regarding external alterations to the existing retail unit and site, including removal of builders yard roof, ground works to builders yard, erection of lighting columns, trolley shelters, bollards, service yard gates and fire exit doors at Unit 1, Durham City Retail Park, McIntyre Way, Durham (for copy see file of Minutes).

Barry Gavillet, Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site.

Chris Creighton, Agents for the joint applicants of B&Q and Morrison Supermarkets informed the Committee that the current B&Q store was too large for current needs and the proposal was to divide the current store between B&Q and Morrison Supermarkets. The proposal would safeguard the current 115 B&Q jobs and also create some 300 jobs in the Morrison supermarket. B&Q would continue to operate throughout any works being carried out.

Councillor Conway, local member, informed the Committee that this site had a Certificate of Lawfulness and therefore did not require planning permission for change of use to a supermarket. Local residents, while in support of the application which would bring greater competition and introduce a new brand name to the area, were concerned about levels of traffic which may be generated in an area which already suffers high levels of traffic. Concerns were particularly expressed about the impact on High Street, Carrville and Willowtree Avenue, Gilesgate and Councillor Conway requested that the County Council took seriously the issues around traffic in this area. Councillor Conway **Moved** approval of the report.

Councillor Davinson asked how the same number of staff as currently employed would continue to be employed at B&Q when the store became half of its current size and **Seconded** approval of the report. Councillor Clark then asked whether any alterations were proposed to the external design of the current building.

The Senior Planning Officer replied that no alterations to the external design of the building were proposed, other than signage and requested Mr Creighton to comment on future levels of employment in B&Q. Mr Creighton informed the Committee that B&Q had already carried out similar alterations in other parts of the country and staffing levels had remained the same. The shop would sell the same number of goods but would carry less stock.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions detailed within the report.

**f DM/14/02309/FPA - Land to South of Crow Trees Lane, Bowburn**

The Committee considered a report of the Senior Planning Officer regarding residential development of 46 no. affordable homes including access on land to the south of Crow Trees Lane, Bowburn (for copy see file of Minutes).

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

The Senior Planning Officer informed the Committee that the Plan Reference Number in Condition 2 of the recommendation regarding External Finishes should read Revision E rather than D. Additionally, because the surface water from the site would run off to a wetland area in an adjacent field, there was no longer a requirement for a biodiversity contribution. The Senior Planning Officer confirmed that Ecology Officers were satisfied with this.

Councillor Blakey, local member, addressed the Committee to object to the application. She referred the Committee to photographs which had been circulated showing the problem with parking encountered on Crow Trees Lane particularly around school starting and finishing times each day. Traffic on the road travelled at fast speeds despite attempts to have it slowed. There was concern that surface water from the site flowing into the wetland area situated on the adjacent field to the south east of the application site could result in homes being flooded and this site was not appropriate for development.

Mr Richard Cowan, Chairman of the Bowburn and Parkhill Community Partnership addressed the Committee to comment on the application. He informed the Committee that he travelled Crow Trees Lane on a regular basis and had great concern at parking issues on the road and the proposed installation of double kerbing could lead to vehicles parking further on the bend on the road or towards the junction with Old Quarrington Road, which would have an impact on visibility. Currently, vehicles parked on both sides of the road during school drop off and pick up times, which caused traffic to travel in the middle of the road. There had been complaints about parking in this area for some time and Mr Cowan requested the Committee to consider this when determining the application.

The Senior Planning Officer informed the Committee that the County Ecologist had expressed concern that the wetland area may dry up and be lost as a result of this development. However, following the submission of drainage details from the applicant, the County ecologist was now satisfied that this area would be retained.

John McGargill, Highway Development Manager, informed the Committee that it was proposed to displace parking from the access to the development to enable safe visibility splays. Yellow line restrictions would still allow for dropping off and

picking up of passengers, and it was therefore proposed to introduce double kerbing on a stretch of Crow Trees Lane. Standard kerb heights were approximately 6", whereas double kerbs were 12" in height which made it virtually impossible to pull onto the highway verge and open vehicle doors. The installation of double kerbs was a condition attached to the planning permission. Although it was acknowledged that the introduction of double kerbs would not reduce the number of vehicles in the location, drivers would look to park elsewhere, possibly within the proposed development itself.

Alastair Willis, agent for the applicant, addressed the Committee. The proposed development would be of high quality and would deliver new homes with a significant emphasis on delivering affordable housing for local needs. The developer had already secured HCA grant allocation, supported by the Council's housing officers, for the first 20 properties to be delivered as affordable rent homes, and rents would be capped at 80% of market rents. The development included a mixture of housing types and would contribute towards reducing the significant affordable housing requirements in the County. It had been demonstrated through the planning submission that with all emerging site allocations and existing permissions, there was still a demonstrable shortage of affordable housing supply in all areas of the County.

In addition to the variety of property sizes, the scheme also included a number of bungalows which were in short supply and would ensure the development was accessible to a wide cross-section of society.

A number of betterments had been included in the proposed scheme following consultation with County Council officers, including the introduction of double kerbing and the provision of additional visitor parking on the access to the site.

Councillor Conway informed the Committee that he was impressed by the application and the affordability aspect attached to it. While double kerbing may alleviate the problem of parking on Crow Trees Road, Councillor Conway asked what the construction period would be for the development and where workers would park during construction, as this could exacerbate parking problems on Crow Trees Road. The Senior Planning Officer replied that a construction management plan could include details of on-site parking during construction of the development. Mr Willis added that an 18 month construction period was proposed.

Councillor Robinson referred to paragraph 88 of the report and the developer's contribution of £46,000 towards green infrastructure and public art and suggested that this also include traffic calming and highways measures. Councillor Robinson also asked that while the proposal was for 100% affordable housing, whether the level of 20% affordable housing referred to in paragraph 87 had been secured by agreement. The Senior Planning Officer replied that although the scheme proposed 100% affordable housing, the Council could only seek a 20% level of affordable housing by legal agreement. Measures for double kerbing on Crow Trees Lane would be secured through a planning condition. Councillor Robinson requested that the scope for spending the £46,000 be widened to areas other than public art. Councillor Taylor, upon taking advice from the Planning and Development Solicitor, replied that this could be possible.

The Senior Planning Officer informed the Committee that the developer contribution was linked to Policies R1 and R2 of the City of Durham Local Plan which did not refer to highway improvements. Any additional highway improvements to those already proposed would therefore be an additional sum to the £46,000. Mr Willis added that while the developers were keen to work with the Local Authority he was concerned that if additional highway improvement works were included in the s106 agreement, this may not meet the Community Infrastructure Levy test.

Councillor Conway **Moved** approval of the application, subject to the production of a construction management plan to address the parking issue of construction works on site.

Following the discussion by Members regarding highways issues, the Senior Planning Officer proposed that condition 3 of the planning permission be amended to read 'a detailed scheme for highway safety improvements' rather than 'a detailed scheme for the kerb improvements'. The Highway Development Manager added that any additional traffic calming measures would need to be considered in detail.

Councillor Robinson **Seconded** approval of the application. Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions detailed within the report with the following amendments and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990:

- a) that the Plan Reference Number in Condition 2 of the recommendation regarding External Finishes read Revision E rather than D.
- b) that the requirement for a biodiversity contribution be removed
- c) that a construction management plan include details of parking for on-site workers during the period of construction
- d) that condition 3 of the planning permission be amended to read 'a detailed scheme for highway safety improvements' rather than 'a detailed scheme for the kerb improvements'

**g DM/14/02294/FPA - Land to rear of Wylam Terrace, Coxhoe**

The Committee considered a report of the Planning Officer regarding the erection of 12 no. bungalows with associated access road and landscaping on land to the rear of Wylam Terrace, Coxhoe (for copy see file of Minutes).

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

Councillor J Blakey, local member, addressed the Committee in support of the application. However, she referred to various environmental projects taking place across the Bowburn and Parkhill areas and informed the Committee that this application would result in a small length of road being unadopted and added that

she would have liked for all this road to have been brought up to adoptable standards.

William Dennis; local resident, addressed the Committee to object to the proposal. He informed the Committee that his property on Wylam Terrace had a conservatory which would overlook two of the proposed bungalows on the development and was only 10.4 metres from the bedroom windows of these bungalows, whereas normally a separation distance of 21 to 23 metres was required. The current planning permission for bungalows on the site had a separation distance of some 20 metres. A further problem was that the houses on Wylam Terrace had steps up to their back doors, which would result in the proposed 1.8 metre screening fence being inadequate in height. Mr Dennis requested that the Committee defer determining the application or add a condition that the issue of privacy be resolved to the satisfaction of himself, the applicant and Planning Officers.

The Planning Officer replied that all representations had been considered adding that while Policy Q8 of the City of Durham Local Plan stated a 21 metre window to window separation distance this was a guideline and did not relate to every circumstance of development. The proposed properties were bungalows which would have a 1.8 metre close boarded fence on the higher of the two land levels.

Mr Paul Elliot, agent for the applicant, addressed the Committee. The site currently had planning permission for the erection of 12 residential units, both bungalows and houses, which expired in 2015. This application was a revised proposal which proposed 100% bungalow provision and was a lower density, higher quality development. The proposed layout of the development would make provision for 2 car parking spaces per property as well as additional parking spaces, and existing roads would be brought up to adoptable standards. The development would be built in a sustainable manner both in construction and in usage. Referring to the issue of privacy, Mr Elliot informed the Committee that this would be addressed by the protection afforded by the proposed fencing on the site. It was the intention of the developer to source as much material and labour locally and the scheme would bring a s106 contribution of £12,000.

Councillor Kay asked whether separation distances were similar for the current planning permission which was in place for the site. While sympathising with the objector, Councillor Kay accepted the point made by Planning Officer that guidance on separation distances was taken as a balanced view of any application. The proposed development was of a lower density than the current planning permission and only bungalows were being built, rather than a mixture of bungalows and houses. The Planning Officer replied that this application proposed similar relationships to the current planning permission which was in place.

**Moved** by Councillor Davinson, **Seconded** by Councillor Kay and

**Resolved:**

That the application be approved subject to the conditions detailed within the report and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.



**h 4/13/00635/FPA - Magdalene Heights, Gilesgate, Durham**

The Committee considered a report of the Planning Officer regarding the demolition of existing building in association with the erection of two and three storey pitched roof building providing 10 no. apartments with associated access, parking and landscaping at Magdalene Heights, Gilesgate, Durham (for copy see file of Minutes).

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

Mr Stott, local resident, addressed the Committee to object to the proposal. Mr Stott informed the Committee that he lived in Magdalene Heights and he had concerns about land stability issues and parking issues which may arise from the proposed development. A recent application to develop the former scrapyard site near to Magdalene Heights required an invasive land stability survey to be carried out, and the site for this proposed development was next to the former scrapyard site. Mr Stott expressed concern that any drastic earthworks which may be needed could cause land stability problems.

Mr Stott informed the Committee that a boundary fence ran along his property and the proposed development site of the Magdalene Heights property and it was his responsibility to keep this boundary fence retained. However the current fence was not suitable for the development plans for Magdalene Heights and Mr Stott asked who would be responsible for the maintenance of existing hedging. Referring to car parking, Mr Stott informed the Committee that the proposed development only allowed for one car parking space per property and queried where any overspill car parking would occur. The recent approval of development plans for the former scrapyard site did not include any provision for car parking, and Mr Stott queried where cars from this development might park. The only vehicular egress from both the former scrapyard site and the proposed Magdalene Heights development would be downhill and up along Ashwood, and although this was a two lane road, it had a very sharp bend on it. The same road was used by users of other nearby facilities such as Sea Cadets and Jehova's Witnesses. Mr Stott referred to drainage issues and informed the Committee that the proposed development would have a larger paved area and therefore greater run-off of surface water.

The Principal Planning Officer informed the Committee that some of the issues raised by Mr Stott were covered in the Committee report. The current application had been considered within the context of the nearby student accommodation on the site of the former scrapyard being approved. Referring to land stability, the Principal Planning Officer informed the Committee that a comment on this was contained in the report at paragraph 93 with the site currently holding a dwelling without subsidence issues. Stabilising the new proposal on the land would be a technical issue which would be dealt with under building regulations. The Principal Planning Officer informed the Committee that issues of landscaping and fencing were dealt with under condition 5 of the planning permission.

John McGargill, Highway Development Manager informed the Committee that there was provision of one parking space per property at the proposed development. The site was within the Durham City Controlled Parking Zone and therefore any parking over and above the one per property provision would need to take place outside of this Zone. The proposed development would generate relatively low volumes of traffic, and the nearby student accommodation on the site of the former scrapyard had no parking provision and would therefore not generate any significant traffic.

Councillor Moir informed the Committee that Mr Stott had well-articulated the problem of this proposed development. While the proposed development was within the Controlled Parking Zone this did not necessarily mean that the residents of the proposed development would not have more than one car, and together with the nearby approved student accommodation which had no parking provision, this would result in vehicles being parked as close as possible to the two developments. This would result in current parking problems being exacerbated. Traffic movement around this area was convoluted because while the proposed student accommodation could be accessed from the A690, access onto the A690 was not permitted. This would result in traffic wishing to exit the student accommodation or this proposed development using Magdalene Heights and Ashwood, which were both small and narrow roads. Councillor Moir referred to the topography of the area, which led steeply down to the River Wear, and referred to a landslip which had occurred elsewhere on the banks of the River Wear. He informed the Committee that he was uncomfortable to make any decision on this application because of the recent approval for the nearby student development and potential problems of land stability on the area.

Councillor Robinson referred to condition 5 of the planning permission and sought clarification on responsibilities for boundary fences. The Principal Planning Officer replied that any damage caused to the existing boundary fences by the developer would need to be reinstated at the expense of the developer. However, the legal responsibility for boundary fences was a private issue between property owners and not a planning issue. Land stability matters were to be dealt with under building regulation control and not under planning matters.

Councillor Kay informed the Committee that the application had suitable parking provision and should be considered on its own merits.

Mrs Franks, applicant, informed the Committee that her mum currently lived in the property in Magdalene heights and intended to live in one of the new apartments once the development was completed. The proposed apartments were being designed to be desirable for retired people and the provision of one parking space per unit would be more than adequate.

**Moved** by Councillor Clark, **Seconded** by Councillor Kay, and upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions detailed within the report.



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

At a Meeting of **Area Planning Committee (Central and East)** held in Council Chamber, County Hall, Durham on **Tuesday 11 November 2014 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, S Iveson, A Laing (Vice-Chairman) and C Kay

**Also Present:**

A Dobie – Principal Planning Officer  
S Eldridge – Principal Planning Officer  
B Gavillet – Senior Planning Officer  
A Glenwright – Highways Officer  
N Carter – Solicitor (Planning and Development)

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, J Lethbridge, R Lumsdon and B Moir.

**2 Substitute Members**

There were no substitute Members.

**3 Declarations of Interest**

The Chairman advised that he was a Member of Brandon and Byshottles Parish Council but had taken no part in any Parish Council discussions in respect of application numbered DM/14/02141/OUT – The Garth, Mill Road, Langley Moor.

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

**a CE/13/01014/OUT - Land at Former Thorpe Maternity Hospital, Andrews Lane, Easington**

The Committee considered a report of the Senior Planning Officer regarding an outline application for proposed residential development (for copy see file of Minutes).

The Planning Team Leader provided the Committee with a detailed presentation on the application which included photographs of the site.

Councillor D Boyes, local Member addressed the Committee and advised that Easington Village was a 12<sup>th</sup> Century settlement. Policies within the District of Easington Local Plan were aimed at protecting the Green Wedge allocated between Peterlee and Easington Village. Policy 6 limited development in the Green Wedge to the uses of agriculture, horticulture, forestry, wildlife reserves and informal recreation.

The site north of Lowhills Road had been granted outline permission for 900 houses, and with other allocations in Easington he questioned how many developments the area could withstand.

In conclusion he reiterated that this was a medieval settlement and if approved the proposed development would change the character and appearance of the area forever. He also understood that as the site of a former maternity hospital there may be baby burials on the land.

Councillor L Morton of Easington Parish Council expressed concern about the number of available school places. Easington Academy had a limit of only 1200 places and children travelled to the school from outlying settlements. The primary school was also small with no available places.

Housing stock in the village consisted of a mix of old and new dwellings, and as already stated there was planning consent for a major development of 900 houses, with permission for around 200 houses within the settlement itself. Little Thorpe was a small hamlet of 16 houses and if approved this development would represent a 100% increase in housing within the village.

Local people considered that there were too many houses proposed in the area in the wrong location and of the wrong type. Many were concerned that there were no bungalows included in the scheme.

The Parish Council was of the view that the application was contrary to policies in the District of Easington Local Plan and that the site was not allocated in the County Durham Plan. This development, in addition to the scheme for 900 houses, would have a negative impact on schools and nurseries, and the already busy and narrow roads in the area would not be able to cope with the increase in traffic generated.

Councillor J Andrews reiterated the comments of Local Member Councillor Boyes and Parish Councillor Morton. The proposals contravened Policies 3, 6, P6 and 14 of the District of Easington Local Plan. The site was a natural habitat for flora and fauna. There were trees on the site which were protected by TPOs, and plants which provided nectar for all kinds of insects. Proposals to provide bat boxes seemed to be a futile exercise as any existing roosts would be destroyed.

This development would constitute further erosion of the Green Wedge and there were existing brownfield sites allocated for residential development.

She understood that there were proposals to increase the size of the primary school but she still had concerns about the pressure the scheme would place on local schools, as well as the additional traffic this would generate. Traffic problems would be exacerbated along Thorpe Road which was used as a pedestrian route to the school and was busy at drop-off/pick-up times, and also along Stockton Road where the buses entered and left the school gates.

She was also concerned about the potential for an increased risk of flooding caused by surface water from Andrew's Hill.

There was a strong local belief that there were baby burials on the site but unfortunately records of this had not been retained.

Currently there were 22 unoccupied apartments in Easington Village and she therefore questioned the need for the housing. Councillor Andrews disagreed with the applicant that the development would have no impact on the character and appearance of the area; the proposals would transform a rural area into a concrete urban jungle.

She appreciated housing targets but questioned the need for so much new development in the village. In conclusion Councillor Andrews urged Members to take into account the views of local people and avoid the risk of destroying the fabric of a village in order to meet house-building targets by refusing the application.

Mr Styles, local resident stated that the people of Little Thorpe, Easington Village and Peterlee could not understand the reasons for developing this site. Whilst there had been a lot of information presented in support of the application he felt that the local knowledge and experience of the community should be taken into account.

A previous application to develop the site had been rejected at appeal and this site was classed as being in the open countryside. Mr Styles quoted Nick Bowles MP concerning development in the open countryside, who encouraged the re-use of brownfield sites, allowed for green space designation to protect green areas, and encouraged Planning Authorities to take into account the benefits of agricultural land. This site met all this criteria and also held special significance, being a baby burial site and an area where local people could find solitude and enjoy the local countryside.

Mr Frain, local resident reiterated the views made by the Parish Councillors about the need for new housing when there were already empty properties in both Easington Village and Little Thorpe.

He pointed out that suitable alternative sites had been allocated in the emerging County Durham Plan and that a previous application for the site had been refused and dismissed on appeal.

The two key considerations were the effect on the character and appearance of the surrounding area and whether development of the site would prejudice the preparation of local plan policies in the future.

In conclusion Planning Policy stated that developments should be located on sites which would help to consolidate the framework of existing settlements.

The Planning Team Leader responded to the submissions made and advised that this was a brownfield site on previously developed land. Evidence of the former hospital was still visible.

Residents had referred to a planning appeal in 1996 but Planning Policy had changed since the Inspector's decision with the introduction of the NPPF. With regard to the comments about local people enjoying the site, she advised that the land was privately owned with no Public Rights of Way across it.

In terms of the mix of housing, the Officer advised that this was an outline application and details of house types would be considered at a later stage.

The School Organisation Manager had advised that there were sufficient places within existing schools to accommodate the new development. A Section 106 Agreement for the site north of Lowhills Road secured a payment towards school places.

In response to the comments made by objectors about the number of new developments granted in Easington Village she advised that there was no cap on housing numbers and approval of this site would not prejudice delivery of the emerging County Durham Plan. She pointed out that this site was outside the settlement of Easington and needed to be considered in context of the proposals for the wider area.

Mr Stovell, the applicant's agent was invited to address the Committee. He referred to the Planning Officer's report and commented on the following key issues:-

- The site constituted previously developed land and was located within the Lowhills Road development site of 900 houses.
- Although the site did not accord with Local Plan Policy it was in line with the NPPF and the emerging County Durham Plan.
- Highways Officers had confirmed that the proposals would not compromise highway safety in the surrounding network and would be in accordance with Local Plan Policy.
- 10% affordable housing would be provided in line with the SHMA which would be secured through a Section 106 Agreement. The Section 106 Agreement would also secure a contribution towards play and recreational facilities.
- The Council's Ecology Section had confirmed that the proposals would be in accordance with saved policies in the Local Plan and Part 11 of the NPPF which sought to protect and enhance biodiversity and the natural environment.
- The County Archaeologist had offered no objections subject to conditions being imposed which would require further investigation works. There were no formal records of baby burials on the site and this was not a material planning consideration.



- No objections were submitted by Landscape Officers and the report stated that there would be no adverse impact on the visual appearance of the area or surrounding landscape. The scheme would be successfully integrated into the surrounding area.
- The Council's Drainage Officer, Environmental Health Officer and Northumbrian Water had not offered any objections and the proposal would not have an adverse impact in terms of drainage or flooding.
- There would be school places available in existing schools.
- The applicant was committed to 10% improvement in carbon emissions on the site.
- Officers were sufficiently confident that a high quality layout, design and landscaping framework could be provided and the mature trees would be protected on the site.

In response to questions from Councillor Davinson, the Principal Planning Officer advised that a contribution of £500 per residential unit for play and recreational facilities was the amount identified for the East Durham area, and also applied to the Lowhills Road site. With regard to considering this application in the wider context, she advised that whilst the Lowhills permission was also in outline at present it was expected to come forward.

Following comments from Councillor Kay concerning the weight to be attached to Local and National Planning Policy, and the emerging County Durham Plan, the Officer acknowledged that the application did not accord with local plan policies. However a decision should be taken against the criteria contained in the NPPF with limited weight attached to the emerging County Durham Plan.

Councillor Conway referred to paragraph 73 in the report. He felt that there was firm evidence in the Local Plan and the emerging County Durham Plan that should be taken into account in the determination of the application. Policies 15 (development on unallocated sites) and 35 (development in the countryside) in the emerging County Durham Plan were relevant, and policies 3, 6 and P6 of the Local Plan were clear about the Green Wedge and the use of the site. He noted that the County Planning Committee had disregarded these policies in its determination of the application for the Lowhills Road site and asked if the emerging Plan contained a reference to the former Thorpe site and the matters contained in policies in the Local Plan.

The Member was advised that there were no policies in the emerging Plan which directly reflected usage of the site. The two key issues were the Green Wedge and use, and these should be examined against policies contained in the NPPF. The NPPF set out a presumption in favour of sustainable development and this site met this criteria.

**Moved** by Councillor Kay and **seconded** by Councillor Dearden it was

**Resolved:**

That the application be approved subject to the completion of a Section 106 Legal Agreement to secure the provision of affordable housing; a financial contribution towards play and recreational facilities in the locality at a pro-rata rate of £500 per residential unit, and to the conditions outlined in the report.

**b DM/14/01418/FPA - Kingslodge Hotel, Waddington Street, Durham, DH1 4BG**

The Committee considered a report of the Senior Planning Officer regarding an outline application for the remodelling of the building including the erection of ground, first, second and Mansard roof third floor extensions with layout and landscaping reserved, and full planning permission for change of use to student accommodation (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation on the application which included photographs of the site. A visit to the site had been arranged for Members to view the location and setting. He also updated the Committee on proposed refusal reason 3 (protected species) as a bat survey had now been submitted. Refusal reason 3 was therefore to be deleted.

Councillor G Holland, local Member spoke in support of the Officer's recommendation for refusal. He observed that the applicant had objected to an application for student accommodation on the former County Hospital site on the grounds that the area was 'student saturated'.

In his statement the applicant appreciated that there was a demand for new hotels but that increased competition had put pressure on Kingslodge. However in 2011 he had applied for an extension to the hotel and was granted planning consent on appeal. In considering this application Officers had correctly relied on the Local Plan and the NPPF, with little emphasis placed on policy 32 of the emerging County Durham Plan.

He considered that the decision rested with Policies C9, H13 and H16 of the Local Plan, to which primary weight should be given, and paragraphs 70, 117 and 118 of the NPPF. The application was contrary to these policies and allowed Officers to make an unambiguous recommendation for refusal.

Councillor N Martin, local Member addressed the Committee and commenced by explaining that he was the Treasurer of the Rotary Club of Durham Bede which used Finbarrs restaurant for its weekly meetings, and this application clearly threatened the future of the restaurant. In accordance with the Council's Constitution he had consulted the Monitoring Officer who had advised that in this specific situation it was acceptable for him to speak and represent his constituents.

His objections were on the grounds of impact on local amenity, need and economic loss to the City. Less than 20 metres from the site was the new Gentoo development of family town houses which was nearing completion. This was a welcome re-introduction of family housing into an area that had needed re-development for some years.

In addition, situated within 150 metres in the opposite direction was pre-dominantly family housing which would be at risk from noise and disturbance from this development.

There did not appear to be anything in the plans that showed how the residents would socialise within the building, nor had the applicant given any evidence to confirm that he knew how to manage a residence of this size in terms of noise and disturbance to neighbouring properties.

As a former College Principal and University City Liaison Officer he was aware that there would be loud late-night comings and goings from this development.

The area already had a large student population but the Gentoo development was a move to mitigate this factor. Increasing the density of students only had the effect of further sterilising parts of the City Centre in the half year that the students were not there.

The applicant claimed that students brought long-term economic benefit to the City but the provision of more student residential accommodation had no impact on the number of students in the City as this was controlled by the University. Need was a key factor and had been accepted by the Inspector at the ongoing examination of the emerging County Durham Plan as a relevant consideration.

Finally there was an economic issue around the hotel and restaurant. This was currently a successful hotel which had permission to expand its bed capacity. The restaurant was arguably the best restaurant in Durham City.

This application would put both at risk. The emerging County Durham Plan placed the City at the centre of a strategy to increase economic activity across the County as a whole. In addition a large number of jobs would be lost that the local economy needed, and for which there was currently a demand.

Mr Priestly spoke as a representative of Crossgate Partnership and welcomed the recommendation for refusal. He was pleased that the Council had recognised that the concentration of students had become unbalanced in the City. With the new reduced student targets there would be no economic gain for Durham. The application contravened Policies H13, H16 and C9 of the Local Plan.

Mr Finbarr O'Leary explained that he owned the restaurant and whilst it was housed in the hotel it was a separate entity. His concerns were on employment grounds. The employee figures referred to in the report were inaccurate, and the actual loss of jobs in the restaurant would equate to 19 FTE and 20 PTE.

Mrs Levitas stated that she was now the only resident in her street, the remaining houses being occupied by students. She reiterated that this area was saturated with students. The hotel was managed very well and was a huge asset to the City. Her main concern was that there was an oversupply of student accommodation. The number of university places were to be reduced and she understood that Durham University was building student accommodation on its own land. A policy was needed to redress the imbalance of housing in the City.

In terms of impact on the local economy, the students were not in the City from June to October each year.

At this point Councillor Martin left the meeting during Member deliberations.

Councillor Conway welcomed the clarification by Mr O'Leary in relation to employment figures and **moved** refusal of the application. Councillor Davinson noted that the restaurant was busy on the Member site visit which had been at 2.00pm on a Monday and was of the view that this was an indication of its success. He welcomed the new family housing being built next to the site and was concerned about the potential impact on that development if the application was approved.

Councillor Freeman stated that Mrs Levitas had highlighted the problems in the City which were reflected in the fact that she was the only resident in her street. It was pleasing that the percentage of student properties in concentrated geographical areas had been examined and hoped that this would be taken into account in future applications. The current figures clearly showed an imbalance in the local community.

Councillor G Bleasdale **seconded** refusal of the application.

**Resolved:**

That the application be refused for the reasons set out in the report, as amended.

**c DM/14/00573/FPA - Land to the west of Deerness Heights, Brandon, Durham**

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of 89 dwellings (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation on the application which included photographs of the site. A visit to the site had been arranged for Members to view the location and setting.

Mrs C Bowman, objector referred Members to a photograph taken from the rear of her property. She noted that existing trees were to be retained to create a buffer, however approximately twenty had been cut or reduced in height. She acknowledged that the trees had not been cut down by the applicants but the result had a negative impact on existing properties. Even if the applicant replaced the trees it would be some considerable time before this buffer was reinstated. This would have a significant impact on amenity as the land was sloped and the new

buildings would tower above her own property and those of her neighbours, leading to loss of light, privacy and views of the countryside.

Whilst she sympathised with the applicant this did not outweigh the harm this would cause to the Conservation Area. If the company closed down or was re-located she felt that the application would have been granted purely to assist a business that was no longer there.

At this point the Chairman clarified that he was a local Member and that Mrs Bowman had contacted him about the trees. However this had not influenced his consideration of the application and he had come to the Committee with an open mind. The Legal Officer advised that in these circumstances, the Chairman could take part in the decision making.

Mr S Hedley, the applicant's agent addressed the Committee. He advised that the applicant was disappointed with the recommendation for refusal, the reasons being the adverse impact on the Conservation Area and the cumulative impact on junctions on the highways network in the area.

The site had been identified in the SHLAA and the preferred options stage of the emerging County Durham Plan but had been excluded in 2013 because of its status within a Conservation Area. He considered that this was unacceptable. Their own Heritage Consultant had carried out an assessment of the significance of the Conservation Area and had found that the impact on the setting would be negative. Members on the site visit would have noted the visual impact of the Brambledown business on the land. To base the recommendation for refusal on assumed impact was unhelpful to the applicant who was taking action to support his business and employment.

Their own Architectural Assessment had concluded that there were no significant findings and that there would be no significant impact.

Addressing the views of the Highways Officers and their concerns with regard to the impact on the additional traffic generated on the existing network, he anticipated that the increase would constitute less than 1% at the junctions. He also referred to a planning application granted in Ladysmith Terrace, Ushaw Moor which would also impact upon these junctions in the same way.

Mr Curry, the applicant stated that there was a significant business case for the application which on balance outweighed the harm to the Conservation Area.

Business Durham had offered its support to the sale of the land to allow Brambledown to continue to be a large employer of local people. Brambledown was an important local employer which had gone through a difficult time because of the economic downturn. Company Directors believed that the business was starting to recover and were looking towards new investment. The capital receipt from the sale of the land would be used to support this. Supporting local businesses and creating employment was a significant material planning consideration.

In response to the comments made about the impact on the Conservation Area, the Senior Planning Officer advised that, if approved, this development would remove the last area of green space between Brandon Village and Brandon, causing unacceptable harm to the Conservation Area.

The Highways Officer addressed the highway safety issues. The report gave details of the traffic assessment and he acknowledged that the issues at the junctions also applied to the Ladysmith Terrace development. However, notwithstanding this Officers had offered objections to the layout of the development which was deemed to be unacceptable in highway terms for the reasons detailed in the report.

**Moved** by Councillor Laing and **seconded** by Councillor Bleasdale it was

**Resolved:**

That the application be refused for the reasons set out in the report.

**d 4/14/02160 & 4/14/02161 - Old Shire Hall, Old Elvet, Durham**

The Committee considered a report of the Senior Planning Officer regarding an application for change of use from office (B1) to 43 bedroom hotel and 29 room aparthotel (C1) restaurant and bar (A3/A4) with 150 covers, leisure club and spa (D2) and associated access, car parking and landscaping, with internal and external alterations to a Listed Building (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation on the application which included photographs of the site. A visit to the site had been arranged for Members to view the location and setting.

In presenting the report the Senior Planning Officer proposed minor amendments to the wording of conditions numbered 10 and 14 to 21 of application numbered 4/14/02160. It was proposed that the wording 'no development shall commence' be amended to state that 'no external works shall commence'. This would provide flexibility for the applicant to carry out internal works to the building.

In addition an amendment to condition numbered 23 was proposed to state that 'the fixtures and fittings located in the council chamber shall not be removed from the building until the contract for the future occupation/operation of the council chamber has been let'.

Mr B Corrigan addressed the Committee on behalf of residents and businesses at The Cathedrals which was located to the rear of the Old Shire Hall. He stated that residents did not object to the principle of the development but had concerns about access. He pointed out an error in paragraph 9 in the report which stated that the proposal was to use a one way circulatory vehicular route through the site with access from Old Elvet to Court Lane. The revised proposal was for two way access and egress from Old Elvet, and Officers considered that the site could operate from this single access point, although noted that a secondary access and egress point may be formed from Court Lane (paragraph 81).

Currently there were 12 parking spaces to the rear of the building and access/egress was via The Cathedrals. This was a busy pedestrian route to the University. An increase from 12 to 38 spaces was proposed, and whilst revised proposals for access and egress from Old Elvet was welcomed, residents were concerned that the existing access via The Cathedrals would remain open, and without any restriction may become a major route into the hotel. This would defeat the purpose of the revised proposals. He felt that this could be addressed by a planning condition restricting use of the access to emergency vehicles only.

Mr D Brocklehurst, the applicant's agent addressed the Committee and responded to the concerns of residents. He advised that he had worked closely with Planning and Highways Officers to produce the scheme and had amended the plans to their satisfaction. An additional condition would not be acceptable; traffic and pick-ups/drop-offs would be served principally from the front of the building but the secondary access was needed for service vehicles and was essential to the function of the hotel. The building had been vacant for two years and the applicant had invested significantly in this landmark building to bring a high quality hotel to the City. The proposals would bring additional visitors to Durham and create 60 jobs.

Councillor Conway expressed his support to the proposals which would bring a significant building back into use. He noted that Mr Corrigan welcomed the scheme in principle and hoped that his concerns about access could be resolved through on-site management.

In response to a comment from Councillor Kay who proposed a condition to address the issue of access via The Cathedrals, the Senior Planning Officer advised that the Local Planning Authority must be able to demonstrate that planning conditions were enforceable and necessary. He did not consider that a condition restricting access via The Cathedrals would meet these tests.

The Highways Officer acknowledged that the site could operate from a single access point but also that a secondary access and egress could be formed from Court Lane, and this was beneficial to the developer.

Councillor Freeman stated that he supported the proposals which would add to the economic revival of the City. He reiterated the views of Councillor Kay and as Members had heard that access from Old Elvet was satisfactory, he disagreed that the issues regarding the secondary access could not be resolved. He was concerned that people would use it to access the hotel and felt that a solution should be found to prevent this.

The Chairman invited the applicant's agent to clarify the access issue. Mr D Brocklehurst replied that the applicant needed both access points and would therefore be opposed to a condition as suggested as it would not meet the necessary tests in his view.

Councillor Kay clarified that he was of the view that the primary access to the hotel should be from Old Elvet and the secondary access should be for emergency and delivery vehicles only.

Councillor Clark made the comment that in the main visitors to the hotel would be from outside the area and she expected that directions would be provided which would include details of access.

Following discussion the Senior Planning Officer suggested an additional condition for a highway signage scheme to be agreed which should resolve the concerns about access.

**Resolved:**

That the applications be approved subject to:-

- (i) the conditions outlined in the report with minor amendments to the wording of conditions 10, and 14 to 21 of planning application numbered DM/14/02160/FPA, to read 'No external works shall commence....';
- (ii) Condition 23 being amended to read as follows:-  
  
'The fixtures and fittings located in the council chamber shall not be removed from the building until the contract for the future occupation/operation of the council chamber has been let'.
- (iii) the following additional condition:-  
  
'Notwithstanding any details submitted with the application, the development shall not be brought into use until a scheme for highway signage is submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.'

**e DM/14/02141/OUT - The Garth, Mill Road, Langley Moor, Durham, DH7 8HF**

The Committee considered a report of the Planning Officer regarding an outline application for 5 no. dwellings with all matters reserved except access (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation on the application which included photographs of the site. A site visit had been arranged for Members to view the location and setting.

In making his presentation the Principal Planning Officer advised that since the report had been circulated Public Rights of Way had withdrawn their objections to the application.



Mr Holburn, an objector addressed the Committee stating that he wished to focus on the highways and environmental aspects of the proposals.

In terms of highways he noted that no objections had been offered from the Highways Authority but their comments focused primarily on the access. His concerns related to the narrow width of the lane leading to the development. The proposals suggested that two cars could pass with additional widening but this did not take into account the use of the lane by pedestrians. At two cars per property this would pose a significant risk.

It appeared from the site plan that the proposed turning head for refuse vehicles formed an access to another dwelling.

With regard to environmental impact Mr Holburn stated that the land sloped down to the River Browney and that the proposals included a species rich meadow. Soil would be removed as part of the development works and this may destabilise the land following rain and natural erosion. Three of the dwellings would have access to the meadow which may result in disturbance to wildlife.

Mr C Megson spoke on behalf of Deerness Kennels. The land was designated Green Belt and planning policy restricted development in these locations. The applicant had submitted that the development would not undermine the Green Belt. The openness of Green Belt was considered to be the absence of built development. The proposals would lead to a loss of openness of the Green Belt and as such would not conform with Part 9 of the NPPF.

Alterations to the Green Belt should be considered through the Local Plan process where they were subject to relevant public scrutiny and inquiry as part of a longer term strategy. The proposals were contrary to Policy H5 of the Local Plan as the houses were not associated with a proven agricultural or forestry need.

Noise pollution was a consideration in the NPPF and whilst the applicant had submitted a full Noise Assessment, Environmental Health had raised concerns which were outlined in the report. The proposed development would be susceptible to noise nuisance and this would compromise his client's operations. His client played an important role in the area.

Mr M Creedy, the applicant's agent stated that he wished to present a statement from Brandon and Byshottles Parish Council in the absence of Parish Councillor N Rippon who was unable to attend due to parish commitments.

The Parish Council and Community Group had registered their support to the application. The Parish Council having visited the site considered that it would be hugely positive, would add diversity to the housing stock and improve the visual amenity of open space overlooking the site.

The site was located on the edge of Langley Moor and whilst it was within the Green Belt it constituted previously developed land and was currently an eyesore. Views to and from the site would be improved and Landscape Officers had advised that it would partially screen buildings from the Browney, would improve the biodiversity of the area and would provide a wildflower meadow. The land was currently covered by concrete paths and posts. This scheme would improve the visual amenity of the area and would improve the Green Belt.

The scheme was also an excellent example of carbon neutral accommodation in Langley Moor. Highways works were proposed which offered improvements to existing arrangements and access to the existing footpath in the area.

The development was close to Langley Moor High Street, the main shopping street in the area, and was also close to public transport links.

In conclusion the Parish Council was of the view that this well-considered and unique development should be welcomed. It could lead the way to demonstrating how sustainable and carbon neutral housing could be achieved, making a positive contribution to the area.

Mr J Elmer, the applicant stated that Mill Road Passivhaus development was the first group in County Durham of this sort and the profit would be utilised as a springboard for providing more in the future. He provided Members with details of the Passivhaus concept and benefits.

The development would restore a previously developed landscape, and would visually improve the location through planting and green roofs, extensive landscaping and a wildflower meadow. The proposals were supported by the Landscapes Section and the highway and access arrangements were to the satisfaction of the Highways Authority. The unregistered footpath would be unaffected by the proposals and homeowners would be able to access local facilities easily from the site.

Mr Elmer addressed the concerns expressed about noise, stating that the noise assessment carried out surpassed the standards required by BS4142 and the proposed noise reduction measures would result in negligible external noise. Internally the homes would be silent.

Friends of Langley Moor had also offered their support to the proposals who believed that the uniqueness of the development could add prestige to the village. The development would not compromise the security of the kennels or the dogs and he considered that neighbours would provide protection. The proposed noise measures would benefit both the kennels and residents, and his noise consultant had concluded that the claims made about the impact of noise were unfounded. The current situation relating to noise issues would be improved.

He had demonstrated how constraints could be overcome and that this was an exceptional scheme which would bring forward a significant development without compromising the environment for the future.

The Principal Planning Officer responded to the submissions made. With regard to the comments made about the potential impact on the wildlife meadow he advised that Planning Officers consulted with the Council's Landscape Officers who had offered no objections to the proposed habitat enhancements.

The comments made by Mr Megson on behalf of the kennels were endorsed and the Green Belt was a significant consideration. In accordance with Part 9 of the NPPF, development of a Green Belt was inappropriate unless there were exceptional circumstances. Officers did not consider that very special circumstances had been demonstrated here, and whilst this was a high quality scheme in terms of sustainability the location was inappropriate. Landscape Officers considered that the scheme offered benefits in terms of the landscape but Planning Officers did not feel that this outweighed the harm to the Green Belt.

With regard to the references that the site was previously developed land, the Officer advised that as could be seen from the site photographs existing development was minimal and was assimilated into the landscape. The proposals were significant in terms of visual impact on the area.

In terms of the noise assessment submitted by the applicant, Planning Officers relied upon the views of its own Environmental Health Officers.

Councillor Freeman was of the view that whilst the houses may be eco-friendly in design this would be off-set by the damage caused to the Green Belt. The development was not within the settlement of Langley Moor, was located next to an industrial estate and the amenity of the residents would be affected by noise from the kennels.

**Moved** by Councillor Freeman and **seconded** by Councillor Laing it was

**Resolved:**

That the application be refused for the reasons set out in the report.

**f DM/14/02631/VOC - Cod on the Rocks, 1A Broad Road, Blackhall Rocks, Hartlepool, TS27 4BB**

The Committee considered a report of the Planning Officer regarding an application for the variation of condition 2, pursuant to planning permission reference CE/13/00900/FPA to allow continuous opening between 11.00 and 21.00 Monday to Sunday (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation on the application which included photographs of the site.

In making his presentation the Principal Planning Officer advised that since the report had been circulated an additional objection to the application had been received which reiterated issues already raised relating to impact on residential amenity, impact on the character of the area, noise, smells, loss of privacy and impact on the environment.

Councillor R Crute, local Member addressed the Committee on behalf of Councillor L Pounder and residents.

Residents were happy that this was a thriving business but felt that a balance should be struck which would allow the business to continue to be successful but which also protected the amenity of residents.

The increased traffic generation and parking would compromise the safety of pedestrians and motorists. Traffic along this road had increased in recent years and allowing the applicant to open the extra hours would exacerbate these problems. Given the planning history he was concerned that Planning Officers were now of the view that the proposed extension would not have a detrimental impact on residents.

He referred Members to the condition imposed by the Inspector at appeal which limited opening hours and stated that it would be unfair on residents if this was waived.

The Principal Planning Officer was mindful of the concerns of local Members and residents. The Inspector limited opening times in accordance with the hours the business operated at that time, and planning consent had been granted on that basis. This did not prevent the applicant from submitting an application to vary the opening hours.

There was no real evidence that extra problems would be caused in the middle part of the day. The Coast Road was busy at all times and he invited the Highways Officer to address the concerns expressed about traffic and parking.

The Highways Officer referred Members to paragraph 41 in the report which addressed the Inspector's assessment of highways issues in the original application for change of use, and the three reasons for allowing the appeal. These were relevant to the consideration of this application and from a highways point of view the additional opening hours were potentially in the quietest part of the day. In view of this and taking into account the reasons for the Inspector's decision, there were no strong highway grounds to refuse the application.

In response to a question from Councillor Clark about opening times, the Principal Planning Officer advised that the applicant was entitled to open seven days a week in accordance with the current planning consent.

Councillor Laing commented on the highways issues, confirming that this was a very busy road, having travelled it on a regular basis, and that parking was a problem along this stretch. The situation was made worse in the summer months.

Councillor Kay commented on the planning history linked to this site and the events that had resulted in an appeal, and was of the view that an extra two and a half hours would cause a detrimental impact on residential amenity. He therefore believed that the condition imposed by the Inspector with regard to opening hours should be adhered to.

Councillor Clark echoed these views adding that if the premises opened in the afternoon this would coincide with school traffic, exacerbating the vehicular and parking problems already experienced. She was also concerned about the impact the extended opening hours would have on residential amenity, particularly on a Sunday.

**Moved** by Councillor Clark and **seconded** by Councillor Laing it was

**Resolved:**

That the application be refused as the proposal would have an adverse impact on residential amenity.

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION NO:** DM/14/01858/OUT

**FULL APPLICATION DESCRIPTION:** Construction of 103 residential dwellings comprising of 40 affordable dwellings and 63 open market dwellings with associated infrastructure, landscaping and engineering works (outline application, all matters reserved except access) (revised description)

**NAME OF APPLICANT:** Hellens Group Limited

**ADDRESS:** Land to the east of Prospect Place, Commercial Road East, Coxhoe

**ELECTORAL DIVISION:** Coxhoe

**CASE OFFICER:** Ann Rawlinson, Senior Planning Officer  
03000 261393 [ann.rawlinson@durham.gov.uk](mailto:ann.rawlinson@durham.gov.uk)

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The site lies approximately 450m the north east of Coxhoe village centre, on the edge of the settlement, on land to the north of Commercial Road East and east of Prospect Place. The whole application site extends to approximately 3.7 hectares. The proposed 'development area' of the site is approximately 2.54 hectares in size. This has been reduced by approximately 0.31 hectares in size, from 2.85 hectares, during the course of the consideration of the application.
2. The site has previously been used as a limeworks. This was removed in the late 1970's. The site is considered to be Greenfield as identified within the Council's Strategic Land Availability Assessment.. The site now comprises a range of grasses, shrubs, trees, mainly around its perimeter and adjacent to the Thursdale Beck, to the north of the site. At this point the site slopes down an embankment, otherwise the site is generally level, gradually sloping from east to west. Bare ground is evident in the central area. Wooded areas surround the site to the north, east and south east.
3. The northern part of the site (approximately 0.83 hectares) forms part of Coxhoe Ponds Local Wildlife Site (LWS) which also extends to the north east and north west of the site.
4. The site is bounded to the west by landscaping planted as part of the adjacent housing development currently under construction. To the west of this landscaping is 'The Limes' residential development constructed since 2008. To the north, east and south is open countryside. Directly to the east of the site lies Crowtrees Local Nature

Reserve which also extends to the south east of the site. To the south west of the site is a football ground. Further south is the settlement of Coxhoe. Approximately 1km to the north east lies Quarrington Hill Grasslands SSSI and approximately 1.4km to the south east lies Raisby Hill Grasslands SSSI. Footpath Nos. 6 and No. 20 (Coxhoe) extend to the south and south east of the site. There are no landscape designations on or within the local vicinity of the site.

5. The extant development plan identifies Coxhoe as a 'larger village' capable of accommodating residential development. However, the site is identified to lie beyond the settlement limits of the village and therefore, for planning purposes, the site is considered to lie within open countryside.

## The Proposal

6. The proposal comprises the development of 103 dwellings and associated infrastructure for which outline planning permission is sought. All matters other than access are reserved for later consideration. However, an indicative master plan has been submitted showing a variety of house types, incorporating bungalows, terraced, semi-detached and detached houses. All are indicated as being of no more than two storeys in height and would have 2, 3 or 4 bedrooms.
7. The indicative master plan also indicates that the site would be landscaped and would incorporate a perimeter hedge. Existing trees surrounding the site are indicated as being retained. Areas of public open space are indicated as being incorporated within the proposed development (approximately 0.2 hectares), as well as the retention of an 'actively managed wildlife corridor' to the north of the site. The widening of this during the course of consideration of the application has enabled the extent of proposed development located within the LWS to be reduced in size by 0.3 hectares, from 1.1 hectares to 0.8 hectares. This has resulted in a reduction in dwellings proposed from 112 to 103.
8. The proposals also include the provision of off-site ecological compensation land to the south east of the site, across Commercial Road East, comprising of 0.88 hectares. It is proposed that this would be brought into active management in perpetuity. It would comprise of a small area of calcareous grassland to the northern section, with the rest comprising of lowland meadow and pasture with scattered scrub. There would be native hedgerow and trees forming the western boundary and part way down the eastern boundary. A permissive footpath would run through the site in a north-south direction.
9. Additional land to the north west of the site, to the north of the existing residential development would also be brought into active management which would comprise of planting calcareous grassland (1345m<sup>2</sup>) and woodland mix (1660m<sup>2</sup>) adjacent to the stream equivalent to 0.3 hectares.
10. The application indicates that the proposal comprises 40 affordable dwellings (39% affordable) and 63 open market dwellings. 20 of the proposed affordable houses would comprise of 2 bedroomed bungalows suitable for elderly people and 8 would be 2 storey 2 bedroomed and 12 dwellings would be 3 bedroomed, semi-detached houses. The provision would incorporate dwellings for affordable rent and intermediate housing. The number of affordable dwellings has increased during the course of consideration of the application from 22 to 40, an increase of 19% and an increase in bungalows suitable for older people from 8 to 20. All of the affordable housing is proposed to be delivered through a Homes and Communities Agency (HCA) grant.



11. Access into the site would be taken off Commercial Road East to the south of the site. This extends in an easterly direction to the former Joint Stocks Quarry Landfill site currently awaiting restoration.
12. The application is being presented to Planning Committee as it represents major development.

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## **PLANNING HISTORY**

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13. The land to the west of the site (land to the south and north of Commercial Road East), was granted outline planning permission for 80 new dwellings and 2,400m<sup>2</sup> of employment space in 2008. A reserved matters application was subsequently approved for 80 new dwellings in 2009 which, have now been constructed. The employment use was not implemented. Instead a further planning permission was granted in 2011 for an additional 47 new dwellings (127 dwellings in total). These dwellings are currently under construction.
14. Condition 8 of the 2011 planning permission required that the Biodiversity Management Plan contained within the Biodiversity Implementation Strategy be carried out in full. This was an updated version of that approved by the 2009 reserved matters application. This required that the application site and land to the north east of the application site be retained and managed for biodiversity purposes, in perpetuity, by the applicant in accordance with 'The Coxhoe Management Plan'.
15. This Biodiversity Management Plan also set out the requirements of the Extended Phase 1 and Protected Species Survey which was required to be implemented in full by Condition 8 of the 2008 outline permission. This set out that a wildlife refuge strip of no less than 2m wide combining native tree and shrub planting would be maintained along the stream on the northern boundary of the original 2008 development site between the stream and the back garden fences.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

16. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should proceed without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
17. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
18. *NPPF Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity,

building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

19. *NPPF Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system should be balanced in favour of sustainable transport modes. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
20. *NPPF Part 6 – Delivering a wide choice of high quality homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities.
21. *NPPF Part 7 – Requiring good design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
22. *NPPF Part 8 – Promoting healthy communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space, local services and community facilities to enhance the sustainability of community and residential environments. An integrated approach to consider the location of housing, economic uses and services should be adopted.
23. *NPPF Part 10 – Meeting the challenge of climate change, flooding and coastal change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure.
24. *NPPF Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated/unstable land.
25. *NPPF Part 12 – Conserving and enhancing the historic environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

26. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters.

<http://planningguidance.planningportal.gov.uk/> (National Planning Practice Guidance)

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

##### City of Durham Local Plan (2004) (CDLP)

27. *Policy E7 – Development outside of Settlement Limits.* Development outside of settlement boundaries will only be permitted when it accords with other policies in the plan.
28. *Policy E14 – Protection of Existing Trees and Hedgerows.* Views hedgerows and trees as a valuable resource to be protected when new development is being considered.
29. *Policy E15 – New Trees and Hedgerows.* Tree and hedgerow planting is encouraged.
30. *Policy E16 – Nature Conservation – the Natural Environment.* Is aimed at protecting and enhancing nature conservation assets. Proposals outside protected sites will be required to identify significant nature conservation interests that exist on or adjacent to the site. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts should be identified.
31. *Policy E18 – Sites of Nature Conservation Importance.* Seeks to safeguard such sites by resisting development which would be detrimental to their nature conservation interest unless it is demonstrated that the benefits from the development would outweigh the nature conservation interest of the site, that there are no appropriate alternative sites for development, that commensurate measures are undertaken to minimise adverse effects and that appropriate habitat creation or enhancement in the vicinity of the site to compensate unavoidable damage undertaken.
32. *Policy E21 – Historic Environment.* Requires the Council to preserve and enhance the historic environment by requiring development proposals to minimise impact upon features of historic interest, and encourage the retention, repair and reuse of visual of local interest.
33. *Policy E24 – Ancient Monuments and Archaeological Remains.* Ancient monuments and other nationally significant archaeological remains and their settings will be preserved in situ and damage would not be permitted. Archaeological remains of regional and local importance will be protected in situ and where preservation in situ is not justified by, ensuring that in areas where there is evidence that significant archaeological remains exist, or reasons to pre-suppose they exist, pre-application evaluation or archaeological assessment will be required and requiring as a condition of planning permission, that a programme of archaeological investigation, recording and publication has been made.
34. *Policy H3 – New Housing Development in the Villages.* New housing development comprising windfall development of previously developed land will be permitted within settlement boundaries.

35. *Policy H5 – New Housing in the Countryside.* In the countryside new housing development will be permitted only when it is; required by persons employed in agriculture or forestry where there is a functional need and the enterprise is financially viable, the size is commensurate with the established functional need; adequate provision cannot be made within the settlement/existing buildings and it respects the character of its landscape setting.
36. *Policy H12 – Affordable Housing.* Requires residential schemes of 25 units or more, of 1 ha or more, to provide a proportion of affordable housing where a local need exists.
37. *Policy H12A – Type and Size of Housing.* States that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.
38. *Policy H13 - Residential Areas – Impact upon Character and Amenity.* States that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
39. *Policy Q5 – Landscaping General Provision.* Sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
40. *Policy Q6 – Structural Landscaping.* Development located on the edge of settlements or in exposed sites will be required to use peripheral structural landscaping in order to minimise adverse visual impact.
41. *Policy Q8 – Layout and Design Residential Development.* Sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
42. *Policy R2 – Recreational and Amenity Space in New Residential Developments.* Seeks to ensure that the provision of open space for outdoor recreation is evenly distributed and is maintained at a level that meets the needs of its population.
43. *Policy R11 – Public Rights of Way and other Paths.* Public access to the countryside will be safeguarded by protecting the existing network of PROW's and other paths from development which would result in their destruction.
44. *Policy T1 – Traffic – General.* States that the Council will not grant planning permission for **development** that would generate traffic likely to be detrimental to highway *safety* and/or have a significant effect on the amenity of occupiers of neighbouring property.
45. *Policy T10 – Parking – General Provision.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
46. *Policy T21 – Walker's Needs.* The Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths are protected; new footpaths are provided; and footpaths are appropriately signed.
47. *Policy U7 – Pollution Prevention.* Development Sensitive to Pollution states that developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.

48. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a **satisfactory** scheme and its implementation before the development is brought into use.
49. *Policy U11 – Development on Contaminated Land.* Development will only be permitted where the nature and extent of contamination is established, the development would not add to the level of contamination, proposals include remedial measures and that there is no detrimental effect on the environment.
50. *Policy U13 –Development on Unstable Land.* Development will be permitted provided that there is no risk to the intended occupiers from stability or that satisfactory remedial measures can be undertaken.
51. *Policy U14 – Energy Conservation.* States that the use of energy efficient materials and construction techniques will be encouraged.

**EMERGING POLICY:**

52. The emerging County Durham Plan was submitted in April 2014 and is currently the subject of an ongoing Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
53. *Policy 3 – Quantity of new Development.* In order to meet the needs and aspirations of present and future residents at least 31,400 new homes of mixed type, size and tenure are required in the County.
54. *Policy 4 – Distribution of Development.* To reflect the spatial approach the Plan allocates sufficient sites to provide for housing. In Central Durham the Plan allocates 8010 dwellings with 5220 in Durham City and 520 required in the smaller towns and larger villages.
55. *Policy 15 – Development on Unallocated Sites in Built Up Areas.* Supports development on unallocated sites within built up areas, providing that it would not involve the loss of the last community building, does not prejudice the intended use of any adjacent sites and is appropriate in scale, design and location to the character and function of the settlement.
56. *Policy 30 – Housing Land allocations.* In order to meet the housing requirement and distribution set out in Policy 3 and 4 a number of sites are allocated for housing development.
57. *Policy 31 – Addressing Housing Need.* Requires all qualifying new housing to provide a percentage of Affordable Housing which is accessible, affordable and meets the needs of those residents unable to access the open housing market.

58. *Policy 35 – Development in the Countryside.* Planning permission for development in the countryside will only be permitted where it meets certain exceptions such as housing for countryside workers.
59. *Policy 39 – Landscape Character.* Proposals for new development will only be permitted where they would not cause significant harm to the character, quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh the impacts.
60. *Policy 43 – Protected Species and Nationally and Locally Protected Species.* Seeks to protect designated sites from adverse impact unless the benefits of the development would significantly outweigh harm and make significant contribution to the management of the site, protection of species and the creation of new habitats and local ecological networks. Development which has an adverse impact on protected species will not be permitted unless there are demonstrable reasons of overriding public importance and appropriate mitigation can be provided.

*The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494> (City of Durham Local Plan) <http://www.durham.gov.uk/pages/Service.aspx?ServiceId=856> (County Durham Plan)*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

61. *Coxhoe Parish Council* – Advise that it considers that the application is entirely unsustainable, contrary to the emerging CDP and would prejudice its delivery. This is on the basis that the site is not allocated within Policy 30 and would also be contrary to Policies 1 and 2. The Parish Council consider further large scale housing in Coxhoe inappropriate unless the scale is appropriate and that it meets the housing needs of the existing settlement. It was also assessed as not being suitable for development in the Council SHLAA. Development would result in the unacceptable intrusion of built development into the open countryside, detrimentally affecting the appearance of the setting of the area, a large rural village, contrary to Policy 35 of the emerging CDP.
62. The proposed development would also adversely impact on a local wildlife site, which has received significant funding to aid improvement. The proposal is considered contrary to environmental, ecological and landscape policies in the emerging CDP. Additionally it would place undue pressure on the social infrastructure of Coxhoe contrary to the Coxhoe and Quarrington Hill Parish Plan given that no social infrastructure is proposed. Furthermore there has been neither Parish Council nor community engagement regarding the proposals. The Parish Council do not consider that the benefits of the scheme outweigh the serious harm caused.
63. *Highways Agency* – No objections are made.
64. *Highway Authority* – Officers advise that it has been demonstrated that the trip generation and distribution from the proposed development could be accommodated within the highway network. Trip rates based on a survey of the existing residential development in Coxhoe have been used. Therefore it is considered that the assumptions used in the assessment of trip generation are acceptable and that no issues would be experienced within the highway network. Visibility from the site is acceptable. It is proposed to widen the footway/ cycleway on the northern side of the

access road and provided dropped crossings, linking the existing cycle path to the proposed development. The developer would need to ensure signage for the shared use footway.

65. Detailed comments regarding required changes to the submitted illustrative layout are also made in respect of visitors/ non allocated spaces and turning areas. These would need to be resolved at reserved matters stage, should planning permission be granted.
66. *Environment Agency* – Advise that it has no objections to the proposal subject to conditions being attached to any planning permission requiring the mitigation measure detailed within the submitted FRA to be carried out relating to surface water, as well as the implementation and management of a buffer zone alongside the Croxdale Beck. Advice is also provided to ensure that the development would not be affected by landfill gas from the former Coxhoe East landfill site. They consider that the controlled waters at the site are of low environmental sensitivity. Finally general advice is given regarding contamination, foul drainage and protected species.
67. *Natural England* – Raise no objection, noting that although the site is in close proximity to Quarrington Hill Grasslands and Raisby Hill Grasslands SSSI, Natural England advise that the proposed development would not damage or destroy the interest features for which the sites have been notified. Advice is also provided in relation to local sites, biodiversity and landscape enhancements and green infrastructure.
68. *Northumbrian Water* – Raise no objections, provided that the application is carried out in accordance with the submitted flood risk assessment. This requires that foul water should discharge into manhole 9302 at 5.15 Litres per second and that surface water should discharge into the local watercourse and not to the public sewer.
69. *The Coal Authority* – The site falls within the defined Development High Risk Area. Within the site and surrounding area there is coal mining features which should be considered. The site has been subject to coal mining at shallow depth. The Preliminary Risk Assessment concludes that no shallow mine workings are anticipated beneath the site. However, the Coal Authority considers that insufficient evidence has been provided in order to justify this conclusion. It is therefore recommended that intrusive site investigations are undertaken. These should take place prior to development in order to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified, if necessary. In the event that shallow mine workings are encountered consideration should be afforded to the potential risk posed by mine gas. These requirements should be ensured by planning condition.

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

70. *Spatial Policy* – The site is located outside of the Coxhoe settlement boundary and as such it would conflict with Policy H3 of the CDLP. However, the NPPF is less restrictive and seeks to boost significantly the supply of housing and direct development to suitable and sustainable locations. Coxhoe is categorised within the County Durham Settlement Study as a 'Smaller Town and Larger Villages' (2<sup>nd</sup> tier) in recognition of the facilities available. It is a focus for growth in the CDP. Policy 4 seeks to direct 470 houses to the settlement. Policy 30 identifies two housing sites at Bogma Hall Farm and West of Grange Farm. The site was assessed as part of the development of the CDP and has an unsuitable (red) classification within the SHLAA. Consequently it was discounted for housing, and is not identified within the Housing

Land Allocations in Policy 30. The site was considered to be unsuitable for housing as development of the site would encroach into the LWS. Development would also represent an incursion into the wider countryside which would not consolidate the settlement form. This would result in a significant adverse landscape and visual impact.

71. To ensure that the CDP is flexible over its intended timeframe and resilient to changes which take place within that period, the CDP contains policies to enable proposed development on unallocated sites to be assessed on their merits (Policies 15 and 35). These are criteria based policies which are permissive of development provided that it is appropriate in scale, design and location to the character and function of the settlement; and that would not be development in the countryside. The submission version of the CDP contains a definition of the built up area. Officers advise that the site does not form part of the built up area of Coxhoe given that it would encroach into the open countryside.
72. The site is not considered to be as accessible to shops, services and facilities as other SHLAA sites within Coxhoe which are identified as housing allocations within the emerging CDP. The NPPF advocates a plan-led system, and the most sustainable settlements, and sites within them are identified in the CDP. It is considered that the proposed housing allocations identified in the CDP are superior sites to meet the housing needs for Coxhoe.
73. The SHLAA (2013) concluded that a five-year housing land supply could be demonstrated. An updated five-year housing land supply position statement has been prepared in advance of the CDP Examination in Public (EiP). This concludes that there are no deficiencies in the supply of housing which need to be addressed by the release of more housing land. However, it is not the intention to resist schemes solely on the grounds a five-year supply can be demonstrated, but instead recognise that it enables the LPA to be more selective over which sites it does release, to ensure that the most sustainable and appropriate sites are brought forward for development. This site does not gain support from this approach. Whilst the NPPF seeks to boost significantly the supply of housing, this land is not a key site which is critical to the delivery of the housing strategy over the plan period.
74. *Landscape* – Officers advise that the site has a high landscape and visual amenity value. It is advised that development would result in the loss of the sites open nature and character and result in the excessive outward expansion of the village into the open countryside. The proposal would damage the existing green chain of open sites which stretch up to Quarrington Hill linking into its important plantation so detracting from its visual amenity value. The granting of previous residential planning permissions within the southwest corner of the site has already encroached into this important parcel of land and further loss should be resisted.
75. Officers consider that the reduction in number of dwellings proposed on a smaller site footprint does not alter the affect that the development would have on landscape character. It is considered that the development would significantly harm the character, quality and distinctiveness of a landscape that is defined by the proximity of the higher magnesium limestone open countryside to the east and north. It is noted that the structure planting to the east side of the site has had limited success. Ground conditions are hostile for the establishment of trees. Therefore the screening potential over time of an extended planted area would be poor.
76. *Aboriculturalist* – Officers advise that Crack Willow and White Poplar should not be planted within a development site as they have weak branch structure. They do though provide screening benefits to the site. The mitigation planting comprises of



plantation Willow and that planting of just one species could lead to the loss of the entire stand, if the trees are subject to disease.

77. *Housing Development and Delivery* – Officers advise that the affordable housing requirement of 20% should be secured by means of a section 106 legal agreement. If HCA grant funding was to be used to deliver the policy requirement then this could not be secured by legal obligation as grant funding cannot be used to fund the planning policy obligation and would not be given by the HCA. This would apply equally to the imposition of any planning condition instead of legal obligation. Legal obligation could though secure any provision over the policy requirement and grant could be secured to deliver this.
78. With regards to the level of affordable housing proposed, officers note that the proposed number of affordable units is in excess of the targets outlined within the Strategic Housing Market Assessment (SHMA). As such it should be considered whether there is sufficient demand for 40 affordable units. The applicant has considered the Choice Based Lettings data. This gives a good general indication of demand. The proposed development would incorporate older person's accommodation. This is encouraged and meets the needs of older persons housing. The case for this level of affordable housing would be strengthened through robust evidence of need. This would be established through a Housing Needs Survey.
79. *Sustainability and Climate Change* – The site is not considered to be within a short walking distance of services and facilities. However, this is not considered to be a significant issue given the level of bus service available. Additional investment to bus services may be required. The site performs well against social determinants, average against economic and poorly against environmental determinants of sustainability, given that the site is located within an LWS. On this basis the development does not meet the presumption in favour of sustainable development. The submitted sustainability statement focuses upon Solar PV as the optimum solution to aim for zero carbon. This solution, together with appropriate improvements to the building fabric is accepted by officers.
80. *Green Infrastructure* – The proposed development could accommodate approximately 268 people which would lead to a requirement of 1.4 hectares of open space. Within Coxhoe there is an under-supply of parks and gardens, play spaces and junior football pitches. Improving the functionality of existing open spaces within the village should be ensured through a financial contribution to enhance existing provision. The proposed illustrative layout incorporates a certain amount of amenity open space, connectivity and permeability which is welcomed. Although there are opportunities for further connectivity which could be implemented.
81. *Economic Development (Employability Team)* – Consider that there is an opportunity to explore employment and skills training that would assist the local community by improving job prospects and employability. The Council has an aspirational target of 10% of any labour requirement to be offered as new employment opportunities or training during construction phase and end use phase. Officers would welcome the opportunity to agree targeted skills/opportunities through a planning obligation to maximise the social and economic value added during the lifetime of the scheme.
82. *Access and Public Rights of Way* – A permissive bridleway exists to the south of the site which is part of a series of promoted routes called Limestone Linx. This path is not directly affected by the proposal. The access road into the site however bisects the path and therefore drop kerbs would be required as well as appropriate signage. Officers welcome the proposed permissive footpath on compensation land to the south which could make an excellent link to Public Footpath No.6 (Coxhoe).

83. *Archaeology* – Officers advise that they agree with the conclusions of the submitted heritage statement in that the modern activity on the site would have removed any potential earlier (prehistoric/Roman) deposits which may potentially have survived prior to the late 19th/20<sup>th</sup> century development of the lime works and associated features. Therefore there are no archaeological issues requiring any mitigation.
84. *Ecology* – In order to attempt to compensate for the loss of LWS land and BAP habitat it is proposed to actively manage land to the northern side of the existing residential development and land to the northern part of the application site. The first area is already required to be maintained as mitigation imposed by the 2008 outline planning permission on the adjacent site to the west. As such there is no reason to double count it. This requirement has not been adhered to and the scrub/ trees have been cleared. It is only on this basis that this area would benefit from proposed new planting. The second area proposed for management, along the northern edge of the application site is already required to be managed through the management plan imposed by the 2009 reserved matters permission. Again officers advise that it cannot be double counted. In any case officers consider that the proposed mitigation would make no difference to the quality of the habitat for the BAP species present, or improve the ecosystem. There is also no indication of practical management of the LWS which was required by the 2009 and 2011 planning permissions.
85. Further mitigation proposed to compensate for the loss of LWS land is the active management of 0.88 hectares of land to the south of the application site. This is considered appropriate, in size, to compensate for the loss of the LWS. However, there would still be an overall loss of area and quality of BAP habitat. Officers consider that the proposed compensation would not adequately mitigate against the loss of LWS land (in terms of quality) nor the loss of BAP habitat.
86. In respect of great crested newts there would be a loss of 1.54 hectares of terrestrial habitat. The proposals put forward attempt to mitigate against this by improving the habitat on the remainder of the wider application site. However, it is considered that the proposed improvements are not required and would have no impact on the remaining habitat. Officers advise that the site provides a diverse three dimensional landscape suitable for terrestrial great crested newts in its current existing form.
87. On this basis officers consider that the proposed development would result in a significant biodiversity loss which would not be adequately compensated for in size, or quality. There would also be a significant loss of great crested newt terrestrial habitat which against would not be adequately mitigated against.
88. *Design and Heritage Assets* – The site is not located within a Conservation Area and there are no heritage assets which would be affected by the development. Historically the site is of some interest given its use from the early 20th century as a lime works which included a number of buildings and structures, engine halls and railway lines within the lower part. However these buildings appear to have been cleared in the 1970s.
89. *Drainage and Coastal Protection* – It is proposed to drain surface water in a controlled manner to the nearby watercourse. Source control with sustainable drainage systems including infiltration and water quality improvement techniques should be investigated. Should there be ground contamination, and thus infiltration techniques may not be suitable, evidence by way of a site investigation and verification statement would be required. The surface water drainage should discharge no more than the Greenfield Run-off Rate, which in this case is 3.7 l/s/ha, giving a total allowable discharge of no greater than 13.8 l/s.

90. *School Places Manager* – The proposed development would likely generate 30 additional primary school pupils, at the rate of 0.3 per dwelling. At present the local primary school currently has 10 spare places. Therefore, additional capacity would be required to accommodate all of the pupils generated by the proposed development. However, given that 20 Bungalows would be for older people the yield would be applied to the remaining 83 houses. This would generate 25 additional pupils. On the basis that 15 pupils could not be provided with a place at the school at present a contribution of £228,250 would be required to provide an additional classroom.
91. *Environmental Health (noise)* – Officers advise that provided the proposed mitigation measures, as stated within the submitted noise report, are adopted the external and internal noise levels at the dwellings should meet the guideline noise levels. Due to the proposed development being located at a reasonable distance from existing residential properties, it is unlikely that lighting would have a detrimental impact on existing residents. In order to safeguard residential amenity during construction works a construction management plan should be implemented.
92. *Environmental Health (contamination)* – Officers agree with the conclusions and recommendations set out within the submitted preliminary risk assessment. Given the identified potential for contamination, satisfactory remediation, if required should be secured by planning condition.
93. *Environmental Health (air quality)* – Officers advise that the site is not within or in close proximity to a declared Air Quality Management Area nor are there any other polluting sources within the immediate vicinity. Therefore residential development would not be exposed to elevated levels of air quality pollutants. However the scale of the proposed development may impact on local air quality by additional traffic generated. It is though, not clear, however, what the traffic impact in terms of the change in traffic volume in either the AADT or the Peak Traffic Flows would be. The provision of this information would clarify the need to undertake a screening assessment for air quality.
94. *Travel Planning Team* – On reviewing the submitted travel plan officers advise that further information should be sought regarding the services that could be accessed within the vicinity of the site within the recommended walking and cycling distances. Additional incentive-type measures should be incorporated to encourage walking, cycling, public transport and car sharing. A Travel Plan Coordinator, marketing strategy and monitoring of the travel plan should be implemented.

**PUBLIC RESPONSES:**

95. The application was advertised in the press and on site and in the locality, and letters were sent to neighbouring residents. In response, 5 letters of objection have been received. The grounds of objection and concern raised are summarised below.
96. Concern has been raised regarding the need for more housing which would be to the detriment of the village which has a friendly village atmosphere and tranquil village surroundings. Development may push people out of the village and further development would result in a dormitory village.
97. Additional significant residential development with little development of support amenities/village infrastructure, which is already at breaking point, would struggle to cope.

98. Further development would lead to parking problems in the village. The transport assessment did not appear to explore flow into and through the village and generally traffic would be increased.
99. The location of the proposed development is a scenic area of natural beauty, with copious wildlife and fauna, including yellow warblers that would be destroyed or displaced by the proposed development. The site is used for dog walking and recreation and holds a significant number of Great Crested Newts. The proposed compensation land does not provide ecology diversity or access. One letter of representation considered that the development provided for good green wildlife space.
100. Any development should provide affordable housing for young people currently living in the village and for people with physical or learning disability and long term mental health needs.

#### **NON-STATUTORY REPRESENTATIONS**

101. *Coxhoe Community Partnership* – The Partnership considers that the proposal is unsustainable and contrary to the emerging CDP as the site has not been allocated for housing development and as such the proposal is contrary to Policies 1, 2 and 30 of the emerging CDP. The site was assessed in the SHLAA as ‘not suitable’ for housing development. Development would be outside the settlement and result in unacceptable intrusion into attractive open countryside, which contributes to the setting of the settlement. The proposal would prejudice the delivery of the CDP, not be plan led and be detrimental to the character and appearance of the area. The proposal would conflict with Policy 35 of the emerging CDP. In addition, part of the proposed development would impact on a designated LWS which has received significant funding to aid improvement. The proposals are considered contrary to other relevant environmental, ecological and landscape policies within the emerging CDP. Furthermore, the Partnership is concerned that undue pressure would be placed on social infrastructure, including health and education, to which the policies in the Coxhoe and Quarrington Hill Parish Plan were designed to protect. No social infrastructure is proposed and the site is of a significant scale. It is considered that the overall harm that would be caused as a result of the development would not be overcome by the benefits of the proposal.
102. The Partnership advises that they were not consulted by the developer and that there has been no community engagement. Should planning permission be granted appropriate social infrastructure including health, schooling and old person’s bungalows should be provided. Significant structural planting should be implemented to reduce the environmental impact of the proposed development.
103. *Campaign to Protect Rural England (CPRE)* – CPRE believes that development should take place under a plan led system unless there are good grounds for doing otherwise. This is consistent with paragraph 17 of the NPPF. The site is not allocated for housing in the CDLP or the emerging CDP and there is no shortfall in housing allocated, indeed CPRE consider that there is an oversupply. There is no shortfall in the required 5 year housing land supply. The site is shown as red in the SHLAA. The proposal would represent an incursion into the countryside which would cause harm to the enjoyment of the area. The site is brownfield but has environmental value given that it forms part of the LWS. A large part of wildlife area has already been lost through previous adjacent development. Replacement land is not equivalent in quantity and may not be of high ecological value. Should planning permission be granted provision of affordable housing and SUDs is welcomed.

104. *The Badger Group* – Badger setts are near the site and the site may form part of their foraging area and in this respect the Badger Group are concerned that they would be affected by the development.
105. A letter of objection has been received on behalf of Hallam Land Management Land. Hallam Land Management recently submitted a planning application for up to 190 dwellings on land to the North East of St Marys Terrace, Coxhoe which was refused in October 2014. They consider that the proposal is contrary to local and national policy. The site lies outside the settlement limit of Coxhoe and would result in an unnatural incongruous extension. The site forms part of a LWS of which there would be a permanent loss. The site forms part of an ecological management area secured as part of the approval of residential dwellings under construction to the east of the site. Furthermore, the loss of this ecological area would result in the relevant conditions no longer being complied with. Development of the site would result in loss of accessible local green space.

#### **APPLICANTS STATEMENT:**

106. Hellens Development have already successfully delivered much new housing for the village of Coxhoe brought forward at the Limes which represented one of the best selling sites in the County and indeed the Region during the recession. That development brought forward a contaminated vacant site with much needed market and affordable housing including bungalows for which there is an overwhelming demand locally.
107. The current application site would further remediate the land and make a logical addition of new housing and meet with a high demand recognised by Durham County Council Choice Based letting Service for affordable housing in the village, including further bungalows. Following over 18 months of detailed pre-application discussions with the Council an application was submitted and subsequently amended and reduced in scale to seek to address ecological and landscape concerns which we feel have now been fully addressed, including the delivery of off site mitigation measures. The scheme will deliver much needed affordable housing which represents 40% of the housing proposed, double the emerging policy requirement. The Council has supported the provision of grant by the HCA to help deliver this affordable housing. The scheme will also deliver much needed new family homes that will provide new housing at an affordable price in a sustainable location that will also bring benefits to the local community through employment during construction and then a boost to the local economy from increased spending in local services.
108. The Council is yet to adopt its new Local Plan and the on-going Examination in Public has cast some uncertainty over the ability of the Council to demonstrate a 5 year housing land supply, possibly resulting in a need for further sites to be identified for housing. Where that is the case there is a presumption in favour of sustainable development in considering this application. In summary, we consider that the scheme will bring overall benefit to the village, in particular much needed affordable housing in a sustainable location and notwithstanding the views of the Council on landscape and ecology that there are significant overriding benefits of the scheme, particularly the delivery of affordable housing that should be given substantial weight in the determination of the application

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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109. 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 considerations, including representations received, it is considered that the main planning issues in this instance relate to: the principle of the development, affordable housing, access, traffic and highway safety, impact on residential amenity, landscape and visual impact, ecology and nature conservation, impact on heritage assets, flooding and drainage, contamination, coal mining legacy and other matters
110. It should be noted that this application is in outline form, with only matters of principle and access being considered at this time. Other matters, for example relating to form, design, layout and landscaping are reserved for later consideration and any layout is at this stage, only indicative.

#### Principle of Development

111. The main issues in relation to the principle of the proposed development are: the extent to which the proposed development accords with the existing development plan; the extent to which the proposed development accords with the emerging development plan; and, the extent to which the proposed development is consistent with Government guidance in relation to planning for housing and other policy objectives set out in the NPPF, with particular regard towards delivering a wide choice of high quality homes that widens opportunities for home ownership and helps create sustainable, inclusive and mixed communities.
112. The site is situated outside of any existing settlement boundary as defined by CDLP Policy H3. Policy H3 defines a series of 'settlement boundaries' for main towns and villages to indicate where new development is permissible. The implication is that housing development would normally be approved where it lies inside of the boundary, to help to contain settlements and prevent sprawl into the surrounding countryside. As the application site falls outside of the designated boundary, the proposal draws no support from this Policy.
113. Sites located outside of settlement boundaries should be assessed against 'countryside' policies and objectives as set out within CDLP Policies E7 and H5. There is a general presumption against allowing housing development beyond a settlement boundary unless it is required to fulfil an employment role. In view of this, it is considered that this proposal is in conflict with these elements of the CDLP.
114. Whilst the CDLP remains a statutory component of the development plan and the starting point for determining applications as set out at paragraph 12 of the NPPF, the NPPF advises at paragraph 215 that LPAs are only to afford existing Local Plans material weight insofar as they accord with the NPPF. In this context, settlement limits are not fully supported by the NPPF, which instead takes a more flexible approach to settlement growth and development. Paragraphs 47- 55 of the NPPF seek to boost significantly the supply of housing to create sustainable, inclusive and mixed communities. To accord with the NPPF new housing development should be located to provide improved access for all to jobs, health, education, shops, leisure and community facilities, open space and recreation, by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car. The key matter in applying the NPPF relates to directing development to sustainable locations. Furthermore, the NPPF states that where a Local Planning Authority cannot demonstrate a 5 year housing land supply, that housing policies should not be considered to be up to date.

115. With regards to the 5 year housing land requirement, the Spatial Policy Team considers that the Council can demonstrate an adequate supply, as required by the NPPF. The SHLAA (2013) concluded that a five-year supply could be demonstrated. The applicant has challenged this on the basis that it was derived from the figures contained within the now defunct NE Regional Spatial Strategy (RSS). However, an updated five-year housing land supply position statement was prepared in April 2014 in advance of the CDP Examination in Public (EiP). This used the CDP housing figures as the measure to calculate the five-year supply, rather than the evidence which informed the RSS. It was recognised that the SHLAA (2013) did not adequately address the up to date full objectively assessed current need as required by paragraph 47 of the NPPF. The National Planning Practice Guidance (NPPG) advises that housing requirement figures appearing in up-to-date Local Plans should be used as the starting point for calculating the five-year supply. During the EIP In November 2014 an additional five year land supply note was prepared for the Inspectors consideration given that the matter was disputed by the development industry. The Council considers that it can demonstrate that there are no deficiencies in the supply of housing which need to be addressed by the release of more housing land and that there is a 5 year housing land supply.
116. Coxhoe is categorised within the County Durham Settlement Study as a 'Smaller Town and Larger Villages' (2<sup>nd</sup> tier) in recognition of the facilities available. It is a focus for growth in the CDP. Policy 4 seeks to direct 470 houses to the settlement. The application site was considered and assessed in the Strategic Housing Land Availability Assessment (SHLAA) which informed the emerging CDP and the proposed housing allocations contained therein. The application site was considered to be unsuitable to be allocated for new housing development. Consequently it was discounted for housing, and is not identified within the Housing Land Allocations in Policy 30. The site was considered to be unsuitable for housing as development of the site would encroach into the Coxhoe Ponds LWS. Development of the site was also considered to represent an incursion into the wider countryside which would not consolidate the settlement form. It was considered that this would result in a significant adverse landscape and visual impact. These issues are discussed in the relevant sections below.
117. Although only a strategic assessment of the site was undertaken and without reference to any specific development proposal, the findings of the SHLAA assessment provide an appropriate base from which to consider sustainability further, along with criteria contained with Paragraphs 7 and 16 of the NPPF. Although it is considered that there is reasonable access to some services, facilities and access to public transport within walking distance, the site is not considered to be as accessible to shops, services and facilities as the housing allocation sites for Coxhoe identified within the emerging CDP. Accessibility of and to services is also only one of a number of elements by which sustainability of a proposal is assessed. The NPPF advocates a plan-led system, and the most sustainable settlements (and sites within them overall) are identified in the CDP. In this respect Policy 30 identifies two housing sites allocations in Coxhoe at Bogma Hall Farm and West of Grange Farm. It is considered that these proposed housing allocations identified in the CDP are superior sites to meet the housing needs for Coxhoe.
118. Whilst the NPPF seeks to boost significantly the supply of housing, the application site is not considered to be a key site which is critical to the delivery of the required housing over the plan period. Consequently, housing policies are considered to be up to date and the presumption in favour of sustainable development contained within paragraph 49 of the NPPF is not engaged. It is not the intention to resist proposed development solely on the grounds a five-year supply can be demonstrated, but instead recognise that it enables the LPA to be more selective

over which sites it does release, to ensure that the most sustainable and appropriate sites are brought forward for development. The application site does not gain support from this approach.

119. It is important to address how much weight can be attributed to the emerging CDP at this stage. Paragraph 216 of the NPPF sets out in detail the weight which can be afforded to relevant policies in emerging plans. Essentially, the more advanced the plan is in its preparation, the greater the weight that may be given. Allied to this, the fewer and less significant the objections to the plan, the greater the weight that may be given. The CDP is considered to be at an advanced stage as it currently being publicly examined.
120. Of relevance to this proposal are Policies 15 and 35, however both policies have unresolved objections which have been debated at the recent EiP, and consequently only limited weight can be applied to them at this time. This is consistent with recent appeal decisions which have attributed limited weight to emerging Plans in recognition that they could be subject to further amendments. Therefore, whilst some weight can be attached to these policies, they should not alone be a decisive factor in assessing this application.
121. Policy 15 of the CDP makes provision for development on unallocated sites within built up areas. The CDP provides a definition of a built up area as being land contained within the main body of existing built development of a settlement identified in the Settlement Study. Land on the edge of a settlement can be considered to be part of the built up area where it is physically very well contained by existing built development and its development would not result in encroachment into the countryside such that it would cause significant adverse landscape impact.
122. Given the location of the development site at the edge of the settlement, on land that is not well contained by existing built development, and where it would not consolidate the existing built form, the site is considered to not form part of the built up area, and the development would instead form an extension of the settlement into the open countryside. Consequently, the proposal cannot draw support from Policy 15.
123. As it is considered that the site falls outside of a built up area and therefore is situated within open countryside, it is appropriate to assess the proposal against the provisions of Policy 35. This makes provision for development in the countryside where it is in accordance with a proposed allocation, is necessary for rural business purposes, would support local services, enhances environmental or tourism assets or involves the reuse of heritage assets or existing redundant buildings. It is considered that the proposal fails to meet any of these criteria, and consequently is considered to be contrary to this policy.
124. Whilst it is accepted that the CDP should not alone be a factor of decisive weight, it is noted that Policies H3 and H5 of the CDLP are not wholly consistent with the NPPF, and therefore the weight that can be attributed to it is also diminished. However the policies are considered not to be out of date. Consequently, in the balance of consideration, it is considered that less than full weight can be given to relevant policies within both the existing development plan and the emerging plan. With the proposal conflicting with both the existing CDLP and the emerging CDP, there is reliance upon the NPPF to provide justification for this development.
125. It is considered that the proposal draws no support from paragraph 111 of the NPPF. This requires that planning decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), this is on the basis that the land is not



of high environmental value. The site is considered to be Greenfield and was identified as such within the Council's Strategic Land Availability Assessment. It is considered that the site does not meet the definition of previously developed land (PDL) set out in the Annex 2: Glossary of the NPPF and that it meets the definition of the land explicitly excluded from being PDL, in that the land was previously developed but the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

126. As discussed earlier, the presumption in favour of sustainable development contained within Paragraph 49 of the NPPF has not been triggered. Therefore, it is considered that the proposal is unacceptable in principle and contrary to the NPPF, Policies H3, H5 and E7 of the CDLP and Policies 15, 30 and 35 of the CDP.

#### Access, Traffic and Highway Safety

127. A Transport Assessment (TA) and Travel Plan have been submitted in support of the proposals due to the potential amount of traffic generated by the proposed development. In assessing such impacts, paragraph 32 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. The assessment sets out that the existing local and strategic highway network should be able to accommodate traffic from the development satisfactorily.
128. The Highway Authority agrees with the findings of the TA in that it has been demonstrated that the trip generation and distribution from the proposed development could be accommodated within the highway network. The Highway Authority also considers that visibility from the site is acceptable in line with paragraph 32 of the NPPF and Policy T1 of the CDLP. It is proposed to widen the footway/ cycleway on the northern side of the access road and provide dropped crossings, linking the existing cycle path to the development which is acceptable.
129. It is noted that layout specifics, including turning areas and parking provision within the proposed development are reserved for future consideration. This could likely be satisfactorily achieved as required by Policies T1 and T10 of the CDLP.
130. The comments of the Sustainable Travel Team are noted, and the requested alterations to the submitted travel plan could be secured by condition, if the application is otherwise considered to be acceptable.
131. The proposed development is considered acceptable from a highway safety perspective and would thus comply with CDLP Policy T1, and paragraph 32 of the NPPF which requires satisfactory access onto the road network and safe vehicle entrance, exit and manoeuvring as well as effective access for emergency vehicles.

#### Affordable Housing

132. In order to widen the choice of high quality homes and widen opportunities for home ownership, paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need. Policy H12 of the CDLP requires a fair and proportionate level of affordable housing on sites over 1 hectare or 25 dwellings, and Policy H12A requires proposed housing to be of an appropriate type and size. The County Durham Strategic Housing Market Assessment (SHMA) update report was completed in July 2013 and supplies the evidence base for 20% affordable housing across the Central Delivery Area in which the site falls. The requirement reflects an up to date needs assessment and identifies a significant requirement of approximately 189 net affordable units per annum throughout the Central Delivery Area up to 2016/17. This shortfall is greatest for one and two bedroom properties

(68 net per annum). On the basis of the SHMA evidence base, Policy 31 of the emerging CDP identifies housing schemes of 15 dwellings or 0.5 ha or more, where such an affordable housing provision should apply and that 10% of housing should be appropriate for older people.

133. In this particular case, the application proposes that of the 103 dwellings proposed, 39% would be affordable or 40 units overall. This has been increased from 20% as originally proposed. This would now be over and above the policy requirement of 20% by 19%. It is also proposed that 20 of the affordable dwellings would be suitable for older people. The provision would be for affordable rent and intermediate housing.
134. It is noted that that the proposed number of affordable units is in excess of the targets outlined within Policy 31 of the emerging CDP. The applicant has identified that there is a significant demand for affordable bungalows in Coxhoe through the Choice Based Lettings system. The Housing Delivery Manager has advised that this gives a good general indication of demand. Although it is noted that this level of demand generally would be strengthened through robust evidence of need, established through a Housing Needs Survey. In considering the level of additional proposed provision, over and above the policy requirement, it is considered that provision of affordable housing is only a benefit if the site is otherwise considered suitable for residential development.
135. In general terms the proposed provision of affordable housing as well as housing appropriate for older people would generally be welcomed and supported, and in this respect the proposal would assist in the delivery of a wide choice of homes as set out at paragraph 50 of the NPPF.
136. However, the affordable housing provision is proposed to be delivered by means of HCA grant, which as a condition of the funding, could not form part of any section 106 agreement. This means that the Council would not be able to secure the provision of affordable housing in perpetuity either by legal obligation or through the imposition of a planning condition it is officers understanding that to do so would prevent a grant being provided by the HCA. As such the proposed affordable housing cannot be secured by the LPA as being delivered as affordable housing or that it would remain as such in perpetuity. The applicant advises that they have secured capital grant funding from the HCA to deliver 30 affordable homes in a variety of locations in the northeast and that as they have entered into a contract with the HCA they subsequently have an obligation to provide them. However, this is not an obligation to the Council and relates to the provision of 30 dwellings through the region, whereas 40 affordable dwellings on this site have been proposed alone. It is understood that further funding would be applied for under the Affordable Homes Guarantee Programme 2015-2018 and thus is assumed that it is the intention to deliver the remaining dwellings by this grant, should it be successful.
137. In principle there is therefore a risk that, if permission is granted without securing the affordable housing through a legal agreement (or planning condition), the housing could be developed on the open market, so contrary to policy requiring affordable housing to be provided. However, in the circumstances of this case, this does not mean that no weight should be attached the affordable housing proposal indicated. Indeed the applicant is a registered provider of affordable homes, who owns the land in question and has confirmed that they have received a grant to deliver the affordable housing themselves (or at least some of it) under the HCA Affordable Homes Guarantee Programme 2013-15 and that that they would be meeting some costs themselves. Therefore on this basis there is a likelihood that the affordable housing provision proposed, or at least some of it, would come forward, and be

retained as such, as a condition of the HCA grant allocation. This should thus be afforded some weight. However the inability of the Council to secure its provision and retention in perpetuity does mean that its provision cannot be given full weight and that the policy requirements laid out in Policies H12 and H12A of the CDLP and emerging Policy 31 cannot be considered to have been met. On the basis that the policy requirement has not been met it follows that additional provision over and above the 20% policy requirement cannot therefore also be secured by legal agreement and as such limited weight can be attached to the additional benefit that this may otherwise have been considered as.

138. The applicant considers that the current planning application for 162 dwellings at Bogma Hall, Coxhoe which is currently under consideration does not specifically propose affordable housing. However, there is no indication within the submitted application that this would be the case. Indeed the submitted Heads of Terms, in respect of the legal agreement, identifies affordable housing as a potential planning obligation. As such there would be no reason at present why this particular scheme, if approved, would not deliver the required amount of affordable housing on the allocated site which would contribute to providing for housing need within Coxhoe.
139. In respect of required affordable housing provision that could be secured by legal obligation, the applicant has suggested that the provision of affordable housing delivery without grant assistance would not be viable. This issue needs to be considered having regard to paragraph 174 of the NPPF which seeks to ensure deliverability and viability. This means that, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. This advice is reflected within policy 31 of the emerging CDP.
140. In support of the applicants contention that delivery of affordable housing would be unviable without grant funding a viability appraisal has been submitted. This has been assessed by Asset Management officers. However officers have advised that the submitted appraisal does not show that it would be unviable for the scheme to support affordable housing provision that would be able to be secured by legal obligation. Specific concerns relating to costs, overheads, profit, site abnormalities, sales fees, finance and acquisition costs as well as appropriate reflection of proposed affordable units facilitated through HCA funding have been identified. Therefore insufficient evidence has been provided to demonstrate that the provision of non-grant funded affordable housing would make the scheme unviable.

#### Residential Amenity

141. At present only indicative details are available with regards to layout and design, with the application being in outline form only. However, it is considered that in principle, residential development could be accommodated on the site without unreasonably impacting upon the level of residential amenity currently enjoyed by residents of properties in close proximity to the site. Certainly, the houses would be visible, particularly to occupiers of dwellings to the west of the site, however, adequate separation distances that comply with CDLP Policies H13 and Q8 could be achieved, by means of a considerate layout.
142. The site is located to the south west of the former Coxhoe Quarry and to the north east of the Joint Stocks Quarry and Landfill site currently awaiting restoration. It is located directly to the north of Commercial Road East which serves as a route to the Household Recycling Centre, as well Joint Stocks Quarry and Landfill site. Given the use of this road by heavy vehicles a noise assessment has been submitted in

support of the application. This also considered more distant noise such as that from the operation of the recycling centre and landfill site. The assessment identified the requirement to implement noise attenuation measures, by means of the provision of acoustic fencing to the rear of properties fronting onto Commercial Road East, as well as ventilation and fenestration requirements. Environmental health officers have indicated that implementation of these measures would enable the residential amenity of residential properties to be safeguarded. These requirements could be ensured by planning condition. It is not considered that future residential occupiers would be significantly impacted on by any nearby industrial or commercial properties or operations, including the operation of the recycling centre and landfill site.

143. Environmental health officers have advised that additional information regarding the generation of traffic volume generated by the proposed development should be provided in order to ensure that local air quality is not significantly impact on. However, in the absence of an adopted Air Quality Action Plan, as set out in paragraph 127 of the NPPF, it is not considered that a sustainable objection could be made in this respect, having regard to the sites location outside the Air Quality Management Area and the scale of the development proposed.
144. Were the application to be approved, conditions relating to working hours during construction could be imposed in order to minimise potential disruption. Accordingly, it is considered that any impact upon residential amenity would be acceptable in this respect and in accordance with Policies H13 and Q8 of the CDLP.

#### Landscape and Visual Impact

145. CDLP Policy E7 seeks to protect countryside as a finite resource, noting that landscape character is highly valued and worthy of protection in its own right. Although only limited weight can only be afforded to it at the present time, Policy 35 of the emerging CDP seeks to protect the countryside from inappropriate development and Policy 39 requires that development does not cause significant harm to the character, quality or distinctiveness of the landscape.
146. Whilst the site does not benefit from any specific landscape designation or specific protection, it is considered to have a high landscape and visual amenity value. The proposals have been amended to reduce size of the 'development area' by 0.31 hectares, to 2.54 hectares. It is also intended to incorporate 20 bungalows, 12 of which have replaced 2 storey dwellings. It is also acknowledged that a wildlife 'buffer' and existing tree planting would be retained around the perimeter of the site, as well as the incorporation of a hedge and landscaping within the site.
147. However, it is considered that the built development of the site would result in the loss of the site's open nature and character. The proposed development would result in excessive, outward and uncontained projection of the village into the open countryside. The site is poorly related to the settlement form and would not consolidate the built up form of the settlement, resulting in excessive sprawl. Development of the site would reduce the existing green chain of open sites which stretch up to Quarrington Hill linking into its plantation and therefore detracting from its visual amenity value. It is considered that the development would significantly harm the character, quality and distinctiveness of a landscape that is defined by the proximity of the higher magnesium limestone open countryside to the east and north.
148. It is possible, in certain circumstances, that landscape and visual impact can be adequately mitigated by the use of structural landscaping. In this case, however, it is noted that the structure planting recently planted to the west side of the site has had only limited success. Ground conditions appear to be hostile for the establishment of

trees. Hence the establishment of screening potential over time of any extended planted area would be likely to be poor. It is considered that successful structural landscaping would be unlikely to be achieved and the site would continue to represent an obvious built incursion into the countryside, beyond the existing envelope of the settlement.

149. The proposed development would require the removal of one individual low retention value tree, a small group of young low retention value trees and two small sections of other tree groups. Some further low retention value scrub will also need to be cleared from the middle of the site. Perimeter trees surrounding the site would not be impacted on. In this respect there would be no conflict with Policy E14 of the CDLP. Landscaping within the site and perimeter hedge planting is shown on the submitted indicative layout. A landscaping scheme could be achieved at any reserved matters stage, should planning permission be granted, ensuring that the proposed development complies with Policies E15 of the CDLP. However there is some concern, as noted above, that the establishment of screen planting may be difficult to achieve due to ground conditions. It is noted that Policy Q6 of the CDLP requires that development located on the edge of settlements would be required to use peripheral structural landscaping in order to minimise visual impact and in this respect there is concern that this would not be able to be met.
150. As set out previously, matters relating to form, design and layout are reserved for later consideration, at reserved matters stage, should the principle and scale of residential development be considered appropriate in this location.
151. Having regards to the concerns relating to harm to landscape character outlined above, the proposed development is considered to be contrary to the provisions set out in paragraphs 17 and 109 of the NPPF, CDLP Policy E7 and Policy 39 of the emerging CDP in that the proposed development would cause harm to, and would not protect the local landscape.

## Ecology and Nature Conservation

152. Paragraph 109 of the NPPF requires that the planning system should contribute to, and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains where possible. Paragraph 118 requires that biodiversity should be enhanced and conserved and that if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 119 states that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Habitats Directives is being considered, planned or determined.
153. The site is located approximately 1km from Quarrington Hill Grasslands SSSI and approximately 1.4km from Raisby Hill Grasslands SSSI. However, Natural England has advised that the development would be unlikely to damage or destroy their features of importance.
154. The site habitat at present comprises 0.42 hectares of bare ground and early successional brown field habitat, 1.80 hectares of calcareous grassland, 0.28 hectares of scrub and 0.1 hectares of open water. Approximately 0.83 hectares of the site forms part of the Coxhoe Ponds Local Wildlife Site (LWS). This land would be lost as part of the proposed development. This LWS is designated for its limestone flora and for its great crested newt population.

155. The remaining 1.71 hectares of the site comprises of Biodiversity Action Plan (BAP) habitat. This habitat would also be lost which would result in the loss of breeding habitat for the dingy skipper butterfly which is a BAP species.
156. In order to attempt to mitigate against and compensate for these losses, several areas of land adjacent and nearby to the site have been put forward to be taken into active management by the applicant. Some of which is currently in the ownership of the applicant (to the north of the application site and to the north of the existing adjacent residential development to the west) and some whereby proposed management could be secured by legal obligation (land to the south of the proposed housing site). The details of the proposed mitigation have been set out in a range of submitted documents and have been summarised in the proposals section of the report above.
157. In respect of the proposed active management of the two areas within the ownership of the applicant, it is noted that there is already a requirement to maintain these areas as part of the planning conditions imposed on the earlier planning permissions relating to the existing residential development to the west of the site, given that part of these developments were built on LWS also. Indeed to the proposed management of land to the north of the application site is already required to be 'actively managed' as opposed to 'being 'maintained'. The planning history relating to the biodiversity maintenance and management requirements of the site and surrounding area in close proximity is set out above within the planning history section of this report.
158. It is acknowledged that the proposal to provide 1345m<sup>2</sup> of calcareous grassland to the north of the existing residential development would provide some mitigation. However, the proposal to plant 1660m<sup>2</sup> of woodland mix would largely represent a replanting of what has actually been previously cleared, when there was a requirement for it to be maintained. In this respect, although replanting of this area would be welcomed there is already a requirement for this area to be retained, even if to a slightly lesser extent as now proposed.
159. In terms of the proposed management of a 'wildlife corridor' to the north of the application site which comprises the LWS site, the 2009 and 2011 planning permissions relating to the adjacent residential development to the west of the site required this area to be managed as a retained biodiversity area and specifically bird boxes, newt hibernacula and newt refugia, as well as provision of a newt pond were to be implemented in this location. Notwithstanding this existing requirement, the proposals for this area, including the removal of non-native trees, are not considered to improve the quality of the habitat for the BAP species present on site, or improve the general ecosystem.
160. Further mitigation proposed to compensate for the loss of LWS land is the active management of 0.88 hectares of land to the south of the application site. This is considered appropriate, in size, to compensate for the loss of the LWS. However, in terms of BAP habitats present on this area of land, the mitigation area provides only 0.3 hectares of calcareous grassland, no bare ground or early successional habitat and no open water. There would therefore be an overall loss of area and quality of BAP habitat. This is because the mitigation land is largely neutral grassland and scrub which is of a lesser quality. The proposal includes over seeding this land to increase the number of plant species. However, this would not produce calcareous grassland which would be lost. Officers consider that the proposed compensation does not adequately mitigate against the loss of LWS land in terms of quality nor the loss of BAP habitat.

161. The submitted Ecology Report identifies that there are Great Crested Newts (GCN) within the vicinity of the site and development of the site would result in a loss of 1.54 hectares of GCN terrestrial habitat. The presence of protected species such as great crested newts is a material consideration, in accordance with Circular 06/05 and Paragraph 119 of the NPPF. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010 (and as amended in 2012) (referred to as the Habitats and Species Regulations hereafter) These regulations established a regime for dealing with derogations, which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.
162. The species protection provisions of the Habitats Directive, as implemented by the Habitats and Species Regulations , contain three “derogation tests” which must be applied by Natural England when deciding whether to grant a licence to a person carrying out activity which would harm a European Protected Species (EPS). This licence is normally obtained after planning permission has been granted. The three tests are that: the activity to which the licence is required must be for imperative reasons of overriding public interest or for public health and safety; including those of a social or economic nature and beneficial consequences of primary importance to for the environment, that there must be no satisfactory alternative and the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
163. Notwithstanding the licensing regime, the LPA must discharge its duty under Regulation 9(5) and also be satisfied that these three tests are met when deciding whether to grant planning permission for a development which could harm an EPS. A LPA failing to do so would be in breach of Regulation 9(5) of the 2012 Regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
164. The proposed GCN mitigation recognises that it is not possible to replicate the lost habitat, in line with best practice, and instead attempts to mitigate the loss of habitat by improving the habitat on the remainder of the wider application site. However, the proposed removal of non-native trees would be of no benefit to the loss GCN habitat and the proposed strengthening of the woodland corridor to the north of the site including the provision of a rough grassland strip/native scrub planting would be a cosmetic exercise in that the woodland/scrub structure and the habitat corridor would remain. It is also proposed to incorporate additional refugia and hibernacula, however, it is not considered that this is required. The submitted Ecology Report correctly identifies that the creation of ponds would not be suitable mitigation for the loss of GCN terrestrial habitat. Officers consider that the site provides a diverse three dimensional landscape suitable for terrestrial great crested newts in its current existing form.
165. Having regards to discussion elsewhere in this report outlining significant concerns relating to issues of principle, landscape and visual impact as well as securing provision of affordable housing, it is considered that there are not reasons of overriding public interest, nor matters that would be necessary to preserve public health, or safety that would justify the granting of a Natural England licence in this instance. It is also considered that the mitigation proposed would be insufficient to avoid adverse impacts on the local population of great crested newts and thus avoid affecting favourable conservation status. Furthermore in terms of whether there is no satisfactory alternative, as discussed above within the principle section of the report

the proposed housing allocations identified within the CDP are considered more appropriate and sustainable sites in order to meet the housing needs for Coxhoe.

166. The lack of overriding public interest and acceptable mitigation to avoid adverse impact on GCN to justify the granting of such a licence means that the proposed development cannot meet the requirements of the Conservation of Habitats and Species Regulations 2012. It is considered that the loss of GCN terrestrial habitat, as well as the loss of part of the Coxhoe Ponds Local Wildlife Site and the Biodiversity Action Plan habitat which the site consists of would conflict with CDLP Policies E16 and E18 and paragraphs 109, 118 and 119 of the NPPF, in that it is considered there would be significant impacts upon, protected and BAP species and their habitats, that cannot be adequately mitigated against or compensated for in size or quality.
167. It is noted that the Environment Agency advise that should planning permission be granted the management of a 5 metre wide buffer zone alongside the Croxdale Beck should be implemented, in order to retain the ecological value of the watercourse. This requirement could be imposed by planning condition.

#### Impact on Heritage Assets

168. No designated or known non-designated heritage assets are located on the site. It is not considered that the development of the site for residential use would impact on the locally important park/garden designated proposed within the emerging CDP, located to the south east of the site. Furthermore modern activity on the site would have removed any potential earlier (prehistoric/Roman) deposits which may potentially have survived prior to the development of the lime works. Therefore it is considered that the proposal would not impact on any designated, known non-designated or archaeological heritage assets and as such the proposal would comply with paragraphs 128 and 135 of the NPPF and Policies E21 and E24 of the CDLP.

#### Flooding and Drainage

169. The application site lies within flood zone one where residential development is considered appropriate. The main consideration is therefore the prevention of flooding by ensuring the satisfactory storage of/disposal of surface water from the site. It is proposed that surface water would be discharged into the nearby watercourse. The submitted Flood Risk Assessment's findings and recommendations, as well as general surface and foul water drainage proposals, are accepted by Northumbrian Water and the Environment Agency. This is subject to appropriate planning conditions which restrict the amount and location of foul and surface water discharge, and securing of a detailed drainage scheme. The advice of the Drainage Officer is noted and investigation and consideration of sustainable drainage systems could be secured through imposition of a detailed drainage scheme condition. The objectives of Part 10 of the NPPF and Policy U8A of the CDLP are therefore considered to have been met.

#### Contamination

170. The site risk of contamination on the site, given its former use as a lime works has been identified and addressed by means of the submission of a Ground Investigation Report. Given the previous historical use of the site it is recommended that further investigative works take place and that a suitable remediation scheme be formulated to ensure that the proposed development complies with CDLP Policy U11 and paragraphs 109, 210 and 121 of the NPPF which would ensure that the site and the



surrounding area is safe and appropriately remediated for its intended use. These requirements could be conditioned as part of any planning permission.

## Coal Mining Legacy

171. A Coal Mining Risk Assessment has been submitted with the application and identifies that the site has been subject to coal mining at shallow depth. The Coal Authority have assessed the submitted report and advise that further intrusive ground investigations should be undertaken and subsequent appropriate remediation works carried out, if found to be necessary, in order to ensure that the site is not at risk from coal mining legacy issues and that it is safe for its intended use. This can be secured by means of a condition, if the application is considered to be otherwise acceptable. This would enable the proposal to comply with Policy U13 of the CDLP and paragraphs 109, 120 and 121 of the NPPF.

## Other Issues

172. The Council's School Places Manager has indicated that the development would be likely to generate 30 additional primary school pupils, at the rate of 0.3 per dwelling. At present, Coxhoe Primary School currently has 10 spare places. Therefore, additional capacity would be required to accommodate all of the pupils generated by the proposed development. However, given that 20 Bungalows would be for older people the yield would be applied to the remaining 83 houses. This would generate 25 additional pupils. On the basis that 15 pupils could not be provided with a place at the school at present a contribution of £228,250 would be required to provide an additional classroom. This could be secured by means of a Section 106 Legal Agreement.
173. The concerns expressed regarding existing strain on social infrastructure and potential exacerbation of this resulting from the proposed development, relating to provision of medical services is noted. Although no specific concerns have been expressed from medical providers in relation to this specific proposal, this issue has been raised as a concern in respect of other applications for residential development in and around the Coxhoe area.
174. The proposal would not impact on any PROW. A permissive bridleway does exist to the south of the site. This path would not be directly affected by the proposal. The access road into the site however bisects the path and therefore drop kerbs and appropriate signage would be required at this point, should planning permission be granted. The proposed permissive footpath extending from the site through the proposed compensation land to the south would link into Public Footpath No.6 (Coxhoe) and would thus enable the proposal to comply with Policies T21 and R11 of the CDLP.
175. The submitted Sustainability Statement has identified that the development would provide Solar PV as the optimum solution to aim for zero carbon. This solution, together with appropriate improvements to the building fabric is accepted by officers and could be secured by planning condition, enabling the proposed development to comply with Policy U14 of the CDLP.

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## **CONCLUSION**

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176. This proposal is considered to comprise a large residential development within the open countryside, which draws no support from either existing or emerging local plan policy. The presumption in favour of sustainable development contained within

paragraph 49 of the NPPF is not engaged as existing policies can be considered up to date, with the LPA being able to demonstrate a five year housing land supply.

177. Although the site has reasonable accessibility to services and public transport, is not considered to be as accessible to shops, services and facilities as the housing allocation sites identified within the emerging CDP for Coxhoe. The development of the site for housing is not considered to be critical to the delivery of the housing strategy in order to meet future housing needs within Coxhoe.
178. Furthermore, the proposal is considered to represent an unacceptable incursion into open countryside which would result in excessive, outward and uncontained projection of the village into the open countryside. The site is poorly related to the settlement form and would not consolidate the built up form of the settlement, resulting in excessive sprawl.
179. Although the provision of 39% affordable housing is considered to be a benefit of the scheme, it is considered that this, particularly given the inability to secure the provision, does not extend so far as to outweigh the harm to landscape character and nature conservation interests or overcome issues of principle. With no planning policy support, and no material planning considerations which could be given significant weight indicating otherwise, the development is considered to be unacceptable in principle.
180. The development is however, considered to be acceptable in a number of other aspects, although it should be noted that many matters have been reserved for later consideration. Nevertheless, issues of highway safety, impact on heritage assets and residential amenity, drainage, flood risk, contamination and coal mining legacy have been considered, and, in principle are found to be acceptable, subject to the imposition of planning conditions, should planning permission be granted.
181. Careful and thorough consideration was given to the objections and concerns raised and these have been taken into account and addressed within the body of the report, with some matters of concern being addressed through the process of consideration. Many, although not all of the concerns raised have been substantiated and this is reflected in the conclusions reached on the proposal.
182. Notwithstanding the above, fundamental concerns relating to the principle of development, landscape and visual impact and impact on nature conservation interests and species protected by law, as well as unresolved concerns over viability of the provision of affordable housing and the inability to secure the provision of HCA grant funded affordable housing mean that the proposal is considered to be contrary to the provisions of the City of Durham Local Plan, emerging County Durham Plan and the NPPF. Officers therefore consider that the proposal cannot be supported.

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## **RECOMMENDATION**

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

1. The Local Planning Authority considers that the proposal would represent a significant inappropriate incursion into the open countryside that would be in direct conflict with Policy H3 of the City of Durham Local Plan, Policies 15 and 35 of the Submission Draft County Durham Plan as well as paragraphs 7 and 17 of the National Planning Policy Framework.

2. The Local Planning Authority considers that the proposed development, as a result of its siting and scale would represent a significant incursion into open countryside which would adversely impact on the visual and landscape character of the area, contrary to Policies E7 and H3 of the City of Durham Local Plan, Policies 15, 30 and 39 of the Submission Draft County Durham Plan and paragraph 109 of the National Planning Policy Framework.
3. The Local Planning Authority considers that there would be an unacceptable adverse impact upon the nature conservation interest of the area, including species protected by law that cannot be satisfactorily mitigated against or compensated for, contrary to Policies E16 and E18 of the City of Durham Local Plan, Policy 43 of the Submission Draft County Durham Plan and paragraphs 109, 118 and 119 of the National Planning Policy Framework.
4. The Local Planning Authority considers that in the absence of the provision of affordable housing, that could be satisfactorily secured and retained in perpetuity, having had regard to the viability and delivery of the proposal, the proposed development is considered not to meet the requirements of Policies H12, H12 A, Policy 31 of the Submission Draft County Durham Plan and paragraph 50 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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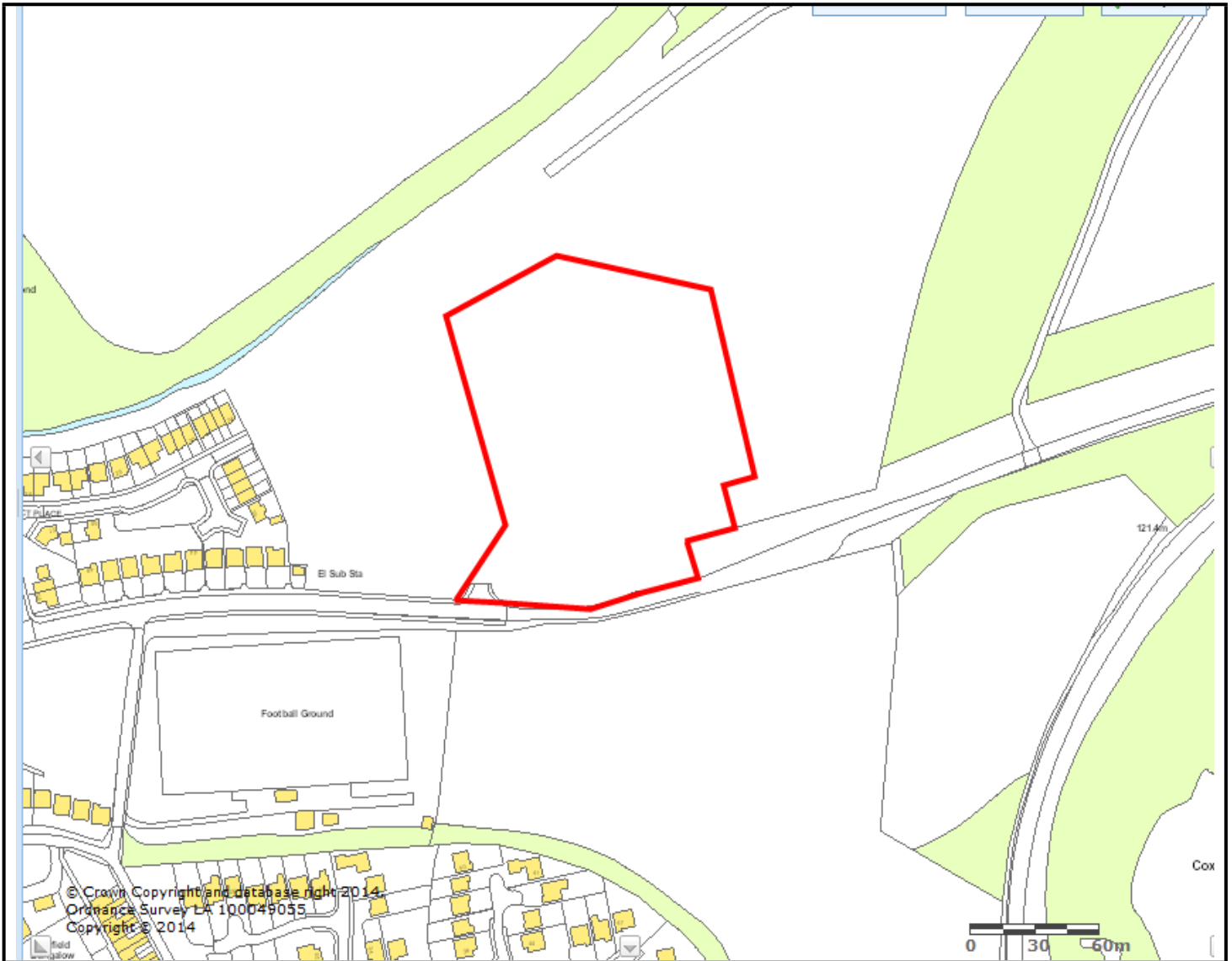
The Local Planning Authority in arriving at the decision to refuse the application has sought to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. However, in this instance, fundamental matters of principle were unable to be addressed satisfactorily. *(Statement in accordance with Article 31(1)(CC) of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.)*

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- City of Durham Local Plan
- The County Durham Plan (Submission Draft)
- Statutory, internal and public consultation responses



**Planning Services**

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**Comments**

DM/14/01858/OUT

Construction of 103 residential dwellings comprising of 40 affordable dwellings and 63 open market dwellings with associated infrastructure, landscaping and engineering works (outline application, all matters reserved except access) (revised description)

Land to the east of Prospect Place, Commercial Road East, Coxhoe

**Date** 9 December 2014

**Scale** NTS



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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/14/01821/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Demolition of Kepier House & erection of 35 apartments with associated external works
<b>NAME OF APPLICANT:</b>	Charles Church Ltd
<b>ADDRESS:</b>	Land at Kepier House, The Sands, Durham
<b>ELECTORAL DIVISION:</b>	Elvet & Gilesgate
<b>CASE OFFICER:</b>	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. This application site is located to the North East of the city centre; and is immediately adjacent to and overlooks the south bank of the River Wear. The site slopes toward the river from north to south and is separated from the river bank by the Providence Row and a substantial area of accessible green open space known as The Sands; which forms the South Bank. Within the site itself the only remaining structure is that of Kepier House, a non-designated heritage asset which is derelict in appearance and use. The site is also located within the Durham City Conservation Area.
2. The site is currently vacant and surrounded by security fencing. A previously approved residential development has been progressed on the Northern part of the site. The progress of these works includes excavations for a basement car park and extensive piling to suit that scheme, various spoil heaps from those excavations remain on site. The Southern elevated section of the site is more attractive and remains landscaped with a series of mature protected tree canopies. It is the intention to utilise these excavations and piling within the submitted proposal.
3. The surrounding area is predominantly residential in character; and these properties are on the whole fairly modern; mostly dating from the 1950's onwards. The area has been developed in a piecemeal manner as a series of smaller estates. Further west along

Providence Row the scale of buildings increases on the approach to Claypath and the city centre.

## **The Proposal**

4. This application proposes the demolition of Kepier House and the erection of 35 residential apartments with associated infrastructure and landscaping. The proposed building would be split level mainly three storeys in height rising to four storeys as the site rises to the south; the existing building on the site would appear roughly the same height as the one being proposed which would be cut into the slope of the site. The apartments would be located in two blocks and would consist of a main apartment block which is three storeys in height which would step down through the site to reflect the natural change in the site topography. There is a small section at four storeys where the change in level occurs.
5. There would be 47 car parking spaces on site, 11 of these would be at ground level and accessed from Ferens Close whilst 36 spaces would be located in an undercroft car park accessed off Providence Row which would not be visible from public view.
6. The presence of mature trees on the site means that a large part of the site is undevelopable; although this has provided an opportunity to develop a scheme incorporating a considerable area of mature landscaping. The existing tree canopy and proposed additional landscaping would also provide context and soften the appearance of the proposed building which would be constructed from brick and render with grey anthracite windows.
7. This application is being referred to Committee as it relates to a major residential development.

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## **PLANNING HISTORY**

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8. On 5<sup>th</sup> February 2004 two applications were submitted; one for Full Planning Consent (04/00165/FPA); one for Conservation Area Consent (04/00142/CAC). Both seeking consent for; “The erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings”. These applications were approved on 2<sup>nd</sup> June 2004 and subsequently commenced, although this development later ceased on site due to viability issues.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the



role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

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

The following elements are considered relevant to this proposal;

11. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
12. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
14. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *Part 8 -* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.

17. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
18. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

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

19. Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
20. Policy E14 - (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
21. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
22. Policy E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.

23. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
24. Policy H2 - (New Housing within Durham City) states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
25. Policy H12 - Affordable Housing seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
26. Policy H13 - Residential Areas – Impact upon Character and Amenity states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
27. Policy T1 - Traffic – General states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
28. Policy T10 - Parking – General Provision states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
29. Policy R2 - Provision of Open Space – New Residential Development states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
30. Policy Q8 - Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
31. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area

32. Policy U8a - Disposal of Foul and Surface Water requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
33. Policy U15 - Energy Conservation – Renewable Resources permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494>*

### **EMERGING POLICY:**

34. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
35. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
36. *Policy 15 (Development on unallocated sites)* – States that development on unallocated sites will be permitted on the basis that they are appropriate in scale, design and location to the character and function of the settlement, they do not result in the settlements last community facility, would not prejudice the intended use of adjacent sites and land uses and that they are not in the countryside.
37. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.

38. *Policy 44 (Historic Environment)* – Development will be required to conserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and to seek opportunities to enhance structures and areas of significance throughout County Durham. Developments that promote the educational, recreational, tourism or economic potential of heritage assets through appropriate development, sensitive management, enhancement and interpretation will be permitted.
39. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

40. The Environment Agency have no objections to the proposals on the basis that the recommendations contained in the submitted Flood Risk Assessment are conditioned.
41. Northumbrian Water raise no objections to the proposals.

### **INTERNAL CONSULTEE RESPONSES:**

42. Tree Officers have no objections to the proposals and welcome the replanting scheme. Conditions should be imposed to ensure protection of existing trees during development.
43. Pollution Control Officers raise no objections subject to contaminated land conditions.
44. Ecology Officers have been consulted and have no objections to the proposals on the basis that the mitigation measures indicated in the submitted ecology report are conditioned.
45. Archaeology Officers have no objections to the proposals on the basis that a programme of archaeological recording is conditioned.
46. Design and Conservation Officers have no objections to the demolition of Kepier House and its replacement with the proposed apartments.
47. Drainage Officers have assessed the submitted Flood Risk Assessment and have no objections to the proposals on the basis that the recommendations in the report are conditioned.
48. Landscape Officers comment that on the whole the landscaping scheme submitted is acceptable.

49. Highways Officers initially objected to the proposals on the basis that there was a shortfall of parking on site. However, amended plans have since been received which show a total of 47 parking spaces along with provision for cycle parking which has been considered acceptable.

**PUBLIC RESPONSES:**

50. The application has been advertised by way of a press notice, site notice and letters to individual residents. Seventeen letters have been received in response to the consultation exercise, sixteen of which are objections, although most of these letters of objection acknowledge the need to redevelop the derelict site. The main areas of concern are that the development would lead to traffic congestion and parking problems and that the access point from Ferens Close is unacceptable. Other concerns are that the building would have an adverse visual impact on the Conservation Area as it is out of scale and character and that it would lead to overshadowing and a loss of light to existing properties. There are also concerns that the proposals would lead to flooding and that there is a lack of cycle parking on the site. The letter of support from a nearby resident states their support for the redevelopment of what is a derelict site.

**APPLICANTS STATEMENT:**

51. This development offers the opportunity to create a new sustainable residential development within Durham City. The proposal for 35 apartments provides an excellent range and choice of dwellings to satisfy current and future residential requirements for Durham City and also provides a type and size of dwelling which is currently under provided within the locality.
52. We have engaged with the Council throughout the planning process and are satisfied that the scale and form of development, as well the proposed housing mix is appropriate within this locality. The proposals shall develop an urban brownfield infill site within the development limits of Durham, creating a new, attractive residential development for the city.
53. The site's location within an existing residential area of Durham city and close to the city centre ensures that the site is highly sustainable in relation to local amenity with a wide variety of services, facilities, open space, recreational facilities, and local schools within close proximity to the development. Furthermore, the proximity to bus routes and the train station provide a high level of sustainable transport options for future residents.
54. Both public and statutory consultation has been carried out through which a number of concerns were raised. Through adaption of the proposal in responses to these concerns we are confident that there are no outstanding issue regarding the development.

55. Finally, the impacts of the development have been mitigated via a planning gain package which includes an offsite Play Space Contribution and a percentage for art contribution.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*  
[http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_detailview.aspx?caseno=M4W1OFBN5B000](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=M4W1OFBN5B000)

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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56. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
57. In this instance, the relevant considerations are the principle of the development; in particular the accordance with the Governments recently published National Planning Policy Framework (NPPF), the emerging County Durham Plan (CDP), and the saved policies from the City of Durham Local Plan. Other material considerations are the scale, layout and design of the development, highways issues, affordable housing, ecology and trees and the concerns raised by local residents.

### **Principle of the development**

58. Firstly, it should be noted that the planning permission which was approved in 2004 has been partly implemented through the creation of hardstandings, pile foundations and other associated groundworks. Therefore a fall-back position exists which would enable the previously approved scheme to be implemented. This scheme was of similar design to the one currently being proposed and was also three storeys in height. Therefore it could be argued that the principle of the development has already been established. However, in light of the change in policy since this application was approved a re-assessment of the principle of the development shall be made.
59. Saved Policy H2 of the City of Durham Local Plan allows for windfall development of previously developed sites within the settlement boundary of Durham City, provided that the scheme is appropriate in scale, design, location and number of units. This proposal seeks to redevelop a brownfield parcel of land within the settlement boundary of Durham City and as such this proposal is considered to wholly accord with this policy. In addition to this, the governments National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development and has significantly more weight than the

dated Local Plan but also encourages the use of previously developed land. The proposal is considered to constitute an efficient use of land in the city centre with good access to community facilities such as schools, healthcare provision, shops and public transport links. It is therefore considered that the proposal is in a sustainable location for residential development in accordance with the principles and overarching aim of the National Planning Policy Framework.

60. The emerging County Durham Plan (CDP) will aim to direct the majority of new housing to the main towns and secondary settlements of the County. Policy 1 of the draft CDP states that the council will work proactively to find solutions that mean that development can be approved wherever possible. All development proposals will be assessed against sustainability considerations; relevant considerations listed in the policy include the need to locate development with the aim of reducing the need to travel, to promote sustainable communities by allowing small-scale development to meet local needs and considerations relating to sustainable design.
61. Policy 16 of the CDP states that development on unallocated sites will be permitted provided the development is appropriate in scale, design, and, location, and has regard to the character and function of the settlement and helps to consolidate the built form of the settlement.
62. As part of the on-going production of the CDP, a 'Settlement Study' has been carried out. This study looks at the amenities within the settlements across County Durham, including public transport, public and private services, and access to jobs. The findings indicate that Durham City has primary and secondary schools, GPs and health centres, community facilities and industrial estates and is a city with sub regional significance. The conclusion which can be drawn from this is that the area is very well served by services and facilities, greatly contributing to its sustainability. Overall, it is therefore considered that the proposal generally accords with the principles of the draft CDP.
63. Overall, in terms of the proposals accordance with planning policy, it is considered that due to the site being located within the settlement boundary close to community facilities, shops, schools and public transport links, it is considered to be in a sustainable location for residential development. In terms of the NPPF, this advises that there should be a presumption in favour of sustainable development such as the one proposed. Officers therefore consider the principle of bringing this site forward for residential development is acceptable given the previous planning approval which was commenced, and as it accords with the NPPF, the emerging CDP and saved Local Plan policies.

### **Scale, layout and design of the development**

64. The NPPF's twelve core planning principles states that the planning process should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design, the NPPF states, is "indivisible from good planning."



65. Policy H13 of the LP states that planning permission will not be granted for new development that would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. Policies Q1, Q2 and Q8 list design features which will be encouraged within residential areas. In addition, saved Policy Q8 of this plan sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.
66. In addition to the above, saved Local Plan Policies E6, E21 and E22 all require the character of conservation areas to be preserved or enhanced. Policy E6 is particularly relevant to this application as it relates to the Durham City Centre Conservation Area. It states that the special character, appearance and setting of the Durham City Centre Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
67. As described earlier, the main building steps down the site from south to north toward the river to respond to the natural topography of the site. Each section of elevation is broken down by projecting bay and orial corner windows which provide interest to each elevation. The roofs of the buildings are flat, and are set out at a series of undulating levels to respond to the changes in level through the site and to define the projecting openings. This also helps to break down the scale and massing of the proposed building and avoids heavily designed pitched roofs, also meaning that the overall height of the proposed building is reduced. The smaller replacement building on the site of Kepier House is designed as a separate building in both a response to the existing building on site and to further break down the scale of the overall development.
68. Officers have negotiated improvements to the scale, design and layout of the development and it is considered that the proposal would result in a modern and attractive development that would be appropriate to its river side context. The brick and render elevations would give a contemporary appearance and would respect the scale and context of the locality. It is considered that the proposals would enhance this part of the Durham City Conservation Area which at present is in an untidy derelict state in accordance with saved policies E6, E21 and E22 of the Local Plan.
69. As previously noted, planning permission was approved in 2004 and implemented thereafter for a scheme which was of similar design to the one currently being proposed and which was also three storeys in height. It is not considered that the current proposal would have any additional impact on surrounding occupiers or the street scene than the previously implemented scheme.
70. Overall, the development in terms of scale, design and layout is considered to be appropriate for this particular location. It is considered that the scale and

layout of the development is acceptable and the design is of a high standard, therefore the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

### **Highways Issues**

71. Highways Officers initially objected to the proposals due to the lack of parking provision on the site. As a result of this objection, plans have been amended to show 47 car parking spaces on site, 21 more than what was originally proposed. 11 of the spaces would be at ground level and accessed from Ferens Close whilst 36 of the spaces would be located in an undercroft car park and accessed from Providence Way, it is also proposed to create 15 cycle spaces on site. The Councils Highways Officers have assessed the proposals and are satisfied that both the access to the site and the level of parking provision are acceptable. No concerns are raised with regard to on street parking congestion and it is noted that the surrounding area is restricted for use by resident parking permit holders or users of pay and display facilities. Therefore it is considered that the proposals are in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

### **Affordable housing**

72. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 20% affordable housing across the Central Durham Delivery Area (on sites of 15 or more dwellings or above 0.5 hectares), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets. The SHMA, NPPF and Policy H12 of the Local Plan therefore provide the justification for seeking the delivery of affordable housing provision through this site.
73. Where the appropriate level of affordable housing is not proposed there must be evidence to justify a departure from adopted policy. In this instance the applicant has submitted a development appraisal to the Council which has been scrutinised by the Principal Valuation Officer. This development appraisal includes financial evidence to prove that the scheme would be unviable with any element of affordable housing due to the change in market circumstances since the developer acquired the site. The Principal Valuation Officer has agreed that the scheme presented within the appraisal would be unviable with any element of affordable housing due to the change in the market and abnormal construction costs.
74. In view of this, it is considered that sufficient justification has been submitted in order to justify the omission of affordable housing and there is a need to develop this currently derelict site within the Durham City Conservation Area.

### **Ecology and Trees**

75. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 make it an offence to kill, injure or disturb the nesting or breeding places of

protected species unless it is carried out with the benefit of a license from Natural England. Accordingly, the Regulations have established a regime for dealing with derogations in the form of a licensing system administered by Natural England.

76. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty to have regard to the requirements of the Regulations/Directive in the exercise of its functions. A Local Planning Authority failing to do so would be in breach of the Regulations. Specifically, where a likely interference to a European Protected Species is identified, the LPA must consider whether a developer might obtain an EPS licence from Natural England, which in turn calls for an application of the derogation tests. The derogation tests are threefold as follows:
- That there is no satisfactory alternative
  - That the population of the species will be maintained at a favourable conservation status in their natural range
  - That there are imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment
77. In addition to the above, saved Policy E16 of the City of Durham Local Plan is aimed at protecting and enhancing the nature conservation assets of the former district. Development proposals outside specifically protected sites such as the application site will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests should be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
78. In this instance, an ecology report has been submitted by the applicant which recommends that various mitigation measures are carried out in order to offset the impact of the development. In addition, a bat roost has been found on site and a European Protected Species Licence would be required before the building on site can be demolished. The Council's Senior Ecologist has confirmed that the submitted ecology report is satisfactory and that no objections would be raised on the basis that the mitigation is conditioned as part of any planning consent. It is therefore considered that the Local Planning Authority has carried out its duties with regard to the Conservation of Habitats and Species Regulations 2010 and that the proposals are in accordance with saved policy E16 of the Local Plan and part 11 of the NPPF.
79. Saved Policy E14 sets out the Council's requirements for considering proposals which would affect trees and hedgerows. It states that development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost.

80. In terms of the trees on the application site, the applicant has submitted an arboricultural survey in support of the application. The Council's Tree Officer has concluded that it is imperative that the protective measures are implemented before any ground preparation is commenced to ensure the root protection area of the trees are duly protected. As such, a condition should be imposed to ensure the trees are appropriately protected before any development commences in accordance with Local Plan Policy E14.

### **Letters of concern from nearby residents**

81. As previously mentioned, seventeen letters have been received in response to the consultation exercise, sixteen of which are objections, although most of these letters of objection acknowledge the need to redevelop the derelict site. The main areas of concern are that the development would lead to traffic congestion and parking problems and that the access point from Ferens Close is unacceptable. Other concerns are that the building would have an adverse visual impact on the Conservation Area as it is out of scale and character and that it would lead to overshadowing and a loss of light to existing properties. There are also concerns that the proposals would lead to flooding and that there is a lack of cycle parking on the site. The letter of support from a nearby resident states their support for the redevelopment of what is a derelict site.
82. In terms of traffic congestion, parking and access, these issues have been assessed by the council's Highways Officers and have found to be acceptable; officers also consider that the level of car and cycle provision is acceptable. With regard to the scale and design of the building, officers have negotiated this in detail with the applicant and consider it to be acceptable. The building would replace a derelict building on an untidy site and would enhance the Durham City Conservation Area. It should also be noted that the proposal is very similar in scale and design to the previously approved planning permission which was implemented and therefore would have no greater impact on residential amenity. Finally, in terms of flood risk, the applicant has submitted a flood risk assessment in accordance with the requirements of the NPPF which has been assessed by drainage officers and the Environment Agency have been consulted on the application and have offered no objections to the proposals on the basis that the recommendations contained in the submitted Flood Risk Assessment are conditioned.
83. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during the planning application process and their impacts are not considered to warrant refusal of planning permission.

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## **CONCLUSION**

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84. Overall it is considered that the proposals are in accordance with the development plan and the National Planning Policy Framework. The proposed residential development is in a highly sustainable location near the city centre

with good access to public transport, local shops, healthcare providers, schools and other community facilities.

85. The scale, layout and design of the development are considered to be appropriate for this location and would visually enhance the Durham City Conservation Area. The proposals would deliver a high quality development whilst vastly improving what is an untidy and derelict site. The applicant has submitted evidence to justify the omission of affordable housing on grounds of viability which has been accepted by the Councils Principle Valuation Officer. Notwithstanding this, the developer has agreed to contribute £35,000 toward recreational facilities in the Electoral Division along with a contribution toward public art to be agreed.
86. On the basis of the above, officers recommended that the application be approved.

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## **RECOMMENDATION**

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

- i. A financial contribution toward recreational facilities and public art.

### **Conditions:**

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; Site Location Plan SAN-001, Proposed Elevations 1 (00)500 Rev I, Proposed Elevations 2 (00)510 Rev J, Former Kepier Lodge Proposed Elevations (00)520 Rev F, Proposed Plan Level 00 (00)310 Rev M, Third Floor TSD-004, Basement TSD-000, Ground Floor TSD-001, First Floor TSD-002, Second Floor TSD-003.

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

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

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

4. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours and 1800 hours Mondays to Friday, 0800 hours and 1300 on Saturdays and not at all on Sundays and Bank Holidays.

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

5. No development shall commence until a scheme for tree protection has been submitted and agreed in writing with the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated in the agreed tree protection scheme as to be retained, are protected by the erection of fencing in accordance with BS.5837:2012.

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

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section D4 (Mitigation Requirements) of the ' Ecological Surveys of The Sands, Durham' written by E3 Ecology Ltd and received Revision 4 dated 19.6.14

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

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

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

7. 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 secure a sustainable form of development in accordance with saved policy U15 of the City of Durham Local Plan and part 10 of the NPPF.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The Scheme shall provide for:
  - i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with the approved strategy,
  - ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;
  - iii) Measures to ensure the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
  - iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
  - v) notification in writing to the County Durham Archaeology Section of the commencement of archaeological works and the opportunity to monitor such works.
  - vi) Post-fieldwork methodologies for assessment and analyses.
  - vii) Report content and arrangements for dissemination, and publication proposals.
  - viii) Archive preparation and deposition with recognised repositories.
  - ix) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualificationsThe development shall then be carried out in full accordance with the approved details.

Reason: To comply with Policy E25 of the former City of Durham District Plan as the site has archaeological potential.

9. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record. This may include full analysis and final publication.

Reason: To comply with Para. 141 of the NPPF, making the information generated publicly accessible.

10. No development shall take place until a site investigation and Desk top Study has been carried out in accordance with Part IIA of The Environmental

Protection Act 1990. The results of the site investigation shall be submitted and approved in writing by the local planning authority.

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

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

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

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

#### Phase 2 Report

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

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

#### Phase 3 – Validation Report

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

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

11. The development hereby approved shall be carried out in accordance with the mitigation measures contained within the submitted Flood Risk Assessment by CK21 of June 2014.

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



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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In dealing with the application, the local planning authority has worked with the applicant and nearby residents in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
National Planning Policy Framework  
Emerging County Durham Plan  
Internal consultee responses



**Planning Services**

Land at Kepier House, The Sands,  
Durham

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**Date** December  
2014

## Planning Services

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

<b>APPLICATION NO:</b>	<b>CE/13/00862/OUT</b>
<b>FULL APPLICATION DESCRIPTION</b>	<b>OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT ACCESS AND LAYOUT FOR RESIDENTIAL DEVELOPMENT OF 6 EXECUTIVE DWELLINGS</b>
<b>NAME OF APPLICANT</b>	<b>MR L LINCOLN</b>
<b>SITE ADDRESS</b>	<b>LAND AT BRACKENHILL HOUSE, BRACKENHILL AVENUE, SHOTTON COLLIERY, DURHAM</b>
<b>ELECTORAL DIVISION</b>	<b>SHOTTON AND SOUTH HETTON</b>
<b>CASE OFFICER</b>	<b>Barry Gavillet 03000261958 dmcentraleast@durham.gov.uk</b>

**DESCRIPTION OF THE SITE AND PROPOSAL****Site:**

1. This application site is a rectangular shaped parcel of land and lies within the Electoral Division of Shotton and South Hetton. The site is approximately 2.5 hectares in size and is approximately 500 metres outside the settlement boundary of Shotton, therefore it is technically classed as being in the countryside. The site is known as Brackenhill House which is a large detached house with separate elements of garaging, the remnants of a former tennis court together with a walled garden. The house is set in large grounds and covered with mature trees which are protected by a Tree Preservation Order.
2. The site is orientated on a north west to south east axis along Shotton Lane that would form the frontage of the proposed development and from which two vehicular accesses would be taken. The lane operates as a no through road for motorised traffic and vehicular access terminates to the south east at the pedestrian entrance to the business parks.
3. To the north, east and south of the application site are the Whitehouse and Brackenhill Business Parks whilst there is open grazing land the west with the built up area of Shotton Colliery beyond. The Edderacres Local Nature Reserve is also close the site to the south west. There is a lodge house on the main access to the

application site and a further three detached properties around the perimeter of the site.

### **Proposal:**

4. This application proposes the erection of 6 detached executive dwellings within the grounds of Brackenhill House, Shotton. It is an outline application with all matters reserved apart from access and layout.
5. Access to the site would be from the existing access off Shotton Lane along with a new additional access being created to the east of the site serving three of the new dwellings.
6. The applicant has been in discussions with officers for some time, with particular regard to the loss of trees and how impact could be minimised. The application originally proposed nine dwellings but this has been reduced to six in order to limit the impact on protected trees and is now acceptable to officers given the limited impact on the most important tree specimens.
7. This application is being reported to committee as it is classed as a major development due to the site area.

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## **PLANNING HISTORY**

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8. In 2012 an outline application for residential development including detailed means of access and layout was submitted but later withdrawn (5/PL/2012/0202).

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’

The following elements are considered relevant to this proposal:

11. *Part 1* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
12. *Part 4* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system

needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

13. *Part 6* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
14. *Part 7* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *Part 8* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible, Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *Part 10* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
17. *Part 11* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

## **LOCAL PLAN POLICY:**

### District of Easington Local Plan

18. *Policy 1*- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
19. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.

20. *Policy 16* - Development which adversely affects a designated Site of Nature Conservation Importance/Local Nature Reserve/ancient woodland will only be approved where there is no alternative solution and it is in the national interest.
21. *Policy 18* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
22. *Policy 19* - Areas of nature conservation interest, particularly those of national importance will be protected and enhanced.
23. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
24. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
25. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
26. *Policy 74* - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.

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

## **EMERGING POLICY:**

27. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
28. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
29. *Policy 15 (Development on unallocated sites)* – States that development on unallocated sites will be permitted on the basis that they are appropriate in scale, design and location to the character and function of the settlement, they do not result

in the settlements last community facility, would not prejudice the intended use of adjacent sites and land uses and that they are not in the countryside.

30. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.
31. *Policy 30 (Housing Land Allocations)* – In order to meet the housing requirement a number of sites have been allocated for housing. Planning applications for housing submitted on these sites that are in accordance with site specific and phasing requirements will be approved. Applications submitted in advance of its phasing will be approved where they do not prejudice delivery of other allocated sites phased in an earlier time period, where they are required to maintain a five year supply of deliverable sites and where infrastructure requirements can be satisfactorily addressed.
32. *Policy 35 (Development in the Countryside)* – Sets out that new development will be directed to sites within built up areas, or sites allocated for development, whilst the countryside will be protected from inappropriate development.
33. *Policy 39 (Landscape Character)* – States that proposals for new development will only be permitted where they would not cause significant harm to the character, quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh its impacts.
34. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

35. The Environment Agency has no objections to the proposals and has offered informal advice.
36. Northumbrian Water has no objections to the proposals subject to a scheme for surface and foul water being submitted before commencement of development.

### **INTERNAL CONSULTEE RESPONSES:**

37. Environmental Health officers have no objections to the proposals subject to a contaminated land study being submitted and any necessary mitigation being carried out.
38. Highways officers have no objections to the proposals on the basis that a condition is imposed requiring a refuse collection hardstanding area on the site. The proposed access arrangements and internal layout are considered acceptable.

39. The Principal Landscape Officer has not objected to the proposals. It is stated that the small number of trees that would be lost would be unremarkable specimens and their loss would not in itself have a significant effect on the integrity of the TPO woodland. Conditions would be required in order to secure tree protection and to ensure that the trees beyond private gardens in woodland areas are properly managed.
40. Ecology Officers require the mitigation contained within the submitted ecology report to be conditioned along with a requirement for bat roost mitigation.
41. The Design and Conservation Officer offers no objections to the proposals.
42. Planning Policy officers consider that the proposal is contrary to the adopted Local Plan but in relation to the NPPF and the emerging Local Plan it can be considered to be acceptable. As the CDP is in examination the weight to be given to it remains limited, but it is considered the acceptability of the scheme in relation to the NPPF and the emerging Plan are material and justify a departure from adopted policy.

#### **PUBLIC RESPONSES:**

43. The application has been advertised by way of a site notice, press notice and letters to individual residents. Letters have been received from three residences who object to the proposals. The main areas of concern are that the lane is very narrow and in a bad state of repair and there are no pedestrian footpaths. Notwithstanding this it is noted that the lane is very heavily used by pedestrians. It is also stated that the proposals would create 'urban sprawl' which would be harmful to wildlife and would result in the loss of mature trees. There are also concerns regarding dirt, noise and the use of heavy goods vehicles and that the proposals would lead to a loss of privacy for existing residents.

#### **APPLICANTS STATEMENT:**

44. The Planning Application was submitted in August 2013 following detailed pre-application discussions with officers. The desire has always been to provide a high quality, low density, landscape led residential scheme which provides an executive housing development set within a mature landscaped setting.
45. Following submission of the planning application the Council's arborist have raised some concerns in terms of the impact of the proposed development on certain trees on the application site. In light of these comments the scheme was revised through the reduction of the number of proposed dwellings from 9 to 6 which enabled development to be achieved without the loss of the more significant trees on the site.
46. A subsequent meeting with the case officer and the arborist confirmed that the revised scheme was acceptable in landscape terms. As such, the planning application provides an opportunity to meet the need, in part, for high quality, executive housing in Durham to help achieve the economic step change identified by Durham Council as part of their Local Plan.

*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*



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## **PLANNING CONSIDERATION AND ASSESSMENT**

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47. Local planning authorities (LPA's) must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
48. In this instance, given that the application seeks outline approval with appearance, scale and landscaping reserved, the main relevant considerations are the principle of the development, the access and layout, trees and ecology and the letters of objection from nearby residents. Of particular relevance are the accordance with the saved policies from the District of Easington Local Plan, the Governments recently published National Planning Policy Framework (NPPF) and the emerging County Durham Plan.

### **Principle of the development**

49. This proposal is for 6 executive dwellings on land within the private curtilage of Brackenhill House, Shotton Colliery. There is a Tree Preservation Order covering the site which is located outside of the existing settlement boundary.
50. From a planning policy perspective, it is considered that the key issues in relation to this application are:
- a) the extent to which the proposed development accords with the existing development plan for the area;
  - b) the extent to which the proposed development is consistent with the County Durham Plan (acknowledging that the relevant policies are of limited weight at present); and,
  - c) the extent to which the proposed development is consistent with Government planning for housing policy objectives set out in the National Planning Policy Framework (NPPF), with particular regard towards delivering a wide choice of high quality homes, which widens opportunities for home ownership and helps create sustainable, inclusive and mixed communities.

### *Compliance with the existing development plan (Saved Policies from the District of Easington Local Plan)*

51. This scheme proposes housing development on greenfield land that is located outside of the existing settlement boundary for Shotton Colliery. Sites located outside of boundaries are treated against 'countryside' policies and objectives, and there is a general presumption against allowing development beyond a settlement boundary which is reflected in saved policy 3 of the District of Easington Local Plan (ELP), this is unless other policies indicate otherwise. Consequently, in strict planning policy terms the development of the site for housing (in whole or in part) would be in conflict with policy 3 of the ELP.

### *NPPF & Emerging Plan*

52. As a consequence of the conflict with the Local Plan there would need to be other 'material considerations' to justify a departure from that policy. In this respect the NPPF is far less restrictive than the Local Plan. The NPPF seeks to boost significantly the supply of housing and expects Local Planning Authorities (LPA's) to help deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (Para's 47 – 55). Therefore the key matter relates to directing development to suitable and sustainable locations.
53. Shotton Colliery is recognised as a 2<sup>nd</sup> tier settlement (Larger villages and smaller towns within the County Durham Settlement Study) in recognition that the village has good access to facilities and services available on Potto Street in addition to employment land in surrounding industrial estates and business parks. For these reasons the settlement is a focus for growth in the County Durham Plan (CDP), with Policy 4 directing 270 new houses to the village. This allocation is largely accounted for by existing commitments (175 units to Persimmon Homes are under construction on land North of Station Rd (PL/5/2011/0438) and 86 units on land East of Windsor Place were granted planning permission in June 2013 (PL/5/2013/0055). It is considered that this application site is in a sustainable location with good access to local shops, schools, community facilities, public transport links and employment opportunities.
54. The CDP is at Submission Draft stage and has recently been through the first stage of an Examination in Public on the strategic content of the Plan. The CDP does not include settlement boundaries but to be acceptable housing development would need to be considered part of the built up area. This site is divorced from Shotton but abuts the employment uses to the east. Although it comprises a house in heavily treed grounds, the site is well related to the adjacent uses and has development to the east, north and south so could be considered to be part of the built up area as it is well contained and therefore acceptable in the context of CDP Policy 15 (Development on unallocated Sites in the Built Up Area). Notably, however, the policy requires (at c) that development is compatible with adjacent uses. As the site abuts employment development officers have visited the site and are satisfied that the introduction of residential use would be compatible in terms of noise impact, however a noise assessment and appropriate mitigation measures should be conditioned if the application were to be approved.
55. The CDP also includes Policy 13 (Other Executive Housing Proposals) which permits executive housing (i.e. detached housing of high quality design and materials in large grounds) if it conforms to Policy 15. This proposal broadly meets this requirement and the introduction of such housing to the area can bring with it economic benefits for the community.
56. To be acceptable, the proposal needs to demonstrate material considerations to outweigh the adopted policy constraints in the Local Plan. In this context, it would deliver benefits by way of a sustainable executive housing development which would increase the mix and choice of housing in the area. It is considered the acceptability of the scheme in relation to the NPPF and the emerging Plan are material and justify a departure from adopted policy and on this basis, officers consider that on balance, the principle of the development is acceptable.

## **Access and layout**

57. It should be noted that although an outline application, layout an access is for detailed consideration now and are not reserved for future determination. The proposed access points to the development are both off Shotton Lane which terminates to the east of the site near the pedestrian entrance to the business parks. One access is existing and would serve the existing Brackenhill House and three further dwellings to the south and west of the site, whilst the new access would serve the three new dwellings to the north east corner of the site. Highways Officers have agreed these access points are acceptable in terms of location and visibility requirements and consider that the internal access arrangements are acceptable. On this basis the access arrangements are considered to be in accordance with part 4 of the NPPF and saved policies 1 and 36 of the District of Easington Local Plan. and have no objections to the proposals.
58. The layout of the proposed dwellings and disposition of the various elements has been largely determined by the spatial disposition of the access points, the site boundaries, the walled garden, the extent of the tree cover and the relationship with the surrounding built development. The applicant has worked with officers over a significant period of time in order to ensure that a high quality executive housing development can be delivered whilst retaining the integrity of the walled garden, and by ensuring that only a minimal amount of lower value trees would need to be removed. Officers have also negotiated with the applicant to ensure that in the longer term the wider woodland area is properly managed and that ecology benefits are gained, this would be achieved through appropriate planning conditions.
59. In addition to the above, the layout of the dwellings is such that there would be no adverse impacts in terms of loss of privacy, overlooking or loss of light to both existing and future residents.
60. On the basis of the above it is considered that given the constraints of the site the layout is acceptable in terms of residential amenity and impact on trees in accordance with part 11 of the NPPF and saved policies 1 and 35 of the District of Easington Local Plan.

## **Trees and Ecology**

61. Discussions have taken place during the application process and as a result the number of trees that would be directly lost to accommodate the proposed six dwellings and associated buildings, hardstandings and access roads would be much reduced compared to previous iterations where larger numbers of dwellings were served by an access road built to adoptable standards.
62. The Principal Landscape Officer considers that the small number of trees that would be lost would, for the most part, be unremarkable specimens and their loss would not in itself have a significant effect on the integrity of the TPO woodland.
63. It is considered likely that the proposed development could be constructed and serviced without significant adverse secondary impacts on trees, provided that their protection was taken into account in the detailed design and construction method. This could be secured by requiring a revised Arboricultural Implications Assessment and Tree Protection Plan to be submitted as part of a detailed proposal, and by requiring the necessary suite of tree protection measures by condition.

64. Officers are satisfied on the basis of a site visits that building residential properties in the locations now proposed would not inevitably lead to pressures to remove or prune protected trees, although this can't be entirely discounted given the proximity of some dwellings to mature trees. Officers would be more concerned that the proposal to divide much of the woodland up into large private gardens could have similar consequences. While the TPO status of the trees would afford some protection, the integrity of the woodland would be weakened by multiple ownerships, and the value of the woodland as a high quality setting to the houses could be eroded by ad hoc garden development. On this basis residential garden areas should be strictly controlled by condition, leaving the greater part of the woodland managed as a single entity with common access on informal paths and trails. A woodland management plan would need to be conditioned and approved by the Council which would how shared space would be managed to secure wildlife and amenity benefits and prevent the future removal of trees.
65. On the basis of the above and subject to appropriate conditions securing a long term management plan for the woodland along with ecology benefits it is considered that the proposals are acceptable in terms of the impact on the natural environment in accordance with part 11 of the NPPF and saved policies 1 and 18 of the District of Easington Local Plan.

## **Objections**

66. As noted above, letters have been received from three residences who object to the proposals. The main areas of concern are that the lane is very narrow and in a bad state of repair and there are no pedestrian footpaths. Notwithstanding this it is noted that the lane is very heavily used by pedestrians. It is also stated that the proposals would create 'urban sprawl' which would be harmful to wildlife and would result in the loss of mature trees. There are also concerns regarding dirt, noise and the use of heavy goods vehicles and that the proposals would lead to a loss of privacy for existing residents.
67. With regard to the access lane being narrow and in a poor state of repair, highways officers have raised no objections in this regard and consider that appropriate access and parking provision can be achieved and that there would be no highway safety concerns as a result of the proposals. Therefore no objections are made on highway safety grounds.
68. The loss of some trees is regrettable although given their value and condition it is not considered to be a significant concern that should warrant refusal of planning permission given the benefits of the scheme in delivering executive housing. Moreover, conditions are suggested that would benefit the woodland area in the long term through the requirement for a woodland management plan along with conditions which would see ecological mitigation including the provision of bat roosts.
69. With regard to residential amenity the distancing standards with regard to proposed and existing dwellings are met and exceeded in all instances to ensure privacy is not compromised. Conditions would also be required to control hours of construction in order to further protect residential amenity.

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## CONCLUSION

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70. In summary, officers consider that although finely balanced, the benefits of the scheme would outweigh the conflict with the District of Easington Local Plan and that the proposals are in accordance with the NPPF which has a presumption in favour of sustainable development such as the one being proposed. It is also considered that the development would not harm the implementation of the County Durham Plan going forward and would contribute to a need for executive housing. Conditions would be required in order to protect and enhance the woodland and habitats and on this basis the application is recommended for approval.

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## RECOMMENDATION

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

### Conditions:

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

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

2. Approval of the details of the scale, appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

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

Proposed site layout (Trees Removed Omitted for Clarity) OPTION B, 904 105.3B Revision D09.

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

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

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

- Historic Land Use

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

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

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

#### Phase 2 Report

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

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

#### Phase 3 – Validation Report

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

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

5. Development shall not commence until a scheme for the disposal of surface and foul water from the development hereby approved has been submitted and approved by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

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

6. No development shall take place until a detailed acoustic report, carried out by a competent person in accordance with the current edition of BS 8233 and the WHO Guidelines on community noise, on the existing noise climate at the development site containing any mitigating measures which may be found necessary has been submitted to and been approved in writing by the Local Planning Authority. Any

mitigation required shall be implemented prior to any occupation of the development and shall be permanently retained thereafter.

*Reason: In the interests of residential amenity in accordance with the aims of Policies 1 and 35 of the District of Easington Local Plan.*

7. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within Section D4 of the Extended Phase 1 and Protected Species Survey Of Bracken Hill, Shotton by E3 Ecology Ltd received 22 August 2013.

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

8. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

*Reason: In the interests of residential amenity in accordance with the aims of Policies 1 and 35 of the District of Easington Local Plan.*

9. Notwithstanding the details submitted, this permission relates to a maximum of 6 dwellings on the site.

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with part 7 of the National Planning Policy Framework and saved Policies 1 and 35 of the District of Easington Plan.*

10. No development shall be commenced until an Arboricultural Impact Assessment and details of trees, shrubs and hedges which are to be retained along with measures for their protection throughout the development are submitted and approved in writing by the Local Planning Authority. The protection measures shall be in accordance with the relevant British Standard and shall be fully implemented in accordance with the approved details.

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

11. No development shall be commenced until a scheme showing a refuse collection hardstanding area is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and retained in perpetuity.

*Reason: To ensure satisfactory highways arrangements in accordance with part 4 of the National Planning Policy Framework and saved Policies 1 and 36 of the District of Easington Plan.*

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

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

13. No development shall be commenced until a scheme showing bat roost mitigation is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and retained in perpetuity.

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

14. Notwithstanding details submitted with the application, residential garden areas shall be limited to the land hatched red on the attached residential curtilage constraints plan.

*Reason: To ensure tree and habitat protection in accordance with the objectives of part 11 of the National Planning Policy Framework.*

15. Development shall not commence until a Woodland Management Scheme is submitted to and approved in writing by the Local Planning Authority. The woodland shall be managed in accordance with the approved scheme in perpetuity.

*Reason: To ensure tree and habitat protection in accordance with the objectives of part 11 of the National Planning Policy Framework.*

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Part(s) A, E and F; of Schedule 2 of the said Order shall be carried out.

*Reason: In order that the Local Planning Authority may exercise further control in this locality in the interests of the visual amenity of the area and to comply with Policies 1 and 35 of the District of Easington Local Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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



- Emerging County Durham Plan
- Consultation Responses



**Planning Services**

**Proposed 6 NO. EXECUTIVE DWELLINGS,  
BRACKENHILL HOUSE, SHOTTON  
COLLIERY, DURHAM**

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**Comments**

**Date DECEMBER 2014**

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:	DM/14/02388/FPA
FULL APPLICATION DESCRIPTION	CONSTRUCTION OF HELICOPTER CENTRE COMPRISING HELICOPTER MUSEUM, WORKSHOPS, LEARNING CENTRE, EXHIBITION SPACE, CAFÉ AND GIFT SHOP
NAME OF APPLICANT	MR D MOYSE
SITE ADDRESS	LAND AT THE AIRFIELD, SHOTTON COLLIERY, DURHAM
ELECTORAL DIVISION	SHOTTON AND SOUTH HETTON
CASE OFFICER	Barry Gavillet 03000261958 dmcentraleast@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### Site:

1. This application site is located at Shotton Airfield which lies outside of the settlement boundary to the north east of the settlement of Shotton. The site lies within the Electoral Division of Shotton and South Hetton and is approximately 0.67 hectares in size. The land is currently unused grassland adjacent the access road to the airfield.
2. The airfield is primarily used as a parachute centre (Peterlee Skydive Academy) by the site owners, the Sunderland Parachute Centre Ltd. The airfield is also used by private aircraft as a stopping off point in the region and as a refuelling stop.
3. To the north of the site is the landing strip and open countryside beyond; to the south east is Shotton Industrial Estate; to the south there are residential properties whilst to the west are the airfield hangars with Shotton Primary School beyond.

#### Proposal:

4. This application proposes the erection of a helicopter centre which would include a helicopter museum display area, servicing and maintenance workshops, learning resource centre, exhibition space, café and gift shop and associated external works.
5. The applicant is a registered charity which plans to provide employment opportunities and back-to-work skills training for disabled ex-service men and women

in a familiar and economically sustainable environment, opportunities for learning for schools, young people and community groups in the field of aviation history, engineering and technology and a prominent, accessible and unique visitor attraction in the East Durham area.

6. The Museum would be dedicated to the display of historic rotary wing aircraft and associated memorabilia. It will be the only Museum of its kind in the North of England. The maintenance and training workshop would provide back-to-work skills training and job opportunities for disabled veterans injured on active service. Training courses would be offered in partnership with Hartlepool College Aerospace Engineering Department. The workshop would also be a trading arm of the charity, and would operate contracts for servicing live aircraft and dismantling obsolete machines. The centre would also be a learning resource for school and community groups, dedicated to inspiring an interest in aviation history, technology and engineering in young people.
7. This application is being reported to committee as it is classed as a major development due to the site area.

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## **PLANNING HISTORY**

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8. There are numerous applications related to aviation activity across the wider airfield site although no history relating to this specific application site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’

The following elements are considered relevant to this proposal:

11. *Part 1* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
11. *Part 3* – Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to new development.
12. *Part 4* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system

needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

13. *Part 7* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *Part 8* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible, Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *Part 10* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
16. *Part 11* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

## **LOCAL PLAN POLICY:**

### District of Easington Local Plan

17. *Policy 1*- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
18. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.

19. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
20. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

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

## **EMERGING POLICY:**

21. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
22. Policy 1 (Sustainable Development) – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
23. Policy 16 (Sustainable design in the built environment) - This policy addresses the built environment and aims to ensure that all new development (e.g. extensions, alterations, changes of use of existing buildings) in County Durham achieves high standards of sustainable design. Applications for major new development must be accompanied by a full Sustainability Statement demonstrating how proposals will make a positive contribution to the character and sustainability of County Durham. A relevant supporting Sustainability Statement may be required for other development which raises particular planning or sustainability issues. In doing so applications should reference the principles of BREEAM to measure the inherent sustainability of a project.
24. Policy 18 (Local Amenity) - Planning has an important role to play in making sure that new development does not have, and is not at risk from, adverse environmental effects. Ensuring a good standard of amenity for all existing and future occupants of land and buildings is a core planning principle of the NPPF. New and existing development should not contribute to, or be put at risk from, pollution or other sources of nuisance or intrusion which could adversely affect amenity. This policy outlines the considerations to be taken into account in determining planning applications to ensure that amenity is protected from a wide range of potential environmental impacts.

Policy 27 (Visitor Attractions) – In order to raise the quality of the visitor experience, the provision of new visitor attractions or the expansion of existing key attractions will be permitted.

25. Policy 39 (Landscape Character) - The Durham landscape is one of enormous contrast and diversity. From its western boundary high in the summit ridges of the North Pennines, to the limestone cliffs of the North Sea coast, remote moorlands and pastoral dales give way to fertile settled farmlands. This diversity is a product of both natural and human influences. The varied rocks, landforms and soils of the County and differences in climate between the exposed uplands and sheltered lowlands have influenced both the natural flora of the landscape and the way it has been populated, managed and exploited by its people over the centuries.
26. Policy 48 (Delivering Sustainable Transport) – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

27. Northumbrian Water has no objections to the proposals.

### **INTERNAL CONSULTEE RESPONSES:**

28. Environmental Health officers have no objections to the proposals subject to a scheme of sound proofing to the walls, roof and doors of the building being conditioned along with a restriction on construction hours.
29. Highways officers have no objections to the proposals The existing private access road from the end of the public highway on the nearby industrial estate is a very poor standard to serve the proposed Helicopter Centre and must be improved in line with the proposed widening and surfacing works already proposed by the applicant. I would request a suitably worded planning condition be added to any planning permission that may be granted in line with the following
30. Design and Conservation Officers have no objections to the proposals.
31. Tree Officers offer no objections to the proposals.
32. Landscape Officers have no objections to the scheme but suggest a landscaping scheme is conditioned.

### **PUBLIC RESPONSES:**

33. The application has been advertised by way of a site notice, press notice and letters to individual residents. Five letters of support have been received from the Chairman of Ford Aerospace Ltd, Sunderland Parachute Centre, the Service Personnel & Veterans Agency, the Coalfields Regeneration Trust and Ross Aviation Ltd. All of the

responses support the project and it is stated that the project would support the lives of disabled veterans and provide education and training opportunities.

### **APPLICANTS STATEMENT:**

34. The RBL survey 'Profile & Needs of the Ex-service Community 2005-2020' found that 52% of veterans under 65 have a long-term illness or disability, which is likely to impact on their employability. This project is committed to redressing the disadvantage faced by disabled veterans in the current job market, and promote equality of outcome. The Centre will provide an ideal environment to encourage highly trained individuals to direct their own transition path back to work. Training will promote independence and choice, and will foster mental wellbeing through personal achievement.
35. The building will incorporate a co-ordinated regional hub for service charities to provide after service support, which is currently lacking in the NE. SPVA, Citizens Advice and RBL have confirmed that they will offer outreach advice.
36. The enterprise will forge strong links between service and civilian communities of East Durham and the NE, in accordance with the aims of the Armed Forces Community Covenant. The high profile of the Centre will engender respect for the commitment and sacrifice of recent and older veterans. The project aims to change attitudes towards disability, by demonstrating the valuable contribution that disabled veterans make with the right support within their communities.
37. It is expected that the Museum will bring significant benefits to the local community, and make a valuable contribution regeneration of the East Durham coalfield area, attracting other businesses, and expanding the range of visitor attractions on the Durham Heritage Coast tourist trail.
38. In recent years, schools have had their budgets for extra-mural visits drastically cut, and the Museum will provide an affordable attraction 'on the doorstep', offering a valuable learning resource for the young people of our region.

*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*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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39. Local planning authorities (LPA's) must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
40. In this instance the main relevant considerations are the principle of the development, impact on the surrounding area and residential amenity and highways issues.

### **Principle of the development**



41. This proposal is for the erection of a helicopter centre which would include a helicopter museum display area, servicing and maintenance workshops, learning resource centre, exhibition space, café and gift shop and associated external works. The location of the proposed development is on an existing airfield, used mainly as a parachute centre with occasional use by private aircraft for re-fuelling. It is considered that the proposed use would be complimentary to the existing use and is considered acceptable in this location.
42. In terms of planning policy, the proposals should be assessed against the saved policies in the District of Easington Local Plan and the National Planning Policy Framework, the emerging County Durham Plan should also be considered but given little weight.
43. In terms of the Local Plan, saved policy 1 states that account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. Policy 35 states that the design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers whilst Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car. It is considered that the proposals are wholly in accordance with these saved Local Plan Policies.
44. Policy 3 of the District of Easington Local Plan states that development outside 'settlement limits' will be regarded as development within the countryside and such development will therefore not be approved unless allowed by other policies. Given that the wider site already operates as an aviation centre outside of the settlement limits, it is not considered that the proposals would be contrary to the aims of this policy.
45. The proposals are also considered to be in accordance with the National Planning Policy Framework and in particular part 3 which states that decisions should support sustainable tourism and leisure developments that benefit rural areas, communities and visitors. Part 1 also advises that the Government is committed to securing economic growth in order to create jobs and prosperity and part 8 advises that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities.
46. In terms of the emerging County Durham Plan policy 27 is most relevant, this states that in order to raise the quality of the visitor experience, the provision of new visitor attractions or the expansion of existing key attractions will be permitted. The proposals are considered to accord with this draft policy.
47. Overall it is considered that the proposals are wholly in accordance with saved City of Durham Local Plan policies, the National Planning Policy Framework and the emerging County Durham Plan and therefore the principle of development is accepted.

### **Impact on the surrounding area and residential amenity**

48. The Museum, workshop and learning resource centre would all be located at ground floor level whilst a narrow mezzanine floor above the Museum would provide additional viewing areas for the display and an external viewing platform would offer views across the airfield. The learning resource centre would be at the front of the building adjacent to the main public entrance whilst the reception area will include an exhibition space for temporary displays and accommodate a small retail area for sale of merchandise.
49. The public car park would be located to the west of the building adjacent to the Skydive Academy and helicopters would be brought into the workshop and Museum via a separate service entrance to the East of the building, and lifted into the building using a portable gantry.
50. The Museum and workshop would be housed in a light industrial type of unit measuring 10.7 metres high and 45 metres long, finished in sheet cladding whilst windows at high level would be used to provide natural light to the display and working area. The resource centre and ancillary accommodation would be in a contrasting rendered finish.
51. Access for helicopters to the Museum and workshop would be through 5 metre high steel roller shutter doors. It is considered that all external materials and colours should be conditioned should planning permission be granted.
52. Design and Conservation Officers have been consulted on the proposals and have no objections to the proposals. It is understood that there are functional constraints due to the proposed use of the building and given the location of the proposed development is on an existing airfield and adjacent to an industrial estate it is considered that the scale and design of the building is acceptable. In addition to this, given the distance to nearest residential properties, the nearest of which is approximately 50 metres from the site, it is not considered that there would be any significant adverse impact on amenity, although sound proofing measures should be conditioned to ensure any noise from the proposed workshop is kept to a minimum. In light of the above it is considered that the proposals are in accordance with saved policies 1 and 35 of the District of Easington Local Plan and parts 7 and 11 of the NPPF.

## **Highways Issues**

53. Access to the site would be of an existing road to the south east corner of the site which runs through the adjacent industrial estate. Highways officers have been consulted and have advised that they have no objections to the proposals. Both the level of parking provision and means of access are considered to be acceptable. It has been noted however that the existing private access road from the end of the public highway on the nearby industrial estate is a very poor standard to serve the proposed Helicopter Centre. Therefore a condition should be required with requires widening and improvements to the road surfacing before the development is brought into use. Subject to this condition it is considered that the proposals would be acceptable from a highways point of view in accordance with saved policies 1 and 36 of the District of Easington Local Plan and part 4 of the NPPF.

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## **CONCLUSION**

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70. In summary, officers consider that this proposal is wholly in accordance with saved policies from the District of Easington Local Plan, the National Planning Policy Framework and the emerging County Durham Plan. The proposal would seek to address the disadvantage faced by disabled veterans in the current job market and would create a valuable learning resource for school and community groups. The proposals would also contribute toward tourism facilities in the area and would bring about regeneration benefits and on this basis the application is recommended for approval.

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## **RECOMMENDATION**

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

### **Conditions:**

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

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

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

Elevations 2 H17 L(2-)03, Mezzanine Level Plan H17 L(20)04, Roof Plan H17 L(9-)03, Ground Floor Plan H17 L(2-)01, Outline Site Plan H17 L(9-)02, Sections and Elevations 1 H17 L(2-)02

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

3. Development shall not commence until a scheme for the disposal of surface and foul water from the development hereby approved has been submitted and approved by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

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

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

*Reason:* In the interests of the appearance of the area and to comply with saved policies 1 and 35 of the District of Easington Local Plan and part 7 of the National Planning Policy Framework.

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

those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The works agreed to shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

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

6. Development shall not commence until a widening and resurfacing scheme for the access road up to the limits of the public highway on Shotton Colliery Industrial Estate is submitted to and approved by the Local Planning Authority. The approved scheme must be completed prior to the Helicopter Centre opening to the general public and maintained in perpetuity.

*Reason: In the interests of highway safety and to comply with saved Policies 1 and 36 of the District of Easington Local Plan and part 4 of the National Planning Policy Framework.*

7. 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 secure a sustainable form of development in accordance with part 10 of the National Planning Policy Framework.*

8. No development shall take place until a scheme of sound proofing showing measures to deal with sound insulation of walls, roof and doors has been submitted to and been approved in writing by the Local Planning Authority. Any mitigation required shall be implemented prior to any occupation of the development and shall be permanently retained thereafter.

*Reason: In the interests of residential amenity in accordance with the aims of Policies 1 and 35 of the District of Easington Local Plan and part 11 of the National Planning Policy Framework.*

9. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

*Reason: In the interests of residential amenity in accordance with the aims of Policies 1 and 35 of the District of Easington Local Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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



Planning Services

Proposed **CONSTRUCTION OF HELICOPTER CENTRE COMPRISING HELICOPTER MUSEUM, WORKSHOPS, LEARNING CENTRE, EXHIBITION SPACE, CAFÉ AND GIFT SHOP.**

**THE AIRFIELD, SHOTTON COLLIERY, DURHAM**

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**Comments**

**Date DECEMBER 2014**

# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION NO:** DM/14/03360/FPA

**FULL APPLICATION DESCRIPTION:** Retention of single-storey extensions at side and rear of dwelling and excavation/boundary works to rear.

**NAME OF APPLICANT:** Mr J Kal

**ADDRESS:** 4 Foxton Way, High Shincliffe, Durham, DH1 2PJ

**ELECTORAL DIVISION:** Durham South

**CASE OFFICER:** Lisa Morina  
[lisa.morina@durham.gov.uk](mailto:lisa.morina@durham.gov.uk)  
03000 264877

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a residential property located within a cul-de-sac location on a residential estate.

### The Proposals

2. Planning consent is sought for the retention of a single-storey flat roofed side extension, a single-storey rear extension and excavation/boundary works to the rear. A flat roofed detached garage was demolished as part of the proposal.
3. The side extension is set back from the front building line by around 200mm, has a width of 3.35m and a depth of around 11m.
4. To the rear of the site, the single-storey extension projects 2.7m from the rear boundary line set in slightly from both side elevations with a pitched roof just over 4.5m in height.
5. Excavation/boundary works have been carried out to the rear to provide a 1m high wall with a split level area. The lower portion is to be landscaped, and the other to be covered with hard standing.
6. The application is brought before members at the request of a ward councillor for the area.

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## PLANNING HISTORY

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7. None relevant to the application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
10. The following elements are considered relevant to this proposal:-
11. Part 1 - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
12. Part 7 - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

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

### **LOCAL PLAN POLICY:**

City of Durham Local Plan.

13. Q1- General principles
14. Q9- Residential extensions

### **EMERGING POLICY:**

15. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
16. Policy 16- Sustainable development in the build environment

*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://content.durham.gov.uk/PDFRepository/cityofdurham.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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## **STATUTORY RESPONSES:**

17. Highways – No objection is raised.

## **INTERNAL CONSULTEE RESPONSES:**

18. None

## **PUBLIC RESPONSES:**

19. The application was advertised by means of letter to neighbouring properties within the area.

20. To date, two letters of objection have been received in respect of the above development with the following concerns:

- Traffic generation, highway safety and road access
- Adequacy of parking, loading, turning and noise
- Engineering Operations
- Landscaping and Visual Amenity
- Loss of Light and overshadowing
- Durham Local Plan and Central Government Housing Strategy
- Design, Appearance and Materials.

21. Correspondence has also been received from a ward councillor with regards to the great lengths to take advantage of PD in a modestly sized bungalow and the issues over the de minimis nature of the works, the lack of response in submitting the application for both planning and building regulations despite repeated reminders and the party wall act breaches.

22. Shincliffe Parish Council expresses their disappointment in the way in which this process has been handled. They disagree with the principal elevation decision made by officers and believe that houses within that street have never been perceived in that way, and also express concern that works had commenced without the necessary approvals in place. They are also understanding of the issues brought to their attention by a neighbour and the resultant impact on their property and do not feel that the process had been well managed.

23. Seven letters of support have been received from neighbouring properties stating they are happy with the proposal and that Mr Kal has consulted with them at all stages.

## **APPLICANTS STATEMENT:**

24. Despite our every effort to appease our neighbours of No. 5 Foxton Grove we understand you have received a formal complaint from them regarding our development at the above stated address.

25. Prior to commencing our development at No. 4, we approached many of existing residents simply as a point of courtesy to introduce ourselves and give a brief explanation of our intentions in developing the property. Following on from our initial introductions to our neighbours, we have made every effort to establish and maintain good relations with everyone at Foxton Grove, taking on board many of their concerns regarding the cul-de-sac, particularly on the shortage of parking, resulting in our provision of off road parking for our address.

26. We have made every effort to keep disruption to the cul-de-sac to an absolute minimum by restricting traffic to the site, keeping parked cars associated to the site outside of the cul-de-sac whenever possible, and making sure that public highways have been kept clean and tidy at all times.
27. Further comments were made regarding the stability of the existing garage against the existing embankment, which was showing signs of subsidence, and the condition of gardens to the property, particularly to the rear. Consequently significant works have been taken on board to stabilise the new garage by attaching it to the main structure, which also provides a safer facility more in keeping with modern life style, and have created a tiered landscaped feature to the rear garden which includes extensive stabilising walls and foundations.
28. We can also state, which we are sure will be confirmed by inspecting officers from the local authority planning and building control departments, that no expense has been spared in providing top quality materials and fittings throughout the development. Which can clearly be seen in roof finishes, guttering and fascia details, and specialist door and window units specially imported from Germany at twice the cost of standard upvc units.
29. Fortunately we have been able to establish and maintain very good relationships with all our neighbours, apart from the odd exception, which I would think is as good as anyone could hope to achieve in an established community.
30. Similarly we have shown our neighbours at no. 5 optimum courtesy at all times, and have done everything possible to keep them happy and up to date with works. We have made ourselves available to them for any concerns or enquiries they may have had at any time. Unfortunately to no avail.
31. We are extremely appreciative that many of our neighbours have very kindly shown their support for our development by taking the time to provide us with their written support for submission to the local authority.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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32. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
33. The main considerations in regard to this application are the principle of the development, design, scale and layout, residential amenity and other considerations.

### **Principle of development**

34. In terms of the principle of the development the site is located within the settlement boundary for the village of High Shincliffe and is situated within an existing housing estate and considered to be within a sustainable location. The proposal would therefore, be supported in terms of national, regional and local planning policy, in particular NPPF Part 1- general principles of development and Policies Q1 and Q9 of the local plan. Therefore the expansion of the property would be acceptable in principle.

## **Design, Scale and layout**

35. In respect of the design and layout of the development it is considered that the extensions have been designed in such a way as to be subservient in scale and massing to the host dwelling. The ridge line of the rear extension has been set down from the existing dwelling and is considered an appropriate design. The side extension has been set back slightly from the frontage and follows the flat roofed nature of the previously demolished garage on the site.
36. The excavation works and boundary works which have been carried out are of an appropriate scale and design and are similar to that which have been carried out on a neighbouring property therefore these works are considered an acceptable form of development.
37. Therefore in design terms it is considered that the proposed extensions are in keeping with the host dwelling and would not detract from the appearance of the property or the wider streetscape in line with Policies Q1 and Q9 of the City of Durham Local Plan.
38. The windows on the existing dwelling have been replaced and in some places enlarged however; these works do not require a formal application for planning permission and are not to be considered as part of this application.
39. Objections have been raised that the proposal is too large and not in keeping however, as stated above, the proposal is considered acceptable.

## **Residential Amenity**

40. In respect of residential amenity, the rear extension is considered to be in accordance with the 45 degree rule as stated within the supplementary design guide with regards to both neighbours as the proposal does not exceed 3m in depth from the rear building line and apart from the height, this could have been considered as permitted development. The height at just over 4.5m is just over 0.5m above the permitted development requirement and is considered an appropriate addition which would not have a significant negative impact on the surrounding neighbours given the overall height of the proposal is sited the furthest away from each neighbour. The proposal therefore, is not considered to cause a significant negative impact on the residential amenity of the surrounding neighbours.
41. The excavation/boundary treatment works due to the nature and position are not considered to cause any loss of amenity to the surrounding residential neighbours.
42. The extension to the side was originally considered to be permitted development however, once the roof and guttering was added, the overhang and guttering took the proposal to being more than half the width of the existing dwelling. Case law does consider that this would be de-minis and would not consider an application to be necessary however, for clarity the extension was added to the plans.
43. The proposal does extend deeper than the demolished detached garage did however, is sited further away. Should the guttering and roof overhang be removed which is the element that took it over the permitted development requirements and an alternative solution sought this would result in the actual wall of the extension remaining as it would not require altering to be considered as permitted development.
44. Concern has been raised that the proposal reduces overall natural light to the property at no. 5 Foxtan Way into the kitchen window which is located on the side

elevation and that as a result of this the health of the neighbour has been compromised. Information has been received which states that the recent issues that have occurred correlate with the increase in health problems that have occurred.

45. In addition to this, it has been requested by the neighbour that an alternative scheme is considered for the side elevation. This has been put to the applicant and he has refused this option. The objector also states that they would agree to planning permission being granted for the remainder of the development if the side extension was refused.
46. The neighbours' concerns around impact on health are noted however, it is felt that given the window in the side elevation is a kitchen window, it is not a habitable room window therefore although some reduction of light has been caused by the extension it is not considered sufficient enough to warrant a refusal of this application particularly in view of the permitted development fall-back position. In addition to this, the information in support of the decrease in health appears to consider that this is due to the construction process rather than the resulting built development.
47. The proposal therefore, is not considered to impact negatively on the residential amenity of the surrounding neighbours to a degree that would warrant refusal.

### **Landscaping**

48. Concern has been raised that appropriate landscaping has not been provided to the rear excavation works which have been carried out. The work is still in progress and it has been stated on the plans that shrubbery landscaping will be provided to the bottom tier with hard standing shown on the top tier. This is considered acceptable therefore, it is not considered necessary to condition the landscaping works.
49. This is considered to be acceptable consistent with adjoining properties and it is not considered that the visual amenity of the streetscene would be adversely affected with this element of the proposal.
50. In addition to this, concern has been raised over the hedging along the common boundary and that this should remain and also issues over the party wall along the common boundary in that fence posts have been removed and that access should still be allowed for maintenance. Unfortunately, the Council cannot force a hedge to remain in existence and issues regarding maintenance and the party wall would be civil issues between the applicant and the neighbour to which the Council has no control.

### **Highway Safety**

51. Concern has been raised that the proposal is not detailed enough to provide sufficient information that highway safety issues would not be impacted upon. It is stated that it is not clear whether the applicant will be parking commercial vehicles at the property and if traffic generation will be impacted upon as well as the intended use of the property.
52. The proposed plan states that the existing layout of the property will be retained. In addition to this, no highway objection has been raised from the highways team. It is also considered that internal alterations can be carried out without the need for planning permission.
53. Unfortunately, we are unable to pre-empt what may or may not occur in the future. The use of the property is considered in this application as a dwelling and providing

no more than 6 people are living together as one single household this is acceptable. If the use subsequently changes then this can be dealt with accordingly.

54. Concern has also been raised that commercial vehicles have regularly been brought to the site and that these are parked on the highway or at the end of Foxtan Way causing lack of available parking for emergency vehicles and it has been requested that it be conditioned that all the occupants of no. 4 Foxtan Way should park their vehicle on their property. The condition as requested by the neighbour is not considered to be necessary, reasonable or enforceable and therefore cannot be added to an application.
55. The road in question is an adopted highway and we are unable to prevent people parking on the adopted highway. Should they be causing an obstruction then it is advised that the police are called as unfortunately, this is outside of the remit of planning.
56. During construction periods, it is inevitable that commercial vehicles will be present on the site and once the work is finished, it is expected that this will reduce. Officers have visited the site at various intervals and have not noted any business use being carried out at the property and it is acceptable that work vehicles can be parked at residential properties providing there is no change of use to the property.
57. Given the above, the proposal is considered acceptable in terms of highway safety in accordance with policy Q9 of the City of Durham Local Plan.

## **Other Issues**

58. Concern has been raised that the addition to these properties will reduce the amount of properties available for older people and that both national and local policy states that it is becoming more difficult for older people to find suitable properties. It is felt that the alterations have made the property too large and essentially made the property unsuitable for an older generation. In addition to this, it sets a precedent for others and the proposal would not be in line with the NPPF in delivering a wide choice of high quality homes.
59. Concern has also been raised that permitted development does not allow the Local Authorities to meet their housing needs and that this potentially needs discussed at a higher level.
60. Each application if required would be dealt with on its own merit. In addition to this, most properties do have a permitted development limit which they can build to which is outside of the control of the planning department that is set nationally. Local Planning Authorities can restrict works in exceptional circumstances however, this is not considered necessary in this instance as given the current permitted development criteria, there would be little additional building work the applicant could carry out without the Councils control.
61. With regard to the policies and guidance on older person's homes, this is related to new build development and is there to recognise the need for developers to consider a wide range of housing types as opposed to concentrating on family housing. Also, a refusal reason could not be sustained on this issue as it is not felt that the addition of these extensions would result in a 'wide choice of high quality homes' from being reduced.

62. Issues have been raised with regards to the engineering operations that have been carried out to the rear and the safety risks which could occur with this also, the lack of response from the applicant in submitting the required information.
63. The submission of an application retrospectively cannot be considered as an issue for refusal. A retrospective application would be considered on the same merits as a non-retrospective application. Nor is the previous enforcement history which resulted in a request for this application to be submitted a reason for refusal.
64. In addition to this, the information which has been received regarding the structural calculations of the works to the rear will be assessed by the building control department in terms of its safety.
65. With regards to the issue raised by the Parish Council in regard to the principal elevation. Regulations state that there should only be one principal elevation and where there are two elevations which may have the character of a principal elevation a view will need to be taken. In this instance, it is felt that the elevation which faces the roadway is the main approach to these properties and therefore, the principal elevation would be this elevation.

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## **CONCLUSION**

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66. Taking all the relevant issues into account, the proposals are considered to be of an appropriate design and scale which would not result in a negative impact on the visual amenity of the streetscene or the adjoining neighbours.
67. The proposal is therefore considered acceptable given that it accords with both national and local policy. It is not considered that the policies contained within the emerging County Durham Plan would conflict with the intentions of the existing local plan or the NPPF.

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## **RECOMMENDATION**

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

1. As the proposal is being sought on a retrospective basis no conditions are required in this instance.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- City of Durham Local Plan 2006
- National Planning Policy Framework
- County Durham Local Plan (Draft)
- Consultation and Neighbour Responses



**Planning Services**

**Retention of single-storey extensions at side and rear of dwelling and excavation/boundary works to rear at 4 Foxton Way High Shincliffe**

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**Comments**

**Date. December 14**

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/14/02423/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Retention of 2 no. 6 bedroom small HMO's (C4 use class) with associated works (part retrospective)
<b>NAME OF APPLICANT:</b>	Mr Simon Williams
<b>ADDRESS:</b>	Land To The West Of 4 South Terrace Framwellgate Moor DH1 5EN
<b>ELECTORAL DIVISION:</b>	Framwellgate and Newton Hall
<b>CASE OFFICER:</b>	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### SITE

1. The application site consists of two properties that have been constructed on the southern side of South Terrace, Framwellgate Moor, Durham. One property, identified as 6 South Terrace, appears complete while 5 South Terrace is still being fitted out internally. To the north sits residential properties on Victoria Court and associated garden areas. To the west sits an undeveloped plot of land and garden areas. To the south sits a rear track/path, beyond this sits terraced properties on Tindale Avenue with associated gardens. Site levels are relatively flat. The site is accessed from a roadway adjacent to Browns Hairdressers on Front Street. The access road has been tarmaced from the Methodist church, past 1-4 South Terrace and past the application site to the unmade turning head at the western end of South Terrace.

### PROPOSAL

2. The applicant proposes to retain two residential properties that have been commenced under planning approval 10/00845/FPA and to an extent have been built in line with these plans in terms of general footprint and design. This application seeks to rationalise both external and internal changes to the original approval and the proposed use of both properties. The property furthest to the east is known as 5 South Terrace and the westernmost property is known as 6 South Terrace.

3. To the north facing elevation of 5 South Terrace this application differs from that in 2010 in that an enlarged central window has been provided along with a bay window and 2no. dormer windows. To the south facing elevation patio doors and a window have been introduced to serve a lounge area, while a bedroom window has been introduced at ground floor level. A dormer window has been introduced to the east facing side elevation of 6 South Terrace along with three windows and a door. To the west facing elevation of this dwelling two dormer windows have been provided.

4. Internal changes have also been made to the properties. The associated external changes including dormer windows have allowed the applicant to provide 6 bedrooms per property as opposed to the three bedrooms per property originally proposed. It is now clear to Officers that the properties have been and will be brought into use as C4 small houses in multiple occupation (3-6 occupants) and the application seeks approval for these properties to be within the C4 use class.

5. The application has been referred to the planning committee at the request of Cllr Wilkes. His concerns are detailed in the Consultee Responses section later in the report.

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## **PLANNING HISTORY**

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6. Planning permission was refused for 2 dwellings with duplex apartment in 2009. Planning permission for a similar scheme to that put forward in 2009 was again refused in 2010. Planning approval was granted for 2no. 3 bed dwellings in 2010, the associated discharge of conditions application is pending consideration. A variation of conditions application relating to dormer windows and an additional window is pending consideration. A variation of conditions application was returned to the applicant in 2014 as it was not possible to deal with the proposed C4 use under this type of application which only seeks to deal with minor material amendments to previously approved schemes. Full, partially retrospective planning permission has instead been sought hence this application under consideration by members. Determination of the above outstanding applications will depend on the outcome of this application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

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

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

The following elements are considered relevant to this proposal;

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

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

## LOCAL PLAN POLICY:

11. **Policy H2 (New Housing in Durham City)** requires that new housing is in keeping with the traditional character and setting of the City, preferably on previously developed sites.

12. **Policy H13 (Residential Areas – Impact upon Character and Amenity)** states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

13. **Policy T1 (Traffic – General)** states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property

14. **Policy T10 (Parking – General Provision)** states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

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

16. **Policy Q3 (External Parking Areas)** requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

17. **Policy Q8 (Layout and Design – Residential Development)** sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

18. **Policy U8a (Disposal of Foul and Surface Water)** requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

## EMERGING PLANNING POLICY

19. The emerging County Durham Plan was submitted in April 2014 and has been examined in public. In accordance with paragraph 216 of the NPPF, decision takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application; Policies 15 and 32 are relevant.

**20. Policy 15 – Development on un-allocated sites** All development on sites that are not allocated in the County Durham Plan or in a Neighbourhood Plan will be permitted provided the development:

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

## **21. Policy 32 - Houses in Multiple Occupation and Student Accommodation**

In order to support mixed and balanced communities and maintain an appropriate housing mix, applications for new build Houses in Multiple Occupation and changes of use from:

- a Class C3 (dwelling house) to a Class C4 (House in Multiple Occupation), where planning permission is required; or
- a Class C3 (dwelling house) to a House in Multiple Occupation in a sui generis use (more than six people sharing).

will not be permitted if the application site is located in, or within 50m of, a postcode area where more than 10% of the total number of properties is already in use as a licensed HMO or student accommodation exempt from council tax charges

In all cases proposals will only be permitted where:

- a. There is sufficient car parking to avoid exceeding the capacity of the street (taking into account any existing parking restrictions);
- b. They provide acceptable arrangements for bin storage and other shared facilities; and
- c. The design of the building or any extension would be appropriate in terms of the property itself and the character of the 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.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **CONSULTEE RESPONSES:**

22. Cllr Wilkes has raised concern relating to the access road and highways issues, the internal layout of the properties, use of properties as HMO's, the development being built without the correct planning approval in place, their scale and mass which is not considered in keeping with the character of the area, a history of problems being associated with this location and as there is no report in relation to flood risk.

23. Highways Development Management has raised no objections.

## **INTERNAL CONSULTEE RESPONSES:**

24. Northumbrian Water has raised no objections.

25. Drainage and Coastal protection have requested that a drainage scheme be submitted.

## **PUBLIC RESPONSES:**

26. Letters of objection have been received from 4 addresses while a further letter of concern has been received. It has been questioned whether the application 10/00845 has been implemented in time. It is suggested that the application is contrary to Policies Q8, H9, H10 and Q9 of the Local Plan and Policy 32 of the Emerging Local Plan. It is suggested that there would be inadequate separation distances to properties on Tindale Avenue and Victoria Court with resultant loss of privacy to properties and garden areas. Surrounding occupiers are concerned about existing and future noise and disturbance from the occupiers of the properties. It is suggested that the setting would become dominated by student accommodation and that the area would be de stabilised in this respect. It is suggested that there is not enough parking provision and the development will cause highways problems in the area. One letter of comment suggests that obscure glazing to the upper windows on the southern elevation and the provision of robust boundary treatment could help to reduce impact on Tindale Avenue to the south.

## **APPLICANTS STATEMENT:**

27. The applicant has applied for planning permission to construct 2no. 6 bedroom dwelling houses for use as student lets (C4 use class). The site has a long and protracted planning history, but with the benefit of planning approval 4/10/00845 for 2no. three bedroom dwelling houses (C3 use class), the construction of the dwellings has been carried out under this approval. This application deals with the use class change as well as the inclusion of dormer windows to the roof line.

28. The previous application also included road and road drainage improvements to South Terrace, this work has been complete with the previous application and has proven to be a major improvement on the state of the former unfinished road surface.

29. The new dwellings have been constructed in facing brickwork and render wall finish with feature artstone heads and cills to openings. Traditional sliding sash timber window components have been installed to the main elevations with casement timber windows used on the rear elevations. The roof has been finished in natural roofing slate and the dormer windows constructed with traditional lead sheet linings providing a quality looking development.

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

## **The Principle of the development of the site**

31. In terms of the principle of the development, the main issue for consideration under this application is whether or not the principle of 2 no. 6 bed HMOs is acceptable in this location.

32. The principle of physical development at the site has been established through planning approval 10/00845/FPA therefore the principle of some level of development has been established. This is a sustainable location in a built up area where new residential development would be supported in principle. The associated decision notice for this application was issued on 1<sup>st</sup> February 2011. This would mean that development on this scheme would need to have commenced by the end of January 2014 to comply with the commencement condition. Whilst a letter of objection suggests that the development had not commenced on the site prior to 1<sup>st</sup> April 2014, Officers have photographic evidence dated 15<sup>th</sup> April 2014 which shows the properties substantially built. Further, building regulations Officers inspected foundations at the end of January, and the digging of foundations constitutes a material commencement of development.

33. Since the properties have been commenced, un-authorised deviations have been made from the originally approved scheme. The principle change has been in the proposed use of the properties. It has become clear that the properties are intended for use as C4 small HMOs. 5 South Terrace which is not yet complete has been fitted with 6 bedrooms, 4 of which are en-suite. 6 South Terrace which Officers understand is complete and is tenanted has also been fitted with 6 bedrooms, all of which are en-suite.

34. On 6 April 2010, an amendment to the Use Classes Order introduced a definition of small-scale houses in multiple occupation into the planning system. It effectively split the old Class C3 (dwellinghouses) into 2 separate classes – Class C3 (dwellinghouses) and Class C4 (houses in multiple occupation).

35. The original application was received on 15<sup>th</sup> November 2010 after the introduction of the new C4 use class. The application however was made for '2 dwellings' with the associated floor plans showing three bedrooms per property at first floor level with one en suite bedroom per property with no accommodation within the roof space. Essentially, it appears that the properties on the original plans had a typical 'family' layout and were intended for the C3 dwellinghouse use.

36. Whether or not the impact from two small HMO's would be acceptable is discussed in the section below dealing with impact on residential area from paragraphs 44-51. Notwithstanding this, the principle of the development is considered acceptable.

## **The layout and design of the development**

37. Policy Q8 requires that new residential development should be appropriate in scale, form, density and materials to the character of its surroundings. It requires that adequate amenity space and privacy should be afforded to each dwelling and outlines appropriate separation distances between properties. These separation distances are guidelines only, provided within the supporting text and are not within the main policy wording.

38. The separation distance between the main north facing elevation of 5 South Terrace and properties on Victoria Court is approximately 19.5metres. While this is shorter than the recommended 21mtrs outlined within Policy Q8 of the local plan the separation distance that exists is not considered so harmful as to have a significant impact upon residential occupiers in Victoria Court. Officers are aware of the differences in land levels between the

two sites with Victoria Court being at a slightly higher level. This has been taken into account in assessing the proposals.

39. Separation distances of between 13.2 and 13.8 metres exist from the rear south facing elevations of the property to the north facing elevations of properties on Tindale Avenue. The required separation distance of Policy Q8 of blank two storey elevation to habitable room window is 13mtrs, and this separation distance is met in relation to the blank south side elevation of 6 South Terrace. Habitable room windows have been introduced at ground floor level into the south facing elevation of 5 South Terrace. These windows would serve a lounge area and a bedroom. Whilst separation distances would not be met here, Officers consider that the erection of a 1.8mtr close boarded fence along the rear boundary of the property could resolve any issues of privacy between 5 South Terrace and windows on Tindale Avenue. The introduction and retention of this fence would allow very little or no overlooking from the rear windows of 5 South Terrace towards properties on Tindale Avenue.

40. Officers note that windows on the South Elevation of both new properties at upper floor level that serve bathrooms and a stairwell have been fitted with clear glazing. Although not classed as habitable rooms, Officers consider that in the interests of inter privacy with Tindale Avenue, these windows should be fitted with obscure glazing which should be retained for the lifetime of the development. A condition is included requiring these windows to be fitted with obscure glazing.

41. The two dwellings have been designed to match the scale, form and density of nearby properties and are considered acceptable in this respect. The design of the dwellings would not look out of character with the surroundings. The quality of materials used is high, the timber windows and brickwork used exceeding the specification that would generally be used in this location.

42. Officers acknowledge that outdoor amenity space at the site would be limited, provided only in the form of small yard areas to the rear and side of the dwellings. Nevertheless, the space provided would not be significantly out of character to that provided at many residential properties in the area.

43. On balance, officers consider that the application is appropriate in terms of Policy Q8. The proposed development does not raise significant issues surrounding its relationships to other nearby properties that would warrant refusal of the development, while the dwellings would be suitable in scale, form, density and materials to their surrounds.

### **The impact upon the residential area**

44. Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

45. The public register of HMO's 2014 states that 3 South Terrace is licensed as a 7 bed HMO, while 4 South Terrace is licensed as a 6 bed HMO. Officers acknowledge there could be other HMOs within the terrace which would not be of such a type to require HMO licensing. Properties situated off the turning head at the western end of the Street appear to be normal residential occupation. The street could therefore be considered to be of mixed tenure.

46. The Council is currently considering a longer term strategy in relation to houses in multiple occupation within Durham City and the matter is still under review. Policy 32 has been included within the Emerging County Durham Plan that has been submitted for public inquiry. This policy seeks to restrict changes from C3 to C4 use and C3 to Sui Generis

HMO use where there is already a high concentration of student properties. Given the level of student accommodation within South Terrace, it is possible that the increased provision of student accommodation in this area may exceed the thresholds identified within this Policy. However, given the policy has been subject to significant comment and has been re-written through the enquiry process, Officers are only able to give this Policy extremely limited weight at this time.

47. Concern over the habitation of the property by students is noted. It is acknowledged that students may have different lifestyles to many other residents on the street. Officers acknowledge that for example a 6 bed HMO could create some additional comings and goings in comparison to a three bed family dwelling.

48. There is a variety of type and range of housing within South Terrace and Officers consider that provision of these two HMO's would not result in a development that would be to the detriment of the range and variety of local housing stock. There are no set thresholds in relation to the acceptability of one type of housing or another, and it is for Officers to make a considered judgement, taking into account all relevant material considerations on the matter.

49. The properties proposed would offer acceptable accommodation as small HMO's. A limited amount of curtilage space would be provided and unlike the terrace of properties at no.s 1-4, curtilage space would be provided to the front and side of the dwellings where it would be possible to store bins within the boundaries of the properties.

50. In light of the above considerations and in accordance with Policy H13, officers do not consider that the provision of two 6 bedroom HMOs in this location would create a situation where the character or appearance of the area or the amenities of residents within them would be significantly compromised.

51. Officers do not feel that the provision of the two small HMOs in this location would contravene the National Planning Policy Framework which aims to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

## **Highways**

52. Highways Development management have raised no objections to the scheme and have accepted the provision of three off street parking spaces at the site. This acceptance is based on the assumed level of car ownership of 15% amongst the student population, who are the likely tenants of such properties. The access road at the site has been upgraded satisfactorily.

## **Other issues**

53. The drainage and coastal protection section have requested details of drainage at the site, these details would be conditioned. Further amended plans have been received which have not been subject to neighbour consultation. These changes to the plans have arisen as within the ground floor of 5 South Terrace the kitchen and bedroom have been swapped from front to back and a smaller window than previously proposed has been inserted into the ground floor bedroom to the rear of the dwelling. These changes are not considered materially significant in the wider context of the scheme and Officers did not wish to delay the committee's determination of the application further. Policy H9 of the City of Durham Local Plan is not considered relevant in the consideration of this application as it relates to the conversion of existing dwellings for HMO uses. Officers acknowledge the substantially retrospective nature of this application; any unauthorised development has been carried out at the developer's risk. Nevertheless, a retrospective application is one of the first options in seeking to address a



planning breach, and the development should then be assessed on its merits. The removal of permitted development rights at the site is considered essential in order to protect privacy and amenity in the immediate vicinity, and a condition is proposed to control this.

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## **CONCLUSION**

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54. Officers consider the application acceptable in terms of the principle of the development, the layout and design of the development, the impact upon the residential area and highways impacts. The principle of Class C3 residential development has been accepted at the site, and although Officers acknowledge that a small HMO may result in some additional comings and goings and other impacts these are not considered to have such a significant adverse effect on the character or appearance of the residential area, or the amenities of residents within it, to justify refusal of planning permission. The development is considered acceptable in scale, form, density and materials to the area. The access road has now been surfaced and Highways Officers have raised no objections in relation to access or parking provision.

55. Officers consider the application to meet the requirements of the National Planning Policy Framework parts 6 and 7 and Policies H2, H13, T1, T10, Q1, Q2, Q3, Q8 and U8A of the City of Durham Local Plan 2004.

## **RECOMMENDATION**

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

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

Drawing 201 REV G received 12<sup>th</sup> August 2014

Drawing 206 Revision D received 29<sup>th</sup> September 2014

Drawing 204 Revision G received 25<sup>th</sup> November 2014

Drawing 205 Revision F received 25<sup>th</sup> November 2014

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies H2, H13, T1, T10, Q1, Q2, Q3, Q8 and U8A of the City of Durham Local Plan 2004 and parts 6 and 7 of the NPPF.

2. Notwithstanding details submitted within the application, within 3 months of the date of this approval or prior to the first occupation of 5 South Terrace, whichever is the sooner, a 1.8mtr high timber fence of close boarded construction shall be erected along the rear boundaries of 5 and 6 South Terrace adjacent to properties on Tindale Avenue. This fence shall be retained for the lifetime of the development.

Reason: In the interests of ensuring adequate levels of privacy and amenity for the occupiers in Tindale Avenue in accordance with Policy Q8 of the City of Durham Local Plan.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), within 3 months of the date of this approval or prior to the first occupation of 5 South Terrace, whichever is the sooner, the upper windows to the rear south facing elevation of both 5 and 6 South Terrace

shall be provided with obscure glazing to level 3 of the Pilkington scale or privacy equivalent and such obscure glazing shall be retained for the lifetime of the development.

Reason: In the interests of ensuring adequate levels of privacy and amenity for the occupiers in Tindale Avenue in accordance with Policy Q8 of the City of Durham Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A, B and C of Part 1 of Schedule 2 of the said Order shall be carried out on the site without an application for planning permission having been first made to and approved in writing by the Local Planning Authority.

Reason: In the interests of the ensuring adequate levels of privacy and amenity for the occupiers of properties in Tindale Avenue in accordance with Policy Q8 of the City of Durham Local Plan 2004.

5. No development shall commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any source in accordance with the National Planning Policy Framework and Policy U8A of the City of Durham Local Plan 2004.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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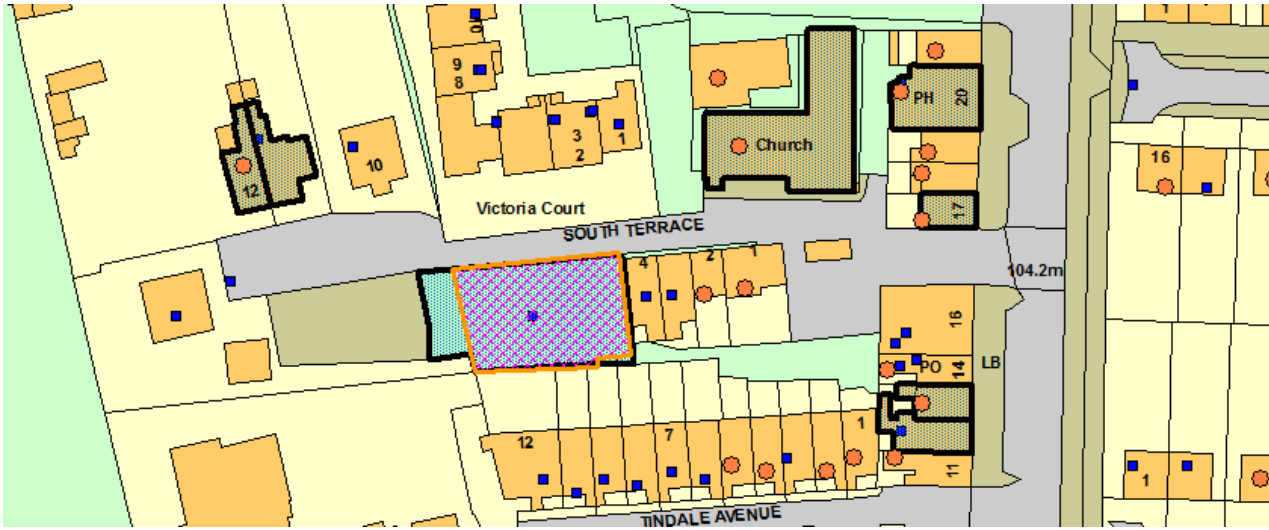
56. In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The application has been presented to committee at the earliest possible opportunity and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
City of Durham Local Plan 2004  
County Durham Emerging Local Plan  
Response from Councillor Wilkes  
Response from Objectors and Comments  
Consultee responses



**Planning Services**

Retention of 2 no.6 bedroom small HMO's  
(C4 use class) with associated works  
(part retrospective)

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**Date** 09<sup>th</sup> December  
2014

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION NO:** DM/14/03093/FPA  
**FULL APPLICATION DESCRIPTION:** Alterations to front elevation to create extra floor space to existing showroom area.  
**NAME OF APPLICANT:** Mr A Mitchison  
**ADDRESS:** Bristol Street Motors, Abbey Road, Pity Me, Durham, DH1 5DQ  
**ELECTORAL DIVISION:** Framwellgate and Newton Hall  
**CASE OFFICER:** Michelle Hurton  
[michelle.hurton@durham.gov.uk](mailto:michelle.hurton@durham.gov.uk)  
03000 261398

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a commercial property located on Abbey Road, Pity Me.

### The Proposal

2. Planning consent is sought to alter the front elevation of the show room by replacing one of the roller shutter doorways with a window to create extra internal floor space to the existing car showroom area. This would be achieved by extending the showroom into the adjacent workshop area and losing workshop space.
3. The application is brought before members because it has been requested by Councillor Wilks and by Framwellgate Moor Parish Council.

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## PLANNING HISTORY

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4. There has been various advertisement consents granted for this site in 2002, 2003 and 2011. Full planning permission has been granted for the erection of the showroom in 2001 and for floodlighting in 2002 and 2003.

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## PLANNING POLICY

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**NATIONAL POLICY:**  
National Planning Policy Framework

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy

Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
7. The following elements are considered relevant to this proposal:-
8. Part 1 (Building a strong, competitive economy) – The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
9. Part 4 (Promoting Sustainable Transport) – Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. Part 7 (Requiring Good Design) – The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

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

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

##### **City of Durham Local Plan 2004**

11. Policy EMP8 (General Industrial Estates) – The council will, in conjunction with other public and private agencies, seek to improve the overall quality of general industrial estates within the district while permitting development falling only within classes B1 (Business Use), B2 (General Industry) and B8 (Warehousing) of the Use Class Order.
12. Policy S11 (Miscellaneous Sales) – The sale of motor vehicles, caravans, boats, heavy building materials, greenhouses and garden sheds will be permitted within general industrial estates.
13. Policy Q1 (General Principles (Designing for People)) – The layout and design of all new development should take into account the requirements of users.
14. Policy Q2 (General Principles (Designing for Accessibility)) – The layout and design of all new development should take into account the requirements of users. It will be expected to embody the principle of sustainability.
15. Policy Q7 (Industrial and Business Development) – seeks to promote an attractive image of the District and thereby stimulate inward investment through the provision of well-designed buildings which are appropriate to their designation.

16. Policy Q11 (Shopfronts – Provision of New) – New shopfronts will be permitted provided that they respect the scale, proportion, materials and character of the building and the area in which they are located.
17. Policy T1 (Traffic Generation – General) – The council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant affect on the amenity of occupiers of neighbouring property.
18. Policy T10 (Parking – General Provision) – states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf>*

#### **EMERGING POLICY:**

##### County Durham Plan

10. The emerging County Durham Plan was Submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
11. Policy 1 (Sustainable Development) – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
12. Policy 15 (Development on Unallocated Sites) – States that development on unallocated sites will be permitted where development is appropriate in scale, design and location; does not result in the loss of a settlement's last community building or facility; is compatible with and does not prejudice any intended use of adjacent sites and land uses; and would not involve development in the countryside that does not meet criteria defined in Policy 35.
13. Policy 16 (Sustainable development in the build environment) – Development proposals will be permitted where they promote accessibility and permeability by creating places that connect with each other and with existing networks, and are easy to move through.
14. Policy 18 (Local Amenity) – Seeks to protect the amenity of people living and/or working in the vicinity of a proposed development in terms of noise, vibration, odour, dust, fumes and other emissions, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.
15. Policy 19 (Air Quality, Light and Noise Pollution) – Development which have the potential to lead to a significant deterioration in air quality should be accompanied

by an assessment of the likely impact of the development on air quality. All development will be expected to minimise light pollution and/or prevent unacceptable levels of exposure to such through good design. All development will be expected to prevent unacceptable levels of noise pollution to both existing and new development by good design.

16. Policy 23 (Employment Land) – Sets out the proposed locations of Prestige and General Employment allocations.
17. Policy 48 (Delivering Sustainable Transport) – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

18. Parish Council – An objection letter has been received from Framwellgate Moor Parish Council on highway safety grounds.
19. Ward Councillors – An objection letter has been received from Cllr Wilkes on highway safety grounds.

### **INTERNAL CONSULTEE RESPONSES:**

20. Highways Section – No objection raised

### **PUBLIC RESPONSES:**

21. The application was advertised by means of letter to 28 neighbouring properties within the area. A site notice was also posted near to the site. One objection letter has been received in respect of the above development. Concerns raised relate to an increase in visitors to the site, lack of car parking at the site, and an existing planning requirement to offload transporters not being adhered to.

### **APPLICANTS STATEMENT:**

22. This project involves the refurbishment of the existing dealership to reflect the requirements of a growing and sustainable business model by Bristol Street Motors, but equally, to reflect the mandatory requirements of Vauxhall.
23. Vauxhall (as with other car manufacturers) are progressively refining their identity and are setting minimum mandatory standards on car showroom areas and finishes to enhance the customer experience.
24. Whilst the showroom area is increasing, it will not necessarily reflect an increase in customer volume attending site.
25. Since the workshop will decrease in size to accommodate the increase in showroom area, the total number of service bays is reduced by one. This loss would in fact reduce the number of visits per day to the servicing arm of the business by approximately 6 vehicles per day.



26. Whilst the increase in showroom areas will naturally increase the potential sales of vehicles; this can only be of benefit to the local economy in providing employment opportunities to meet these increasing volumes.
27. The business model by Bristol Street Motors is not defined solely by customers visiting site; however, much business is carried out via the internet and telephone sales.
28. Ascertaining planning permission for this development will not only improve the customer experience as required by the car manufacturer; but will offer robust employment opportunities to the local community.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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29. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
30. The main considerations in regard to this application are the principle of the development, design, scale and layout and highway safety and residential amenity.

### **Principle of development**

31. The application site relates to an existing car sales, MOT testing and servicing garage dealership located within the designated general industrial estate of Abbey Road Industrial Estate, Pity Me.
32. The application site is located amongst various industrial and commercial properties, and as such development of this nature would be considered to be within a sustainable location and would be supported in terms of national, regional and local planning policy, in particular NPPF Part 1, 4 and 7 and Saved Policies EMP8, S11, Q1, Q2, Q7 and Q11 of the local plan. The proposal would improve the commercial operations of the company, and would help to support sustainable economic growth. The alterations of the property would be in keeping with the character and appearance of the area, and are considered acceptable in principle.

### **Design, Scale and layout**

33. In respect of the design and layout of the development, it is considered that the alterations to the front elevation from 1 no. roller shutter doorway to 1 no. window has been designed in such a way as to remain in keeping with the design and appearance of the existing property. It would result in extra showroom floor space being created internally and alterations to the overall internal layout arrangements, but not an extension of the premises.
34. The staircase within the main showroom is to be relocated to the rear of the building to help accommodate the internal alterations.
35. Therefore in design terms it is considered that the proposed alterations are in keeping with the host property and would not detract from the appearance of the property or the wider streetscene in line with Saved Policies EMP8, Q1, Q2, Q7 and Q11 of the City of Durham Local Plan 2004.

## Highway Safety

36. In relation to Highway safety, Durham County Council Highways engineer has been consulted as part of the application process and they have raised no objection to the proposed development given that the proposed works would not impact upon the public highway.
37. One objection letter has been received from a neighbouring resident of a property located to the east of the site, approximately 250 metres away. A letter of objection has been received from Framwellgate Moor Parish Council, and a further letter of objection from Cllr Wilkes.
38. Concerns raised relate to an increase in visitors to the site which could generate more cars, and lack of car parking at the site which results in employees and customers parking on the grass verges. There is also concern that an existing planning requirement to offload transporters within the curtilage of the site is not being adhered to.
39. With regards to the concerns raised above the proposals do not expand the site floor area but rather re-design the internal layout. Due to the site not increasing in size or indeed adding or taking away parking space, the proposed works are considered acceptable in principle. With regards to the current issues relating to car transporters, although reported as a problem at present, there is no information to suggest that car transporter deliveries will increase or change. These concerns have been passed over to the planning enforcement team for further investigation, but are not considered to have a bearing on this current application.

## Residential Amenity

40. It is considered that due to the application site not increasing in size, that the proposed alterations to the front elevation and the proposed internal alterations would not adversely affect the neighbouring residents at the site. The immediate neighbouring properties are industrial and commercial in nature, with the nearest residential properties some distance away.

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## CONCLUSION

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41. The proposal is in keeping with the appearance, character, design and scale of the existing premises and will not have a detrimental impact upon the amenities or highway safety of the surrounding area.
42. The application site is not increasing in size and due to there being no reduction or addition to parking spaces, no objections have been raised by the Highways engineer.
43. Taking all relevant planning matters into account including the objections raised, it is considered that the proposal is acceptable given that it accords with both national and local policy. It is not considered that the policies contained within the emerging County Durham Plan would conflict with the policies of the existing local plan or the NPPF on which the recommendation of approval has been based.

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## **RECOMMENDATION**

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

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

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

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

Plan References	Date Received
Application Form	14 October 2014
Location Plan & Block Plan	14 October 2014
Existing & Proposed Principal Elevation	14 October 2014
Proposed Floor Plans	14 October 2014

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies EMP8, S11, Q1, Q2, Q7, Q11, T1 & T10 of the City of Durham Local Plan 2004 and parts 1, 4 and 7 of the NPPF.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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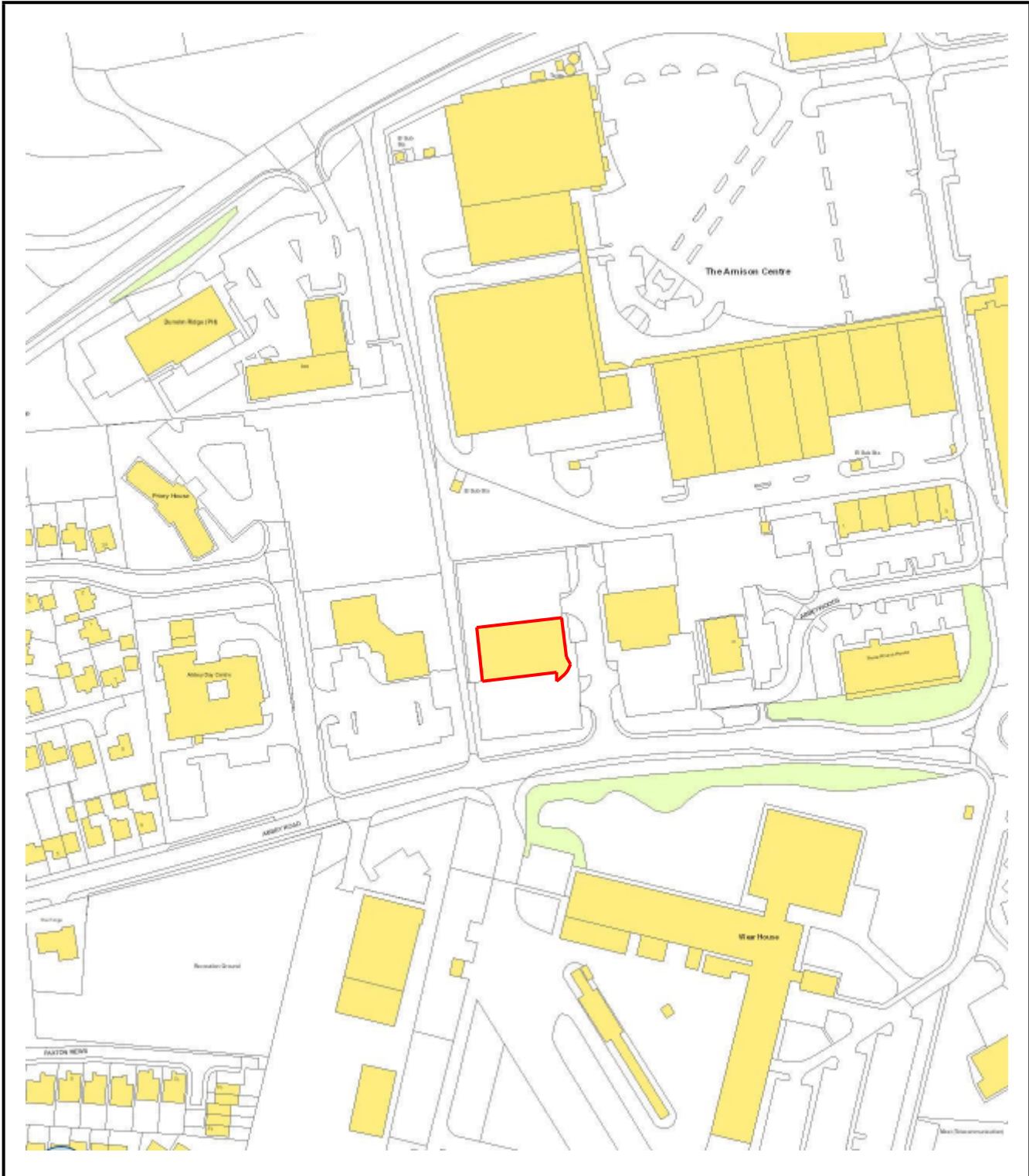
In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within the 8 week target provided to the applicant on submission and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

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans
- City of Durham Local Plan 2004
- National Planning Policy Framework
- Consultation Responses
- Letters of Representation



**Planning Services**

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**Alterations to front elevation to create extra floor space to existing showroom area At Bristol Street Motors, Abbey Road, Pity Me, Durham.**

**Comments**

**Date. 09 December 2014.**

**Scale 1:1250**

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/14/02796/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential).</b>
<b>NAME OF APPLICANT:</b>	<b>Mr P Carter</b>
<b>ADDRESS:</b>	<b>Land to the South of Bradyll Street, Kelloe, Durham</b>
<b>ELECTORAL DIVISION:</b>	<b>Coxhoe</b>
<b>CASE OFFICER:</b>	<b>Laura Martin</b> <a href="mailto:Laura.martin@durham.gov.uk">Laura.martin@durham.gov.uk</a> <b>03000 261960</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to an area of land to the south east of the settlement of Kelloe. The site was part of the housing regeneration of the 1950's and the existing houses on the site were cleared and the inhabitants rehoused in new housing within the village.
2. Due to the above the site is very undulating in nature and was not formally levelled following the demolition works. In addition the site is within multiple ownerships and the ownership of part of the site is unknown. Notices were served as part of the application process, however no others owners have been forthcoming.
3. The application site covers some of the now demolished houses, and evidence of the former houses can be seen at various points in the form of kerbs and exposed brick.
4. The site is bounded on the eastern side by a metalled access track, which links the site to the village of Kelloe, with unused open land on the other three sides.

### The Proposals

5. Consent is sought for earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential).

6. In relation to the earthworks which include infilling and levelling of the site this is required in order to re-grade the site to allow grazing and agricultural operations to take place, and much of this work has already been undertaken. The majority of the works in this respect are infilling of foundations and cellars left over from the demolition works.
7. The general agricultural building proposed would be located on the lowest of the levelled areas. The structure would measure 12.65m by 5.87m with a total height of 5.08m and an eaves height of 3.8m. The building would be constructed of olive green plastic profiled sheeting with translucent sheets as skylights. To access the building timber stained double doors are proposed.
8. In relation to the caravan which is to be retained on site, this would be used as a base for the applicant whilst working on the site and would not be for residential purposes.
9. Timber screen fencing is also proposed in a u-shape to partially enclose and screen the agricultural building and the caravan at the site. The fencing would measure 2.5m in height and would be timber posts with vertical boarding.
10. Two steel containers are proposed to be retained by the applicant until such time as the agricultural building is erected on site. The applicant has advised this would be for storage of food and equipment during the winter months until the building could be erected in the spring if approved.
11. The applicant has, as part of the application, provided a plan showing areas of the site for the growing of vegetables and grazing of animals. In addition to these areas of planting, the site is also to be planted with Hawthorn hedging and trees to screen the fencing and along the access track and site boundaries.
12. The application is reported to the planning committee at the request of the Local Member Cllr Mac Williams.

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## **PLANNING HISTORY**

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DM/14/00162/FPA Erection of timber screen fencing and the siting of 5 storage containers and 1 touring caravan Application Withdrawn

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
14. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'

15. The following elements are considered relevant to this proposal:-
16. Part 1 - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
17. Part 3 - Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
18. Part 7 - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

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

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

##### **City of Durham Local Plan**

19. Policy Q1- General principles- Designing for people
20. E7- Development outside settlement boundaries
21. EMP17A Agriculture and Forestry development
22. T1- Traffic generation

#### **EMERGING POLICY:**

23. The emerging County Durham Plan was Submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
24. Policy 16- Sustainable development in the built environment
25. Policy 39- Landscape character
26. Policy 35- Development in the Countryside

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://content.durham.gov.uk/PDFRepository/DurhamLocalPlan.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

27. Parish Council- raise concerns regarding the application in respect of land ownership, retrospective nature of the application, impact upon landscape setting and undesirable precedent the application could create.
28. Environment Agency- no comments

### **INTERNAL CONSULTEE RESPONSES:**

29. Landscape Section- question the reclamation methods utilized by the applicant and its ability to be a successful small holding.
30. Highways Section- raise no objections
31. Public Rights of Way- raise no objections but advise that the adjacent track should be open for public usage.

### **PUBLIC RESPONSES:**

32. The application was advertised by means of site notices and by letters to neighbouring properties within the area. 3 letters of objection have been received raising concerns relating to:-
  - Highway Safety.
  - Impact upon residential amenity
  - Noise, odours and pollution.
  - Unknown ownership
  - Impact upon landscape and countryside setting
  - Removal of trees and hedging
  - Retrospective nature of application
33. One letter of support has also been received stating that the area should be brought back into use.

### **APPLICANTS STATEMENT:**

I would like my application to be approved for the following reasons, I have always been keen to develop a small holding for the purpose of growing my own vegetables and rearing my own stock organically. I plan to grow my own veg, have chickens for eggs, and goats for livestock. A general purpose building would mean that I could do many tasks under one roof. Storage of feeds, livestock, tools, etc.

I have removed several tons of waste from the land and continue to do so. For the last 60 years this land has been used as a dumping ground. I do appreciate that there is still a long way to go with the soil improvement, tree and hedge planting. This will be undertaken and several improvements made for grazing.

If there are any questions or concerns the committee would like to put to myself, I would be more than happy to address them.



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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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34. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
35. The main considerations in regard to this application are the principle of the development, design, scale and layout, highway safety, residential amenity and other considerations.

### **Principle of development**

36. Policy E7 of the City of Durham Local Plan states that planning permission for development in the countryside, outside the settlement boundaries will only be permitted where allowed by other planning policies. Policy EMP17A states that planning permission will be granted for agricultural development provided the proposal is justified in terms of its size and location and appropriate measures are incorporated to mitigate the effect of the development upon the landscape and local communities.
37. In this respect it is considered that the proposed building and works would be in association with an agricultural operation and is of an agricultural nature in terms of design and scale. Therefore in this respect it is considered that whilst the development is outside of the defined settlement limits for the village of Kelloe it would be in conjunction with an agricultural operation on site and as such is acceptable in principle.
38. In respect of the NPPF, Part 3 states that economic growth and prosperity should be encouraged in rural areas and be supported where appropriate. In this respect it is considered that the agricultural building and associated works would allow the use of this derelict piece of land for a use which is considered to be appropriate within its countryside setting. Therefore the development is considered also acceptable in principle in relation to national planning policy.
39. Whilst only limited weight can currently be afforded to the emerging local plan, Policy 35 part b) states that planning permission for development in the countryside will be granted for the efficient or continued viable operation of agriculture. Therefore in this respect as previously noted due to the use of the proposed building and associated works on the site the principle of the development is accepted.

### **Design, Scale and layout**

40. Policy EMP17A states that planning permission will be granted for agricultural development provided that it is justified in terms of size and location and appropriate measures have been incorporated to mitigate the effect of the development upon the landscape and local communities. In relation to the proposed general purpose building this has been designed to be agricultural in nature and of a scale which would be considered to be commensurate with the size of the holding. As part of pre-submission discussions the original design of the structure was amended and reduced to reflect the needs of the holding and as such it is considered that the development is in accordance with local plan policy EMP17A which requires development to take this into account.

41. In terms of the location of the building this is centrally located within the site, and due to the proposed timber fencing and the topography of the site the proposed building would have minimal impact upon the visual amenity of the area.
42. The timber screen fencing in itself will further be screened by planting which would once against further limit the impact of the development in terms of its landscape setting.
43. The 2 no. steel containers have been on site for some time without the benefit of planning permission. The applicant wishes to retain them on site for necessary storage while the new building would be under construction. They would be located to the south of the proposed barn behind the timber fencing which would therefore limit views of the structures from Kelloe or residential properties whilst the building is being erected. In addition to this, as previously noted, the containers would only continue to remain on site for a further temporary period and any potential impact they may have would be extremely limited.
44. In relation to the touring caravan which is to be retained at the site, this is once again screened by the timber fencing and planting proposed. In addition this would also be for non-residential use only which would ensure that there would be no residential clutter associated with the caravan at the site. A condition restricting this use and its removal if no longer required would also be attached to any approval at the site.
45. In relation to the concerns expressed for the removal of trees and hedging at the site, these were not protected and as such works of this nature can occur without the need for formal planning consent. Trees and shrubs have been removed from the site in order to create the grazing areas and the applicant has advised that the site will be replanted. A condition in relation to landscaping and its implementation would be attached to any approval at the site.

### **Highway Safety**

46. Access to the site is via an adopted highway which is capable of carrying traffic to and from the site at the anticipated levels. In relation to the increased traffic movements to and from the site resulting from the development, it is not considered that these would be significant to warrant refusal of the application.
47. The Highways Section and Public Rights of Way have not raised any objections in respect of the application and consider that the public highway is capable of accommodating the levels of vehicular movements at the site.
48. It is therefore considered that the proposed development would be in accordance with policy T1 of the City of Durham Local plan which requires development should not generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of neighbouring properties. As previously discussed it is not considered that the levels of traffic would increase so significantly to warrant refusal of the application.

### **Residential Amenity**

49. The nearest residential properties to the site are No.1 and No. 2 Bradyll Street. These properties have a view over the site and the access road to the parcel of land. In relation to the impact upon the current levels of residential amenity enjoyed at the

site it is not considered that the works would have a significant detrimental effect. The agricultural use of the land would be considered appropriate in this countryside location. As previously noted a large proportion of the works such as the building and the caravan would be screened by the proposed planting and timber fencing. In addition to this the 2 no. steel containers would only be on a temporary basis until the agricultural building is erected on site.

50. In relation to No. 1 Bradyll Street this property benefits from a side window which overlooks the access to the site. Concerns have been raised in relation to the loss of privacy to the property due to persons accessing the site and passing this window. As previously noted this is a public adopted highway and as such the public do have the right to pass and repass adjacent to this window. Therefore in this respect it is not considered that the levels of increased activities and movements to the site would be to such a level to warrant refusal of the application upon this basis.
51. The issue of noise and odours has also been raised as a concern in relation to the development. The proposed general purpose agricultural building and associated works are not considered to raise any issues in relation to noise or odours. In addition the nearest residential properties are approximately 100 metres from the location of the building and majority of the works and as such noise and odours are not considered to be an issue at the site. The building is intended for storage of equipment and feed in association with the small holding at the site, and in relation to the noise and odour issues this type of usage is not considered to create issues in this respect.
52. In terms of the use of the land the applicant does not require consent to operate the land as an agricultural small holding to which a number of the complaints relate.
53. In relation to the infilling of the site the applicant has indicated that this has been done using the waste material from the demolition of the properties previously on site. He has advised that these works have been able to be carried out without the import of additional building materials onto the site.
54. Concerns by residents have also been expressed in relation to the depositing of green waste at the site. The Environment Agency is dealing with this as a separate matter and it is understood that the applicant has all necessary permits in place in respect of this practice. This is therefore not a matter that can be taken into account in the determination of the application.

### **Other Considerations**

55. In respect of the partly retrospective nature of the application, as legislation allows for the submission of a retrospective application this is not a material planning consideration which can be taken into account in the determination of the application. The development has been assessed on its merits, and is considered to be acceptable.
56. In terms of precedent this application may set if approved, once again each development should be assessed on its own merits, and just because one site was considered acceptable does not automatically mean that another will.
57. In relation to the ownership of the land the applicant has advertised in the press to find owners of the land and has notified those which he is aware of. In planning terms this is the only requirement on the applicants part in terms of notification and as such this is not a planning matter which can be taken into account in the determination of the application. It is a matter for the applicant to consider whether

he should proceed with the development if there are any outstanding uncertainties over ownership.

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## CONCLUSION

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58. The proposed general purpose building has been designed to be agricultural in nature and of a scale which would be considered to be commensurate with the size of the holding. The agricultural use of the land does not require planning permission.
59. Screening and planting are proposed as part of the application and a condition relating to landscaping and its implementation would be attached to any approval at the site. A condition would also be imposed to require removal of the containers at the appropriate time.
60. Taking all relevant planning matters into account it is considered that the proposal is acceptable given that it accords with both national and local policy. It is not considered that the policies contained within the emerging County Durham Plan would conflict with the intentions of the existing local plan or the NPPF.

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## RECOMMENDATION

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; Drawing No. 3, 1, 2, and 4 Rev A and location plan received 7 January 2014. Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies
3. The two no. steel containers hereby approval shall be removed within 6 months of the date of this approval or upon completion of the agricultural barn, which ever occurs sooner.  
Reason: In the interest of visual amenity and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.
4. The touring caravan hereby approved shall not at anytime be used for residential purposes and shall only be used to provide site facilities in connection with the operation of the agricultural holding. The touring caravan shall be removed from the site if the agricultural activities cease permanently.  
Reason: In the interest of visual amenity and as the site is not considered suitable for a residential dwelling and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.
5. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.

6. 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 saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.

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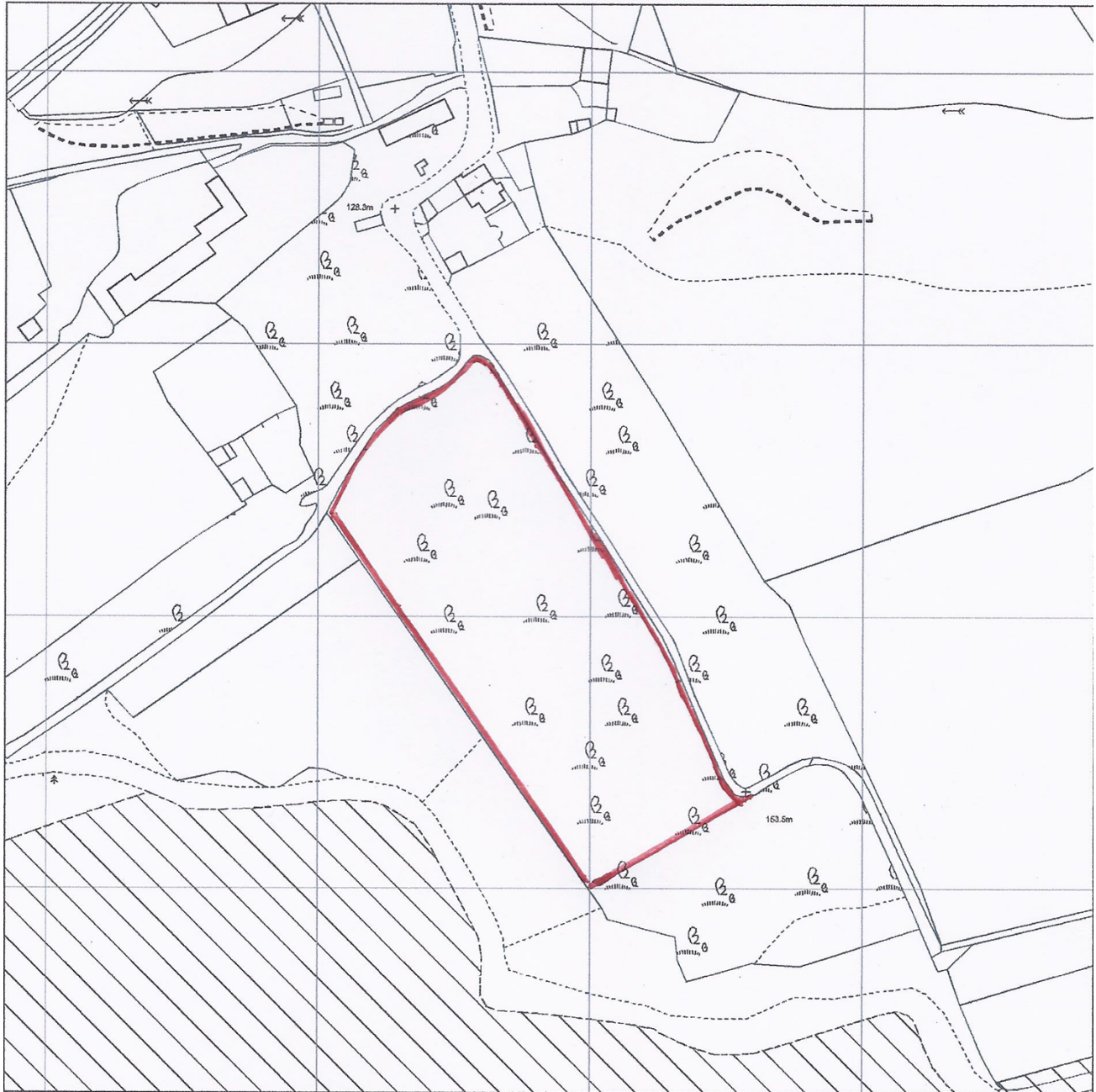
## **STATEMENT OF PROACTIVE ENGAGEMENT**

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process.

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## **BACKGROUND PAPERS**

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



**Planning Services**

**Earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential) at Land To The South Of Bradyll Street, Kelloe, DH6 4PL.**

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**Comments**

**Date. 9 December 14.**

**Scale 1:1250**