



## Area Planning Committee (Central and East)

**Date** Tuesday 12 May 2015  
**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 Last Meeting held on 14 April 2015 (Pages 1 - 12)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) 4/12/00974/FPA - Land To Rear Of 53 Whinney Hill, Durham City, DH1 3BD (Pages 13 - 28)  
Erection of detached dwelling.
  - b) DM/15/00542/FPA - Land Adjacent Fir Tree Inn, Durham Road, Wingate (Pages 29 - 40)  
Construction of 10no. Dwellings.
  - c) DM/15/00911/RM - Land to the north of Willowtree Avenue, Gilesgate Moor (Pages 41 - 56)  
Reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space.  
Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT.
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 May 2015

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, J Robinson and K Shaw

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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 14 April 2015 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, J Clark, P Conway, K Corrigan (substitute for Councillor B Moir), M Davinson, D Freeman, S Iveson, C Kay, A Laing, R Lumsdon, J Robinson and K Shaw

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell and B Moir.

**2 Substitute Members**

Councillor K Corrigan substituted for Councillor B Moir.

**3 Minutes**

The Minutes of the meetings held on 10 March 2015 were confirmed as correct a 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/14/03713/FPA – Land at Mayorswell Close and Kepier Court, Durham, DH1 1JU**

The Committee considered a report of the Senior Planning Officer regarding the erection of 4 new buildings and restoration of Kepier House for use as 214no. Bed student accommodation and associated landscaping at land at Mayorswell Close and Kepier Court, Durham, DH1 1JU (for copy see file of Minutes).

The Team Leader advised that further to a previous call in request, should the application be approved, the decision would first need to be referred to the National Planning Casework Unit for consideration, prior to a decision notice being issued. The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. The item

had been deferred at the previous meeting to allow the Committee the opportunity to undertake a site visit. Members of the Committee had now visited the site and were familiar with the location and setting. The Senior Planning Officer advised that a further letter of objection had been received since the report had been published. The letter reiterated many of the objections which had already been received, however also raised concerns regarding health and safety issues and the accessibility of the site for emergency service vehicles.

In addition, the Committee was advised in addition to provision of open space and public art, should the application be approved, the S106 agreement would also provide for local employment opportunities to be brought forward.

Ms M Johansen, local resident, addressed the Committee. She had lived at the north of the site for 10 years and while she was keen to see the site developed, she did not feel the proposed use and density were appropriate. The previous use of the site had been for post graduate accommodation, however Ms Johansen advised that was not the same as living in close proximity to 214 undergraduates. In addition, the proposed development would have a much larger footprint.

Ms Johansen hoped that during the site visit, the Committee had appreciated the impact of overlooking on her property. Members were advised that while she had fully engaged in the consultation process with the developer and discussed various options for window designs, Ms Johansen advised that none of those mitigating design options had been incorporated into the final design proposals. As such Ms Johansen requested that should the application be approved, a condition be imposed relating to mitigating the issue of overlooking.

Mr R Cornwell, City of Durham Trust, addressed the Committee. Mr Cornwell began by expressing concerns regarding the concentration of students in the area and he made reference to recently approved planning applications.

Mr Cornwell suggested that the application was contrary to saved Local Plan policies H13 and H16, both of which were particularly relevant given that the site had only previously been inhabited by 57 post graduate students. It was further stated that the proposals were contrary to Part 7 of the NPPF.

The Committee was advised that Durham was considered to be the main driver to regenerate the local economy, however Mr Cornwell believed that students frustrated that growth agenda and that the cumulative effect would be too significant. It was highlighted that there were several brownfield sites in the city which would be more suitable for such development however were not being utilised.

Ms H Dowdy, Durham University, addressed the Committee. Members were advised that the University sought refusal of the application as the proposals would cause unacceptable harm to residential amenity and were contrary to planning policy.

The previous use of the site had been 41no. 2 bed flats for post graduates with families, a very different facility to that which was being proposed.

The University was aware that there were differing opinions in relation to the weight to be afforded to the County Durham Plan. However Ms Dowdy highlighted that Policy 18 of the Plan gave sufficient grounds to refuse the application and had not been considered to be unsound by the Planning Inspector. In addition the University believed that saved Local Plan policy H16 paragraph 4 was particularly relevant and also gave clear grounds to refuse the application on the basis that the concentration of students would have an adverse effect on adjacent properties.

Ms Dowdy concluded by advising that there was no need for any further student accommodation within the city as there was already an oversupply.

Ms I Biggs, local resident, addressed the Committee. She lived in close proximity to the application site and her main objections were in relation to the proposed Block 4. She felt that the impact on residential amenity and the visual impact of the Block was largely understated, especially on residential properties at the north of the site.

The Committee was advised that her property had been built in 1963 and that there had been previous proposals for flats to be developed adjacent to her property, however those plans had been refused. The bottom block of the previous post graduate development had been very carefully designed and as such there had been no issue of overlooking. In addition, views of Kepier House had not been obstructed by the previous development.

Ms Biggs advised that the stability of the north side of the application site was questionable and in terms of sustainability Ms Biggs advised that solar panels on surrounding properties would no longer be viable. Indeed her property had solar panels which would end up being inhibited should the application be approved, thus halving the income generated by the panels.

Mr L McEwain, local resident, addressed the Committee. Members were advised that the area was currently peaceful, quiet and was occupied by a good mix of residents, however should the proposals be approved, the area would become dominated by students which would have significant impact on the area. Mr McEwain stressed that while the previous use of the site had been student accommodation, it had been very different to what was being proposed.

Members were advised that the proposed imposition of an 11pm curfew for students was of benefit to local residents, many of whom would have young children in bed from approximately 7pm and Mr McEwain urged refusal of the application, not least for the families who were raising children in a quiet, peaceful area.

Mr D Waugh, agent for the applicant, addressed the Committee. Mr Waugh highlighted that in terms of need, there was no numerical limit on the supply of purpose built student accommodation and no onus on an applicant to demonstrate need. Members were advised that the proposed development was not designed to accommodate any increases in student numbers from Durham University, rather it was proposed that the development would accommodate existing students living in HMO's. This in turn would free up such houses for family living. Mr Waugh advised that as had been proven by other local authorities, most specifically Newcastle City Council, for every 4 bed spaces created in purpose built student accommodation, 1

HMO became available for family housing. Based on that calculation, Members were advised that the proposed development would make over 50 HMO's available for family use.

Mr Waugh acknowledged that concerns had been raised regarding the number of students who would occupy the proposed development. He advised the Committee that the application site had an established use for student accommodation and although that had been for student families, it was estimated that around 170 bed spaces could be created just by refurbishment of the existing buildings, with no requirement for planning permission.

It was highlighted that, with the exception of Kepier House, the applicant had no aspirations to refurbish the existing buildings on the site, as such a scheme would not serve to sustain or enhance the conservation area, non-designated heritage asset or residential amenity.

On the issue of residential amenity, Mr Waugh highlighted the current run-down, brownfield nature of the site and the evidence of vandalism and substance abuse which Members would have witnessed first-hand at the site visit. Such issues had been prevalent on the site since 2005. Mr Waugh stated that the current state of the site only served to detract from the residential amenity currently enjoyed by neighbouring properties and as such bringing the site back into use with a well-designed and appropriately managed scheme, could only serve to significantly improve the residential amenity of the area.

Mr P Gillespie, applicant, addressed the Committee. Members were advised that the site had been in the ownership of a local housing association for the past 10 years, which had tried on a number of occasions to obtain planning consent for family housing. All such attempts had been refused due to an inadequate level of affordable housing, the required level making the site unviable due to the site being very costly to develop.

It was highlighted that the subsequent appeal had upheld the refusal, however had supported the layout and style of accommodation. The applicant had therefore worked within those guidelines to prepare the current proposals.

Mr Gillespie advised that the format of the proposals would enable friends who might otherwise share an HMO, to either live together in flats or to make use of self-contained studios.

Members were advised that currently 17 University towns and cities in England had invoked an Article 4 Direction, limiting the growth in HMO's. The applicant had provided the Planning Authority with reports from some of those authorities, which demonstrated that the combination of the support for purpose built halls and the limitation brought about by the Article 4 Direction, had resulted in a distinct shift in demand away from HMO's.

It was highlighted that the City's population was approximately 43,000 of which there were around 15,000 students. Mr Gillespie advised that such an imbalance had an impact on the city, especially when students were out of residence. If HMO's came

back into family use, they would make a proportionally greater contribution to a more stable local economy in Durham than they would in areas such as Newcastle where the benefits of the policy were already evident.

While it was acknowledged that an Article 4 Direction was not yet in force in County Durham, Mr Gillespie pointed out that changes in the City demographics would take time, but would not happen at all unless a sufficient supply of purpose built student accommodation was made available.

Mr Gillespie advised that increases in tuition fees had led to a greater reliance by students on their parents in order to cover the cost of accommodation. As a result, parents had become more directly involved in the selection process. It was to be acknowledged that a parents criteria was different and factors such as all-inclusive rent, high levels of supervision, on-site facilities and the location, all took priority.

Members were advised of the various facilities the proposed development would offer, which included pastoral care provided by a fully trained management staff. Details of the management services were listed in the Committee report, one key aspect being that the development was a zero parking scheme with dedicated spaces for deliveries, pick up and drop off, thus avoiding disruption to local residents.

Mr Gillespie had previously been involved in similar schemes which had also been surrounded by local residents and in his experience, he believed that direct contact between staff and residents led to high levels of content for all concerned.

The applicant had designed the scheme with neighbouring residents in mind. There would be courtyard access to all of the accommodation so that any student movement, access lighting and noise would be shielded from neighbours by the buildings. Mr Gillespie advised that even the access point had been positioned so that it was opposite a pair of garages in order that headlight glare would not be a nuisance. Solutions had been offered to overlooking which both officers and the applicant, were agreeable to.

Secure by Design Approval would help ensure the safety of occupants and enable appropriate surveillance of the entire property by the management. Despite the fact that Kepier House was a non-designated heritage asset, Mr Gillespie gave assurance that it would be restored in a manner supported by the Council's Design Officer. Furthermore, no objections had been received from English Heritage or the Council's Conservation Officer.

Members were advised that the applicant would enter into a legal agreement ensuring that the building contractor provided employment for local people during the construction works. Mr Gillespie also advised that it would be ensured that long term employment opportunities were made available locally.

The Planning Policy Officer advised that from a planning policy point of view, the NPPF did not require a need test for student accommodation. While it was acknowledged that a lot of applications had come forward recently for student accommodation which, in theory, exceeded any need, there was no policy provision to allow refusal on that basis. As Policy 32 of the emerging County Durham Plan had

been found to be unsound by the Planning Inspector, Members were therefore advised that no weight should be afforded to it.

Members were also provided with advice in relation to the prematurity of the application. As there were no student accommodation allocations within the County Durham Plan the issue of prematurity did not apply.

The Solicitor took the opportunity to advise that as Policy 18 of the County Durham Plan had not been criticised by the Planning Inspector then the Committee could decide to afford it limited weight during its deliberations. However the Committee was advised that Policy 18 was a general amenity policy and so saved Local Plan Policy H13 would be relevant and could be used in that regard.

It was also emphasised that in relation to the recruitment training provisions within the S106 agreement, while the applicant was committed to that provision, Members were reminded it was a voluntary exercise as it was not something which the Authority could require from an applicant.

Councillor J Robinson sympathised with the residents, particularly in relation to the issue of need and the issue of overlooking. Further to the assertion that the land at the north of the site was unstable, he suggested that a condition could be imposed requiring a land assessment and appropriate mitigation if required.

The Senior Planning Officer clarified that the separation distance between Block 4 and the adjacent properties was 29.5m which was more than acceptable. The Committee were advised that the applicant had already suggested a condition to require angled windows in the north elevation of Block 4.

Councillor Conway raised queries regarding need and prematurity. The Planning Policy Officer clarified that need was not a matter which an applicant would be asked to demonstrate. In relation to the issue of prematurity, Members were advised that this only applied during the preparation of a local plan. As the County Durham Plan was currently considered to be unsound by the Planning Inspectorate, it was unclear whether the issue of prematurity was relevant. As such, the issue was at this stage one of judgement rather than fact.

Councillor Freeman stated that in the absence of a dedicated policy to address the issue of student accommodation, he believed the relevant existing policies to be H16 supported by H13. Furthermore, he found NPPF paragraph 50 to also be relevant.

In referring to paragraph 109 of the officers report, Councillor Freeman highlighted that despite making reference to a management plan, he felt that there was nothing to address the influx of students into a small residential area and the impact that 214 students would have on the character and amenity of the area.

Councillor Freeman felt that the University expansion over the coming years would be miniscule compared to the ongoing development of purpose built student accommodation and as such he felt that such developments were not sustainable. In addition he felt that the requirements of the NPPF regarding population mix, were not met on the current application as 214 students would create a local imbalance.



Despite appropriate separation distances being met, Councillor Freeman highlighted that the site was on a slope and the large development would be sandwiched in between terraced properties and 2 storey semi-detached properties. He was convinced that the development would be overbearing on the neighbouring properties.

Councillor Kay advised that he was more in favour of purpose built student accommodation than HMO's, though he acknowledged that the proposed number of beds would be much higher than what had been at the site previously. Taking all things into consideration, Councillor Kay could not identify any planning reasons to refuse the application.

Councillor Conway commented that the current site was an eyesore and did nothing to compliment the surrounding area. He acknowledged that to develop traditional housing on the site with an element of affordable housing, would be notoriously expensive and as such unviable for a developer. However Councillor Conway moved that the application be refused on the basis that it was contrary to saved Local Plan policies H13, H16 and C3. He stated that while he did wish to see the site developed, he was concerned that in years to come, such developments would be vacant across the city due to lack of demand. He further felt that there was a case for prematurity as it was clear to him that there was already an oversupply of student accommodation across the city.

Councillor Freeman seconded the motion for refusal of the application. While he believed that a suitable development could be achieved on the site, he did not support the current proposals.

The Solicitor took the opportunity to remind the Committee of the fallback position for the applicant, that there was already an established use on the site and as there was no difference between one type of student accommodation and another, the applicant could bring the site into use for the type of accommodation which was being proposed.

In relation to the issue of prematurity, the Planning Policy Officer clarified that Planning Policy Guidance on the issue related to emerging policy and whether approval of development would undermine an emerging plan. As the emerging County Durham Plan was currently considered to be unsound, it was difficult to argue prematurity.

Councillor Bleasdale moved approval of the application, she believed that the applicant had done everything possible to accommodate the concerns of local residents and she believed that the site was in desperate need of development.

Councillor J Clark agreed, stating that she was more than satisfied with the list of provisions in the proposed management plan. She hoped that as a result of more purpose built accommodation, that HMO's would eventually be freed up and brought back into use as family dwellings. Councillor Clark requested that a condition be included to require mitigating measures on the windows in Block 4.

The Solicitor advised that in relation to S106 arrangements, should the application be approved, the recommendation would be changed to allow officers to approve the final details of the S106 agreement.

In response to a query from Councillor Lumsdon, the Senior Planning Officer clarified that while it was not within the remit of the Committee to seek a reduction in the height of Block 4, a condition could be imposed to require mitigating measures on the windows.

The applicant clarified that he was more than willing to mitigate the issue of overlooking with the use of obscure glazing and angled windows.

Further to dispute from local residents and a request for clarification from Councillor Lumsdon regarding the height and separation distances relating to Block 4, the Senior Planning Officer took the opportunity to highlight the area and distances on a map.

The Chairman informed the Committee that a vote would be taken on Councillor Conway's motion to refuse the application, as seconded by Councillor Freeman, on the basis that the application was contrary to saved Local Plan policies H13, H16 and C3, that the application was premature and that it contravened the requirements of the NPPF relating to sustainable development.

Upon a vote being taken approval of the application was defeated.

The Chairman informed the Committee that a further vote would be taken on Councillor Bleasdale's motion to approve the application, as seconded by Councillor Clark, and with an additional condition relating to the mitigating measures on the Block 4 windows and with the authorisation for officers to approve the final details of the S106 agreement.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions detailed within the report, with an additional condition relating to measures to mitigate overlooking and with authority being granted to officers to approve the final details of a S106 agreement.

**b DM/15/00287/FPA – Woodland Barn, Darlington Road, Durham**

The Committee considered a report of the Senior Planning Officer regarding a holiday cottage and café at Woodland Barn, Darlington Road, 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.

Councillor D Stoker, local Member, addressed the Committee. Members were advised that the development site was nestled within a Woodland Trust site with a lot

of popular, intersecting walking routes, regularly used by ramblers, school trips and other groups. Despite being a popular walking area, Councillor Stoker advised that the Woodland Trust had never provided any public toilet facilities in the area, despite the number of visitors.

While he would rarely advocate development within the greenbelt, Councillor Stoker supported the proposals, particularly as the cafe would have much needed toilet facilities. He also highlighted that the development would be backed by 2 slopes and would be developed next to an existing dwelling.

In relation to highways issues, whilst acknowledging that the access was off a dual carriageway, Councillor Stoker highlighted that a new roundabout was currently being developed close to the site, the impact of which may have a calming effect on traffic speeds. Members were advised that there was no record of accidents in the area of the access point, though Councillor Stoker concurred that the access could be improved. In relation to the narrow single track access road to the site, he also accepted that issues could arise for passing vehicles.

Councillor Stoker advised Members that the site had once been an industrial brownfield site. In concluding, Councillor Stoker accepted the application to be finely balanced, however did believe that all issues could be overcome.

Councillor Robinson took the opportunity to declare an interest as he knew the applicant, as such he retired from the meeting.

Mr M French, local resident, addressed the Committee to speak in objection to the application. Mr French highlighted inaccuracies with the application. In referring to the Design and Access Statement, he advised that paragraph 5 was incorrect as the access route was used by more than only 1 resident and the development would create more traffic.

In relation to the Heritage Statement which claimed that there had been no building at the site since 1980. However having studied 1951 and 1961 editions of the Ordnance Survey Map, Mr French advised that it appeared there had actually been no building on the site for some 60 years, in which case he believed an intervention of that length of time meant the area would revert back to greenbelt.

In referring to the conclusion of the Heritage Statement which stated that the application would bring back to use a building of historic interest, Mr French pointed out that there was no building at the site location.

Mr French advised that the single track highway into the application site was unsuitable for any additional traffic and he also advised that there had been 9 accidents resulting in injury on the adjacent stretch of the A167 between 2010 and 2013. One of those accidents had been fatal and three had been in the immediate vicinity of the access to the application site.

In relation to parking, Mr French advised that there were regular issues with the misuse of passing places, with people using them to park vehicles, an issue he believed would be exacerbated should the application be approved.

In concluding, Mr French advised that the refreshments and facilities which would be offered by the café would actually be inaccessible to disabled visitors and visitors with prams or pushchairs, as the development was too far away from the designated parking areas.

Ms P Sanderson, applicant, addressed the Committee. She highlighted that in exceptional circumstances, developed could be deemed acceptable in the greenbelt and she believed that the fact the site had formerly been brownfield, was reason enough to allow development. Members were advised that there was possible contamination on the site, which she was prepared to have cleared at her own cost. The site remained brownfield in her opinion and Ms Sanderson highlighted that there were visible building remains from previous development.

Members were advised that English Heritage had commented that facilities were necessary at the site and the Woodland Trust supported the introduction of toilets. Ms Sanderson compared her application to other applications which had recently been approved and had meant development in the greenbelt.

In relation to highways issues, Ms Sanderson advised that the site had formally been a farm and an agricultural business and so heavy vehicles had regularly used the access. Members were advised that the position of the access allowed for good visibility on the A167 and that the new roundabout would reduce the speed of vehicles on the dual carriageway. The café would be used by walkers and appropriate signage would be erected.

Ms Sanderson advised that the Conservation Area would be enhanced should the application be approved, as storyboards would be erected, there would be additional hedgerow planting and, recycled water would be used and electric charging points would be installed. Members were advised that saved Local Plan Policies E7, R3 and R10 supported the proposals. Ms Sanderson further advised that there was a need to attract high spending visitors to the county and that 625 tourist accommodation rooms were required by 2030 in order for the Council to meet its potential.

Councillor Kay felt that the junction to the site was very dangerous and would require substantial remodelling, especially as it was on a dedicated cycling path. In terms of the existing remains on the site, he felt they were too insignificant to be of any relevance. He further commented that toilet facilities were not to be expected, indeed in many mountainous walking areas such as in the Lake District, it was not commonplace to find such facilities. Councillor Kay moved refusal of the application for the reasons set out in the officer's report.

Councillor Davinson seconded the motion for refusal and was in agreement with the views of the Highways Officer in terms of the egress and access at the site. He had concerns regarding the speed of traffic on the A167 and furthermore, he did not believe that visitors would always use the designated car park.

Councillor Bleasdale expressed concerns regarding the speed of traffic travelling past the site on the A167, having witnessed it first-hand earlier that day on the site visit.

Councillor Freeman queried the cost of the highway works which would be necessary for the application to be deemed acceptable by the Highways Authority. It was noted that the applicant had indicated an intention to pay for any required works.

The Highways Officer advised that in order for the proposals to be acceptable, the Highways Authority would expect a substantial stretch of deceleration lane to be developed on the A167 in the vicinity of the site. While no costs had been calculated, it was estimated such works would be in excess of £100,000.

In response to a query from Councillor Laing, the applicant clarified that the café would be expected to seat a minimum of 50 visitors.

Upon a vote being taken it was:-

**RESOLVED:-** “That the application be Refused for the reasons detailed within the report”.

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	4/12/00974/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of detached dwelling
<b>NAME OF APPLICANT:</b>	Mr R Hutchins
<b>ADDRESS:</b>	Land To Rear Of 53 Whinney Hill, Durham City, DH1 3BD
<b>ELECTORAL DIVISION:</b>	Elvet And Gilesgate
<b>CASE OFFICER:</b>	Steven Pilkington, Senior Planning Officer, 03000 263964, <a href="mailto:steven.pilkington@durham.gov.uk">steven.pilkington@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application site is located in Whinney Hill, a residential area located in the south eastern part of Durham City Conservation Area. Surrounding the application residential properties are located, including the host property of no. 53 Whinney Hill a mid-terraced dwelling which lies directly to the south east of the site. To the north the adopted highway and turning head of The Hallgarth is located and to the west a private access track serving the rear of Hallgarth Street is present. The residential gardens of 51-52 and 54 Whinney Hill are located to the south and east. The host property is located at a ground level approximately 2.8m higher than the application site, the level also falls away from the site to the adopted highway of the Hallgarth by approximately 0.5m.
2. The application seeks full planning permission for the erection of a 3 bedroomed dwelling measuring 5m in width by 7.9m in length. The pitched roof of the dwelling would measure a maximum of 6.4m to ridge height and 4.6m to eaves height. It is proposed that the property would be brick built with rendered elements, fenestration detail such a brick quoins, horizontal brick courses and flat roofed half dormers are also proposed.
3. Although sited in the rear garden of no.53 Whinney Hill the property would face out onto the residential cul-de-sac of The Hallgarth, where vehicular access would be taken off the adopted highway serving a hardstanding area. This hardstanding area would be formed on a parcel of undeveloped land currently owned by the council.
4. The application is reported to the planning committee at the request of Cllr Freeman in relation to concerns regarding the development of a greenfield site and constraints of the access.

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## PLANNING HISTORY

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5. No relevant planning history.

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## PLANNING POLICY

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### NATIONAL POLICY

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
7. 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.
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.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. 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. On highway safety, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
10. *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.
11. *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.
12. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.



13. *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 and unstable land, where appropriate.
14. *Part 12 - Conserving and enhancing the historic environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

15. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.

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

16. The following saved policies of the Durham City Local as amended by Saved and Expired Policies September 2007 are considered to be consistent with the NPPF and can therefore be given weight in the determination of this application as it is a core principle of the NPPF that decisions should be plan led.
17. *Policy E5A (Open Spaces within Settlement Boundaries)* Sets out that development proposals within settlement boundaries that detract from open spaces which possess important functional, visual or environmental attributes, which contribute to the settlement's character or to the small scale character of an area, will not be permitted
18. *Policy E6 (Durham City Conservation Area)* Sets out the Councils aim to preserve the especial character, appearance and setting of the Durham City Conservation Area by ensuring a high quality design
19. *Policy E21 (Protection of the Historic Environment)* requires development proposals to minimise adverse impacts on significant features of historic interest.
20. *Policy E22 (Conservation Areas)* Sets out that the Authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposals should be sensitive in terms of siting, scale, design and materials, where appropriate reflecting existing Architectural features.
21. *Policy H2 (New Housing within Durham City)* Sets out that within the development limits, new housing development will be permitted providing the development is located on previously developed land.
22. *Policy H9 (Multiple Occupation/ Student Households)* Sets out that the sub-division or conversion of houses to HMO's or proposals to extend or alter HMO's should

provide adequate parking, protect the amenities of neighbouring residents, have an appropriate scale/character and will not result in concentrations of dwellings to the detriment of the range and variety of local housing stock.

23. *Saved Policy H10 – Backland Development* – sets out that backland development will only be permitted where a safe satisfactory means of access can be provided, the amenity of new and existing dwellings are not adversely affected and it is in keeping with the character, density and scale of surrounding developments.
24. *Policy H13 (Residential Areas)* seeks to protect the character, appearance and amenity of residential areas.
25. *Policy Q1 (Design)* Sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
26. *Policy Q8 (Residential Development)* Sets out the standards that new residential developments should comply with. 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.
27. *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.
28. *Policy U14 – (Energy Conservation – General)* – states that the energy efficient materials and construction techniques will be encouraged.
29. *Policy T1 (General Transport Policy)* Requires all developments to protect highway safety and/or have significant affect on the amenity of occupiers of neighbouring properties
30. *Policy T10 (Parking Provision)* Seeks to limit the number of parking spaces as a property to encourage sustainable transport choices.

#### **EMERGING PLAN:**

31. In considering this proposal due regard should be had to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act (2004) which requires that proposals be determined in accordance with the statutory development plan, unless other material considerations indicate otherwise. In respect to this part of County Durham the statutory development plan currently comprises the ‘saved’ elements of the Durham City Local Plan that are consistent with the National Planning Policy Framework (NPPF). Due regard should also be had to relevant parts of the National Planning Policy Framework (NPPF) and national Planning Practice Guidance (PPG) as a material consideration. In conjunction with these material considerations regard should also continue to be had to the most up to date relevant evidence base.
32. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The

County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight in the development management process.

33. In light of the above it is considered appropriate to draw attention to the relevant components of the emerging Plan in this report to which a degree of weight can be attached. However, the weight that can be attributed to these emerging policies is of such a limited level that it should not be the overriding decisive factor in the decision making process .

*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/df>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

34. *Highway Authority* – Following amended plans offers no objections to the scheme, it is however highlighted that a 0.5m service strip should be maintained from the edge of the carriageway and that boundary treatments to the front should not exceed 1m in height.
35. *Northumbrian Water Limited* – Highlight the proximity of a sewer to the proposed dwelling which would be required to be diverted in order to accommodate the development.

### **INTERNAL CONSULTEE RESPONSES:**

36. *Design and Conservation* – Advise that a new dwelling in the proposed location would not compromise the special qualities or the setting of the conservation area due to the limited visibility and lack of interaction. However it is considered that the dwelling fails to respond to the character of the immediate area in terms of its scale, massing and fenestration detailing and would therefore have an inappropriate impact.
37. *Ecology Section* – Raise no objections.

### **PUBLIC RESPONSES:**

38. The application has been publicised by way of press and site notice, and individual notification letters to neighbouring residents. 11 objections have been received from neighbouring residents including responses from the City Of Durham Trust and Whinney Hill Community Group relating to the following issues:-
- Potential use of the dwelling by students and associated resultant noise and disturbance, loss of housing for residents and over population by students. It is highlighted that the host property has been turned into accommodation for

students while concerns are raised regarding the cumulative impact of the development

- Objections are raised on the basis that the proposal would represent development on a Greenfield Site, and therefore conflict with the Local Plan.
- The design does not reference that of surrounding dwellings and is not in keeping. The proposal will not preserve or enhance the conservation area, concerns are also raised about loss of trees and hedgerows which form the character of the area
- It is highlighted the policy requirement to encourage the orientation of dwellings to maximise the principles of energy conservation.
- Concerns are raised regarding the loss of natural drainage from the garden and restriction of overland flow in heavy rain events. It is unclear how the sewer will be diverted and the implications of this.
- Development of the site will involve council owned land
- The development will contribute to parking pressures and traffic in the area and the local road infrastructure is inadequate, while there are potential restrictions on access for users of the lane to the west of the dwelling.
- The proposal will impact on the privacy and amenity of neighbouring residents due to inadequate separation distances.
- Concerns are raised regarding the lack of publicity of the planning application and anomalies in the planning application particularly the application forms.
- The presence of potential restrictive covenants placed on the land is raised.

#### **APPLICANTS STATEMENT:**

39. The proposal is to provide a modest family dwelling on the irregular shaped rear garden of no 53 Whinney Hill. On plan the dwelling sits without affecting the surrounding properties and still retains adequate garden space for no 53. The dwelling is accessible from the existing highway infrastructure and connections to all public utilities are readily available and therefore the scheme satisfies all the criteria of sustainability.
40. The design is influenced by the adjacent post war public housing with rendered and facing brick walls and tiled roof. The topography of the area determines the floor level as sitting much lower than the Whinney Hill housing, therefore minimising any impact. The proposal provides an addition to the housing stock for family use without any loss of public space or amenity of surrounding properties.

*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.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MCCK8ABN5B000>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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41. 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 raised relate to the principle of development, effect on the character and appearance of the conservation area, residential amenity, and highway safety. These matters are addressed in turn below.

## The Principle of Development

42. The application site is located within the settlement limits of Durham City, as defined by the Durham City Local Plan Proposals Map. Saved Policy H2 of the Local Plan sets out that small scale residential developments will be acceptable within these settlement limits providing the site is classed as previously developed land.
43. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. In this respect it is considered that the general approach of Policy H2 in terms of directing development to settlements best able to support it is consistent with the NPPF and the promotion of sustainable patterns of development. While the NPPF does promote the use of previously developed land there has been a shift to an assessment of the overall sustainability of a site, and the development of greenfield sites, including garden curtilages, is not precluded.
44. In assessing the sustainability of the site, it is considered that it performs particularly well, being located within walking distance of the services, amenities and employment sites of the Durham City Centre while being in close proximity to public transport networks. Future residents would therefore have ready access to these facilities without the need to utilise the private motor car.
45. In addition to sustainability objectives, the NPPF sets out that development should provide a range of housing types and sizes responding to the needs of all members of the community, including ensuring that there is a mix and range of housing available for different members of the community. Objections around this issue have been raised, highlighting that although the applicant states that the property would be for family housing it would likely be occupied by students. Objectors consider that this would have a cumulative adverse impact given the amount of other student accommodation which is considered to negatively impact on the amenities or residents and reduces the availability of family housing. Notwithstanding the applicant's statement given the proximity of other student accommodation, it is considered possible that the proposed dwelling could be used to provide student accommodation, either immediately or in the future. This is because planning permission is not required to change of use from a C3 dwelling house to a small scale HMO (Uses class C4) or vice-versa similar to the existing housing stock in the area.
46. Saved Policy H9 of the Local Plan seeks to address this issue aiming to restrict concentrations of student households to preserve the range and variety of local housing stock and to ensure that a particular type of housing is not reduced to an unacceptable extent, policy H13 also seeks to protect the character of residential areas. In appraising the application against this policy, it is recognised that there are significant concentrations of student populations in the immediate area which is interspersed by family properties. However the proposed development is for a small new built dwelling consisting of two standard sized bedrooms and a third 'box' room. Given the likely level of occupation, even potentially by students, the proposal is considered to have a negligible impact on student populations in the area, particularly as planning permission is not required to provide student accommodation in existing housing stock up to a specified level. The limited size of the building and

accommodation potential would mean that the yields generated from letting to students would likely be similar to that of normal market rentals making it more affordable for families should the property be marketed.

47. The wider matter of student accommodation is also referenced within emerging County Durham Plan, through policy 32 which sought to limit concentrations of student populations. This was subject to a proposed main examination hearing change at the Examination in Public. However, the Policy and proposed change were explicitly found to be unsound by the Inspector's Interim Report. On this basis, Policy 32 cannot be given any weight. Although the inspector suggested different wording this also holds no weight in decision making as it has not been considered by the Council and it has not been subject to consultation or sustainability appraisal.
48. Overall it is considered that the proposed development is located in a sustainable location and would not impact on the range of housing available within the wider area. Although part of the dwelling would represent development on a Greenfield Site, in conflict with saved policy H2, in principle the location of the proposed residential development is acceptable, following appraisal against relevant national policies. This is because only limited weight can be attached to saved policy H2 given that it is not consistent with the more up to date policy contained within NPPF

#### Design, layout and the effect on the character of the area

49. Local Plan Policies E6, E21 and E22 seek to preserve the historic environment, particularly the character and appearance of Conservation Areas. These policies reflect the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in terms of having special regard to the desirability of preserving the special character and appearance of conservation areas. The NPPF also seeks to conserve or enhance heritage assets in a manner appropriate to their significance. In this instance the Heritage asset can be identified as the Durham City Conservation Area.
50. In assessing the impact of the development on the character and appearance of the Durham City Conservation Area the Councils Design and Conservation Section identify that the development site is essentially set between two distinct areas, Whinney Hill and Hallgarth Street. In terms of Whinney Hill's historic interest, it is an example of the City's period of planned expansion during the early 20<sup>th</sup> century. The plan form and the architectural character of the interwar semi-detached houses here are typical of the design of social housing at the time. Whereas Hallgarth Street's interest can be summarised as maintaining a relatively simple plan form and layout informed by the original medieval substructure and retaining its domestic character. In taking into account the special qualities of these two areas it is advised by the councils Design and Conservation Section that a new dwelling in the proposed location would not compromise the special qualities or the setting of the Conservation Area due to a lack of inter-visibility and interaction. Essentially the development would only impact at a localised level more within the context of a modern area.
51. In terms of the design of the property the Design and Conservation Section highlight that the surrounding housing stock in Whinney Hill has a distinctive character, where houses conform to a regular pattern, size and material palette principally with hipped overhanging pan tiled roofs. It is noted that properties in Whinney Hill do vary but the general characteristics include moderately wider foot prints, hipped roof, curved bays and windows set below the eaves. It is advised that the proposed dwelling displays insufficient characteristics of this local vernacular and along with contemporary

elements would generate a new building which would be out of keeping with its surroundings.

52. In considering the proposal against the above policy context and comments raised by the Councils Design and Conservation Section, it is appreciated that the dwellings of Whinney Hill do have a distinctive character, defined by the regularity of the style of the dwellings and materials used. However the application site is located in what is considered to be a transition area between three distinctive areas within this part of the conservation area, namely Whinney Hill, Hallgarth Street and thirdly the dwellings that line The Hallgarth. Although the property is seen against the backdrop of the rear elevations of Whinney Hill it is not seen in the wider context of the Whinney Hill street scene, fronting out onto Hallgarth Street. The character of Hallgarth Street is defined by flatted properties built in the 1970's, brick built with pitched roofs. The architectural quality of these properties is considered to be significantly less than that of Whinney Hill and Hallgarth Street. While acknowledging the views of the Design and Conservation Section, given the location of the proposed dwelling, it is considered appropriate that the property would take design cues from both streets and on this basis the design of the property is considered acceptable particularly considering the limited interaction with the wider Whinney Hill street scene and more sensitive areas of the Conservation Area. The finer detailing of the dwelling, including materials used and window detailing is recommended to be controlled by condition, to ensure an appropriate match with surrounding properties.
53. The formation of the proposed hardstanding will require the removal of a small grassed area currently owned by the council. This parcel of land is considered to offer little to the street scene and the formation of a hardstanding would be similar to the vehicular access to the rear of no. 54 Whinney Hill. No significant trees or vegetation would be removed to facilitate the development.
54. Overall it is considered that the siting and design of the dwelling would have an acceptable impact on the character of the surrounding area and would not impact on the wider character and appearance of the Conservation Area in accordance with policies E6, E21 and E22 of the Local Plan and section 12 of the NPPF. The proposal would therefore satisfy Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in this respect, as it is considered to preserve the character and appearance of the Conservation Area.

#### Residential Amenity

55. Policy Q8 of the Local Plan requires new residential developments to protect the amenities of adjacent land users by setting out a number of guideline separation distances. This includes a 21m buffer between windows of habitable rooms, 13m between a habitable room window and a two storey gable.
56. The proposed development would be sited at an approximate 45 degree angle to the rear elevations of the terrace of 51-54 Whinney Hill. A distance of 10.8m would be evident to the rear elevation of the nearest property of no.54 Whinney Hill and the corner of the rear elevation of the proposed dwelling. Although this distance falls below the guideline distance of 13m, given the drop in levels to the application site (approx. 2.8m to its most extreme point) and the orientation of the proposed dwelling this is considered acceptable and would not compromise amenity standards. Views back towards 51-54 Whinney Hill would be at a tight obscure angle, again due to the orientation of the dwellings. This angle would lessen towards no's.51-52, however a separation distance of approximately 21.5m would be evident in line with policy guidance.

57. To the front of the proposed dwelling the properties of 30-36 The Hallgarth are located. A separation distance of approximately 19.5m would be evident between the front elevation of the proposal and the frontage of these properties. Although again this would fall below the minimum recommended 21m separation distance between habitable room windows this is considered acceptable given the public frontages of these properties. In addition, the proposed dwelling does not occupy a direct face to face relationship, being partially offset from the end property of the facing block.
58. The amenity space of the proposed dwelling, consisting of a rear and side garden and hardstanding driveway would measure approximately 105m<sup>2</sup>. Although limited in size, this space is considered sufficient to serve this modest dwelling. Although these outdoor spaces would be directly overlooked there would be the opportunity to form private areas due to the level changes on site and likely boundary treatments. Sufficient space would be provided for bin storage and off street car parking for two vehicles.
59. Objections have been received regarding potential noise generated from the development as it has the potential to be occupied by students. Policy H9 of the Local Plan sets out that conversion or extension of properties for student accommodation/HMO's will only be permitted where they protect the amenity of neighbouring residents and there is adequate amenity areas provided at the property. The policy clarifies this by stating that adverse effects on the amenities of other occupants include noise disturbance and infringement of privacy. Although this policy does not directly relate to new builds, it is considered relevant given the use of the host property and the possible occupants of the dwelling. However as highlighted above, this is a small property and even if occupied by students, the number of occupants would be limited, while being set away from existing dwellings, and this is not considered a sufficient reason to refuse the planning application.
60. The Council's Environmental Health Section has recommended conditions relating to working hours and construction activities. However, these construction related effects are matters which the planning system cannot reasonably prevent or control and there are controls outside of planning that deal with noise nuisance and other disturbance, which would be more appropriate controls than planning conditions. Therefore, there is no precise justification for such conditions in this instance, particularly given the scale of development proposed.
61. Overall it is considered that the proposed development would have an impact on the levels of privacy and amenity experienced by neighbouring developments. However this is not considered to adversely affect the amenity of neighbouring residents nor prospective occupants of the new dwelling to a degree that should lead to refusal of planning permission. It is therefore considered that the proposal complies with policies H9, H13 and Q8 of the Durham City Local Plan in this respect. It is however recommended to remove permitted development rights for extensions and future alterations given the constraints of the site.

#### Access and highway safety issues

62. Saved policies H10, Q8 and T1 of the Durham City Local Plan require that all developments protect highway safety and provide sufficient off street car parking. As part of the consideration of this application, a consultation exercise has been held with the Council's Highway Section, who offers no objections to the scheme. This is on the basis of an appropriate level of off street car parking (2 spaces) and the sufficient manoeuvring on the highway to access the dwelling.



63. Concerns have been raised from local residents regarding the potential restriction of an access way to the west of the site. This access way is utilised by residents under a private agreement with the Council and which serves a number of garages and accesses to the rear of Hallgarth Street. However the proposed development will not encroach onto this access track and sufficient manoeuvring will still be achievable to access garages without encroaching onto the applicants land. The council as the owner of this access way has the ability to enforce against any blockage, however it is considered unlikely that this development would encourage the blocking of this access given the level of car parking proposed on site.
64. It is therefore considered that the scale of development and proposed use of the vehicular access would not have an adverse impact on highway safety or local highway capacity. This accords with Durham City Local Plan saved policies H10, Q8 and T1. On the advice of the highways officer it is however recommended to remove permitted development rights for fences, to ensure satisfactory visibility. A condition requiring the implementation of the hard standing space is also recommended.

#### Other issues

65. Paragraph 11 of the NPPF and policy E16 of the Local Plan requires Local Planning Authorities to take into account, protect and mitigate the effects of development on Biodiversity Interests. In this instance given the cleared nature of the site, it is considered unlikely that the granting of planning permission would constitute a breach of the Conservation Habitats, & Species Regulations 2010 (as amended) as advised by the Ecology Section.
66. As advised by Northumbrian Water a sewer crosses part of the application site which would need to be diverted in order to accommodate the development. Significant negotiations have been held between the applicant and Northumbrian Water and in principle this has been agreed. It is not considered necessary, given Northumbrian Waters statutory function, to control this through the planning system. It is however recommended to attach a condition to require full details of foul and surface water disposal, to utilise sustainable drainage where appropriate.
67. Concerns have been raised by residents regarding the potential for the development to impact on localised surface water flooding which is advised that in extreme events flows down the private lane to the west. However the application site sits slightly higher than the lane and is therefore not considered to impede any flows, while surface water runoff from the development will either be directed to mains drainage or sustainable drainage where appropriate. It is therefore recommended, as indicated above, attaching a condition to require full details of foul and surface water disposal to be submitted to and agreed before the development commences.
68. Objections have been raised regarding the potential for restrictive covenants on the land, however this is not a material planning consideration and the developer would need to satisfy themselves that they have the legal right to carry out the development.

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## **CONCLUSION**

69. The proposed scheme has been considered against the policy documents identified above. The principle of the development is considered acceptable being located within the settlement limits of the City of Durham, in a sustainable location. The scale and location of the development is not considered to have a significant increase on the student population in the area.

70. The scheme is considered appropriate in terms of impact upon the Durham City Centre Conservation Area as the development would not be seen in the wider context of the Conservation Area and its appearance is considered appropriate in relation to existing housing stock.
71. Although the development would have a degree of impact on the amenity and privacy of surrounding developments, this impact is not considered to be significant in this instance to warrant refusal of the scheme.
72. The development would not have an adverse impact on highway safety or any ecology interests. There are no material planning considerations which indicate a decision should be otherwise, and therefore 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:-

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

Proposed Elevations and Floor Plans, Ref 12 40 02 E, Received 25<sup>th</sup> February 2015  
Proposed Site Plan, Ref 12 40 03 C, Received 25<sup>th</sup> February 2015  
Proposed Elevations Sections, Ref 12 40 04, Received 25<sup>th</sup> February 2015

*Reason – To define the consent and ensure that a satisfactory form of development is obtained in accordance with policies E6, E21, E22, , H2, H9, Q1, Q8, T1, T10 of the Durham City Local Plan*

3. Notwithstanding any details of materials submitted with the application, no development shall commence until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details thereafter.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.*

4. Notwithstanding the submitted information, details (including cross-sections), materials and colour of all windows, (including dormer windows) shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved commences. The development shall be carried out in accordance with the approved details thereafter.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.*

5. Notwithstanding the provisions of Class A,B, D and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwelling hereby approved shall be submitted to and approved by the Local Planning Authority.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area and to protect the amenities of neighbouring residents in accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.*

6. Notwithstanding the provisions of Class A, of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no fence or means of enclosure shall be erected forward of any wall of the dwelling hereby approved fronting onto a highway.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area and to ensure satisfactory visibility in the interests of highway safety in accordance with the provisions of policies E6, E21, E22, Q8 and T1 of the Durham City Local Plan*

7. Notwithstanding the submitted information full details including the materials to be used and construction details of the proposed vehicle hard standing shall be submitted to and approved in writing by the Local Planning Authority. The hardstanding shall be implemented in accordance with the approved details and brought into use prior to the first occupation of the dwelling.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area and to ensure satisfactory in curtilage car parking in the interests of highway safety in accordance with the provisions of policies E6, E21, E22, Q8 and T1 of the Durham City Local Plan*

8. No development approved by this permission other than preliminary site excavation shall commence until a detailed scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and implemented in accordance with the approved scheme thereafter.

*Reason: to ensure a satisfactory means of drainage for foul and surface water in accordance with policy U8a of the Durham City Local Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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65. In arriving at the recommendation to approve the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant, and carefully weighing up the representations received to deliver an acceptable development.

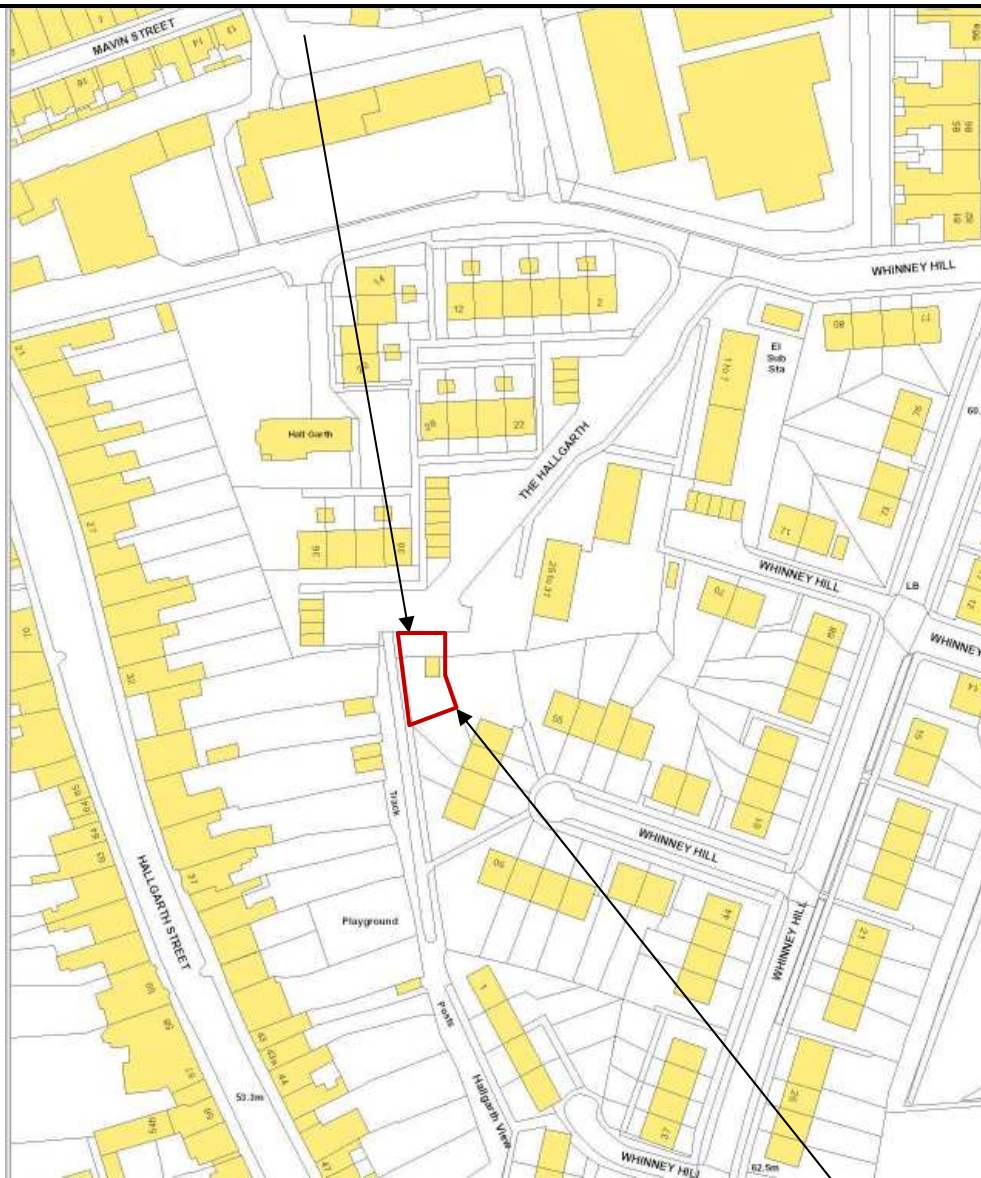
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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
Durham City Local Plan  
National Planning Policy Framework  
Consultation responses  
County Durham Local Plan Submission Version  
Application 4/12/00974/FPA

Proposed Access  
Location



Application Site



**Planning Services**

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Erection of 1no. Detached Dwelling

**Comments**

**Date** 27<sup>th</sup> April 2015

**Scale** 1:2500

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/15/00542/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Construction of 10no. Dwellings</b>
<b>NAME OF APPLICANT:</b>	<b>Mr K Tallentire</b>
<b>ADDRESS:</b>	<b>Land Adjacent Fir Tree Inn, Durham Road, Wingate</b>
<b>ELECTORAL DIVISION:</b>	<b>Wingate</b>
	<b>Chris Baxter</b>
<b>CASE OFFICER:</b>	<b>Senior Planning Officer</b>
	<b>03000 263944</b>
	<b>chris.baxter@durham.gov.uk</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is a vacant parcel of land located adjacent to the Fir Tree Pub in Wingate. The site measures approximately 0.2 hectares in size. The site is surrounded by residential properties to the north, south and west. The residential property of Greenways is located to the north. Neighbouring property Hillcrest is located directly to the west. Neighbouring properties on Taylor Grove are located to the north west. Neighbouring properties on Durham Road are situated to the south opposite the adopted highway.

### The Proposal

2. Planning permission is sought for residential development for 10 houses in total. All 10 properties are to be 4 bedroom dwellings, with a mix of semi-detached and linked units. There is a mix of two storey and two and a half storey properties. The two storey properties are proposed to be located on the south boundary adjacent to the highway. Each property has individual rear gardens as well as a parking space. 15 parking spaces are also included within the scheme.
3. The application is reported to the Planning Committee as it constitutes a major development.

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## PLANNING HISTORY

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4. Outline permission was granted in 2005 for 4no. houses. In 2007 planning permission was granted for 7no. houses and this permission was extended in 2010. Currently the site does not have any valid planning permission.

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## PLANNING POLICY

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## NATIONAL POLICY:

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
7. The following elements are considered relevant to this proposal;
8. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
9. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
11. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

## LOCAL PLAN POLICY:



## District of Easington Local Plan

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

### EMERGING POLICY:

25. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public in April 2014 and

stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

26. *Environment Agency* has.

27. *The Coal Authority* has not raised any objections.

28. *Northumbrian Water* has not raised any objections to the proposed development.

29. *Durham County Highways Authority* has not raised any objections to the proposed development.

### **INTERNAL CONSULTEE RESPONSES:**

30. *County Drainage Team* has not raised any objections.

31. *County Tree Officer* has indicated that there are trees (including a tree covered by a tree preservation order) which will need to be protected during development.

32. *County Environmental Health (Noise and dust)* has not raised any objections in principle but has advised that a condition is imposed for noise attenuation details to be provided.

33. *County Environmental Health (Contaminated land)* has not raised any objections but has requested that conditions are attached to any permission requiring further investigation works on the site.

34. *County Ecology Section* has not raised any objections.

### **PUBLIC RESPONSES:**

35. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. No letters of representation have been received.

### **APPLICANTS STATEMENT:**

36. The development of the Durham Road site will create a new residential scheme of 10 new homes on vacant land which was previously used as a quarry.

37. Prince Bishops Homes provides a wide range of quality properties to rent across County Durham and the North East of England and through our innovative rent to buy scheme, Prince Bishop Homes help prospective purchasers into home ownership who would otherwise be unable to purchase their own home. The Prince Bishop Homes scheme is designed for those individuals who wish to purchase a home but cannot afford a mortgage or access funding. The scheme provides the opportunity for a purchaser to acquire the property after occupying the home for 4 years by giving a discount which can be used as a deposit when applying for a mortgage.
38. The new scheme will provide a range of 4 bedroom homes designed to meet the needs of growing families, close to the major transport links of Durham and the wider North East of England. Despite many challenges, the proposals for the site have been developed to create a scheme of high design quality which fits in to the local area and completes the development of the recently converted Fir Tree site.
39. The scheme will be delivered in partnership with Gus Robinson Developments, a locally based construction and housebuilding company with a proud tradition of delivering quality homes and for the training and development of its people. Gus Robinson Developments has been recognised nationally for its investment in the creation of new apprenticeships and development of its staff.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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

### Principle of residential development

41. This scheme proposes housing development on land that is located within the existing settlement boundary for Wingate. The proposed development therefore directly accords with policy 3 of the local plan which directs housing within the settlement of Wingate.
42. A key material consideration in determining this application should be the NPPF. A strategic policy objective of the NPPF is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs. Local planning authorities are expected to boost significantly the supply of housing, consider housing applications in the context of the presumption in favour of sustainable development, and create sustainable, inclusive mixed communities in all areas both urban and rural. Housing should be in locations which offer a range of community facilities with good access to jobs, key services and infrastructure. Wingate has a good range of shops, services and public facilities which are all in suitable walking distance to the application site. On this basis the application site and the proposed development is considered to be sustainable and therefore in accordance with the sustainable principles of the NPPF.
43. The proposed development for housing is considered acceptable, as the residential scheme is located within the settlement boundaries for Wingate and would be

sustainable development being within close walking distance to shops, services and public facilities. The development would be in accordance with policy 3 of the local plan and the criteria detailed in the NPPF.

#### Highway and access issues

44. The layout of the estate has been designed so each property has a car parking space and this is an additional 5 visitor parking spaces. The access to the site is to be taken directly from Durham Road and it is considered that adequate visibility can be achieved at this access. County Durham Highways Authority have been consulted on the proposals and they have raised no concerns over the proposed parking provision or the access. It is therefore considered that the proposed scheme is acceptable in highway terms and highway safety would not be compromised.
45. The Highways Authority has noted that there are some existing speed humps on Durham Road which are located directly opposite the proposed access to the site. A revised traffic calming scheme along Durham Road, which would possibly involve the relocation of these speed humps, would need to be submitted prior to the properties being occupied. A condition is recommended accordingly.
46. Given the above, it is considered that the proposed development would not have an adverse impact on highway safety and the proposal would be in accordance with policies 36 and 37 of the local plan.

#### Layout, design and visual amenity

47. The existing site is currently vacant and does not contribute to the appearance of the street scene. The surrounding area is predominantly residential therefore the construction of residential properties would not look out of keeping. The properties along Durham Road are mainly two storey hipped roof dwellings. The proposed properties to be located on along the main road have been specifically designed as two storey hipped roof properties to match in with the existing houses along the street. The property on plot 1 originally had its main outlook facing east, with a gable elevation facing onto the main road. This house has been specifically designed to have a double frontage so the elevation onto the main road now has an active frontage with windows and a front door. It is considered that the properties along the front of the site have been designed well to ensure that they would not appear out of keeping with other houses in the area.
48. The neighbouring properties located within the site are to be two and half storey height. Given these properties would be within the site they would be partially screened by the properties located along the front of the site. The design of these properties is fairly standard modern designs and it is not considered they would appear unusual within the setting of the development.
49. Details submitted with the application indicate that the properties are to be constructed from facing brickwork, render and roof tiles. The specific type of materials has not been specified and a condition is recommended to ensure these details will be submitted. There is a mix of different type of materials in the street including brick and render. It is not considered that the proposed materials would appear out of keeping within the street scene.
50. There are existing trees on the site and the majority of these are to be retained. A landscaping scheme is also proposed which will mainly see planting along the south boundary of the site. This landscaping and planting will provide an attractive frontage

to the site. No boundary treatment details have been submitted with the application and a condition is recommended for these details to be submitted.

51. Overall, it is considered that the proposed development would not appear intrusive within the surrounding streetscape and the design and layout of the properties and the estate would not have an adverse impact on the visual amenity of the surrounding area. The proposal is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.

#### Residential amenity

52. Internally within the site, the relationship between the proposed properties is acceptable as adequate separation distances are achieved between the dwellings. This would ensure that sufficient levels of privacy would be achieved for future occupiers of the new houses. Each new property would also have sufficient amounts of private rear garden amenity space. There are neighbouring properties located to the north and north east of the site which are sited over 21 metres from proposed properties. The neighbouring properties to the south are situated over 21 metres from proposed properties. The gable elevation of neighbouring property Hillcrest to the west is located 13 metres from proposed properties. These separation distances are considered acceptable and would ensure that adequate levels of privacy are maintained for existing residents. It is also considered given the positioning of the proposed properties and the orientation with surrounding dwellings, there would be no adverse overbearing or overshadowing issues created. It is considered that the proposed development would ensure neighbouring occupiers would not be detrimentally affected in terms of overbearing or overshadowing impacts or loss of privacy.
53. Environmental Management Contamination Officers have not raised any objections in principle to development on the site however they have indicated that further investigation works needs to be undertaken. These investigation works can be sought through a pre-commencement condition, and such a condition is recommended accordingly.
54. Environmental Management Noise Officers have also not raised any objections to the development in principle. It has been noted that the Fir Tree pub to the east of the site is currently undergoing conversion to a convenience store. As there are properties proposed to be built directly adjacent to the convenience store the Noise Officer has requested that a noise survey be undertaken. It is noted that the convenience store is only to be a small operation and not of a scale of a supermarket. There are also existing properties which surround the site of the convenience store which would experience any noise coming from the store. It is not considered appropriate in this instance for a noise survey to be required.
55. Overall, it is considered that the proposed development has been sensitively designed and would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.

#### Section 106 contributions

56. As this is a major residential development of 10 houses, financial contributions are required towards other local functions and facilities within the vicinity of the site. A contribution of £5,000, based on the sum of £500 per dwelling, is therefore required towards the adequate provision for children's play space and outdoor recreation

space in the electoral division of Wingate. These contributions are to be secured through a Section 106 legal agreement.

57. The above contributions would help to support and improve facilities within the surrounding locality for the benefit of occupiers of the additional properties and also existing residents of the local community and would be in accordance with policy 66 of the local plan and requirements detailed in the NPPF.

#### Other issues

58. The Coal Authority and Northumbrian Water have been consulted on the proposed application and no objections have been raised. The Council's Drainage Team have also not raised any objections to the proposed development.
59. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
60. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
61. The applicant has submitted a habitat survey which has been assessed by the Council's ecology officers. The survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion although further information is requested. Given this, there is no requirement to obtain a licence from Natural England and therefore the granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2010. Notwithstanding the above, a condition is recommended which would ensure care is taken during construction in accordance with the recommendations in the submitted habitat survey. Subject to this mitigation, it is considered that the proposals would be in accordance with saved policy 18 of the Local Plan and part 11 of the NPPF.
62. The Environment Agency (EA) have not raised any concerns to the development in principle however they have raised objections as insufficient information has been submitted in relation to risk of pollution to controlled waters. The applicant has submitted information to overcome the objection and this information is currently with the EA for consideration.

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## **CONCLUSION**

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63. The proposed development for housing is considered acceptable in principle. The residential scheme is located within the settlement boundaries for Wingate and would be sustainable development being within close walking distance to shops, services and public facilities. The development would be in accordance with policy 3 of the local plan and the criteria detailed in the NPPF.

64. The proposed development provides sufficient parking provision and a suitable access from the adopted highway of Durham Road. The County Highways Authority have not raised any objections to the proposed development. Overall, the proposed development is considered acceptable in highway terms and would not adversely affect highway safety for pedestrians, vehicles or other highway users. The proposals would be in accordance with policies 36 and 37 of the local plan.
65. The proposed development would not appear intrusive within the surrounding streetscape and the design and layout of the properties and the estate would not have an adverse impact on the visual amenity of the surrounding area. The proposal is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.
66. The proposed development has been sensitively designed and would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies 1, 35, 36 and 37 of the local plan.
67. A number of improvements would also be facilitated within the surrounding area arising from developer contributions that would enhance sport and recreational provisions in the surrounding area. A developer contribution of £5,000 would be secured through a Section 106 legal agreement.
68. A detailed ecology survey has been submitted with the application and this survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion. As such, it is considered that the proposed development would be in accordance with saved policy 18 of the District of Easington Local Plan and part 11 of the NPPF.

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## **RECOMMENDATION**

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That Members **APPROVE** the application subject to the completion of a Section 106 Legal Agreement to secure the payment of £5,000 towards enhancements to sports provision and recreational areas in the locality; and subject to the following conditions;

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

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

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

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
14.18-101A	Site Location Plan	23/02/2015
14.018/103F	Proposed Site Plan	07/04/2015
14.018/104B	Proposed Landscaping Site Plan	25/03/2015
14.018/204A	4 Bed 2.5 Storey House Type B	23/02/2015
14.18/202D	Block 3 (Plots 7 & 8)	23/02/2015
14.18/203D	Block 1 (Plots 1 & 2)	23/02/2015
14.18/201C	Block 4 (Plots 9 & 10)	23/02/2015

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

3. No development shall commence until details of means of enclosures shall be submitted to and approved in writing by the Local planning authority. The development shall be undertaken in accordance with the approved details.

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

4. Prior to the commencement of the development details of the surface treatment and construction of all hardsurfaced areas shall be submitted to and approved in writing by the Local planning authority. The development shall be undertaken in accordance with the approved details.

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

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

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

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

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

7. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Phase 1 Habitat Survey & Potential for Protected Species Survey prepared by All About Trees date issued 2<sup>nd</sup> March 2015.

*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. Prior to any development commencing on site a scheme for revised traffic calming measures adjacent to the site on Durham Road must be submitted to and approved in writing by the Local Planning Authority. The approved scheme must be completed prior to the occupation of the first dwelling.

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

9. No development approved by this permission shall be commenced until:



- a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the LPA;
- b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
- c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
- d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
- e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11.*

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



**Planning Services**

**Construction of 10no. Dwellings at Land Adjacent Fir Tree Inn, Durham Road, Wingate Ref: DM/15/00542/FPA**

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**Date 11<sup>th</sup> February 2014**

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/15/00911/RM</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space. Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT.</b>
<b>NAME OF APPLICANT:</b>	<b>Bett Homes Limited</b>
<b>ADDRESS:</b>	<b>Land to the north of Willowtree Avenue, Gilesgate Moor</b>
<b>ELECTORAL DIVISION:</b>	<b>Belmont</b>
<b>CASE OFFICER:</b>	<b>Chris Baxter</b> <b>Senior Planning Officer</b> <b>03000 263944</b> <a href="mailto:chris.baxter@durham.gov.uk">chris.baxter@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a previously un-developed green field site which sits to the north of Willowtree Avenue, Gilesgate, Durham. The site measures approximately 1.49 hectares in size and is situated within the City of Durham settlement boundary. Residential properties on Willowtree Avenue sit to the south of the site, while residential properties at the Paddocks sit to the east. The A690 and associated slip road sits to the north of the site while business and industrial uses sit separated from the site to the north east beyond Broomside Lane. The site has no particular designation within the City of Durham Local Plan and the principle of development of the site for housing has been accepted as part of the emerging County Durham Plan, and through a grant of outline planning permission. Access would be taken from the western side of Willowtree Avenue where the road links with Broomside Lane.

### The Proposal

2. This application seeks agreement of the reserved matters - appearance, landscaping, layout and scale relating to a previous outline approval (ref CE/13/01651/OUT). Information is also submitted in respect of other conditions attached to the outline approval which are not reserved matters, although it should be noted that discharge of such conditions is a delegated matter. Equally, any variation to the existing S106 Obligation for the site is not a matter for the Committee and is delegated to the Head of Planning.

3. This application is being referred to the planning committee at the request of Cllr Conway.

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## **PLANNING HISTORY**

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4. Planning permission was refused for residential development at the site in 1973. Outline planning approval for residential properties was refused in 1980. Outline Planning permission was refused for residential development at the site in 1985. An appeal against this decision was dismissed following a local Inquiry in 1986. Planning permission was refused for residential development at the site in 2003. An appeal against the refusal was dismissed. Planning approval for 1 residential dwelling was refused at the site in 2004. An application was granted approval in 2009 for the change of use of land for the keeping of horses. A planning application for the erection of stable block was approved in 2010.
5. An outline planning application for a maximum of 54 no. dwellings was refused by the planning committee in October 2013. An appeal against this refusal was dismissed by the planning inspectorate. An outline application for up to 49 dwellings was approved by the planning committee in March 2014. A discharge of conditions application was approved in 2014 relating to Archaeology. A reserved matters application was refused by the planning committee in January 2015, and this application is a resubmission of that refused application. The reserved matters application was refused for the following reason:

*The development would not be appropriate in scale and form to the character of its surroundings, would fail to respond to local character and would detrimentally affect the residential amenities of nearby and adjacent properties through the proximity and overbearing impact of the new dwellings, contrary to Policy Q8 of the City of Durham Local Plan and Part 7 of the NPPF.*

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
10. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce

congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

11. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* 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 application 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.
12. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning..
13. *NPPF Part 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.
14. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
15. *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**

16. *Policy E5a (Open Spaces within settlement boundaries)* states that development proposals within settlement boundaries that detract from open spaces which possess important functional, visual or environmental attributes, which contribute to the settlements character or to the small scale character of an area will not be permitted.
17. *Policy E10 (Areas of Landscape Value)* outlines that the Council will protect the landscape value of the area.

18. *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.
19. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
20. *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.
21. *Policy H2 (New Housing Development within Durham City)* sets out criteria outlining the limited circumstances, in which new housing within Durham City will be permitted, this being primarily appropriate on previously developed land and through conversions.
22. *Policy H12 (Affordable Housing: Ensuring a range of house types)*. This Policy states that on larger sites proposed for housing the council will negotiate a fair and reasonable level of affordable housing provision.
23. *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.
24. *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.
25. *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.
26. *Policy T21 (Safeguarding the Needs of Walkers)* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
27. *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.

28. *Policy R11 (Public Rights of Way and other paths)* states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative route could be provided.
29. 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.
30. 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.
31. 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.
32. 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
33. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
34. *Policy U8a (Disposal of Foul and Surface Water)* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
35. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
36. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
37. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

## **RELEVANT EMERGING POLICY**

The County Durham Plan

38. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

39. *County Highways Authority* has not raised any objections to the proposed development.
40. *Northumbrian Water* has not raised any objections to the proposed development.
41. *The Coal Authority* has not raised any objections to the proposed development.
42. *The Environment Agency* has not raised any objections to the proposed development.
43. *Belmont Parish Council* has commented on the application indicating that they remain disappointed that the proposed affordable housing element of the scheme being apartments and the opportunity to provide bungalows for elderly people should be taken. There are also concerns with parking provision being insufficient for the apartments and the positioning of the apartment bin store.

### **INTERNAL CONSULTEE RESPONSES:**

44. *Archaeology* has not raised any objections to the scheme.
45. *Environmental Management (Contamination)* has not raised any objections to the scheme.
46. *Environmental Management (Noise/light/smoke/dust/odour)* has not raised any objections.
47. *Ecologist* has not raised any objections.
48. *Design and Conservation* has not raised any objections.
49. *Landscape Team* has not raised any objections in principle but has advised that some alterations are made to the landscape scheme.
50. *Tree Officer* has not raised any objections to the scheme.



51. *Drainage Officer* has not raised any objections to the scheme.

52. *Education Team* has confirmed that there are sufficient primary and secondary school places to accommodate the additional pupils likely to be produced from this development.

53. *Public Rights of Way* have not raised any objections to the scheme.

#### **PUBLIC RESPONSES:**

54. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. 10 letters of representation have been received from local residents. The majority of the letters are objecting or raising concerns with the proposed development.

55. Objections are raised in relation to the layout and style of dwellings not being in keeping with the character of the area, development being too tightly packed together, gardens too small, three storey development not appropriate and overlooking and loss of privacy to existing properties on Willowtree Avenue. The proposals are therefore considered to be contrary to local plan policies.

56. Highway concerns are raised, in particular in relation to parking during construction stage, as well as additional traffic the development would bring and lack of parking on site.

57. Concerns have also been raised in terms of flooding issues and over capacity of the sewer network. There are concerns that the site is contaminated, that there are power lines that cross the site and also that there are mining issues. Objections are also raised to the loss of trees on the boundary of the site. Local residents have also indicated that rental flats are not appropriate to the area and would detract from local property value.

#### **APPLICANTS STATEMENT:**

58. This revised reserved matters application for 42 new dwellings has been changed to reflect the comments of members at planning committee in January 2015 and a subsequent public consultation event and individual meetings with local residents. Further pre-application discussions with the Council have also taken place in seeking to address the previous reason for refusal.

59. The applicant has listened to the observations and advice of members, the general public, local residents and officers of the Council to create a scheme that will maintain the privacy and amenity of existing residents whilst creating both well designed new family housing and much needed local affordable housing.

60. It must be remembered that the site has outline planning consent for 49 dwellings which, whilst granted by the Council and not an Inspector, has established the principle of development of housing on the site including the position of the new access onto Willowtree Avenue. Those matters are not being considered in this reserved matters application which seeks only to consider the design, layout, scale and landscaping of the scheme.

61. What raised concerns for members previously, was the design and layout of the development, particularly the relationship of new housing with existing housing along

the southern boundary with Willowtree Avenue. The revised scheme has ensured that all new housing on that common boundary is now two storeys with at least the minimum separation of 21m between the rear of existing and proposed new housing.

62. Whilst the scheme retains the affordable units in 2.5 storey apartments, they are set back from existing properties and separated from them by new housing. Given the topography of the land, the apartments will not impact on any existing dwellings and are designed to integrate with the new housing in terms of design and location, scale and massing.
63. The applicants consider that they have worked with the Council, members and local residents to create an improved and acceptable scheme and would welcome further dialog should planning be granted regarding construction in order to minimise any disruption on the local population.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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64. 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 appearance, landscaping, layout and scale of the development, residual highways issues and other issues. The principle of the development of this site is not for consideration as part of this application as the principle for residential development for this site was established through outline approval CE/13/01651/OUT.

### Appearance, landscaping, layout and scale of development

65. This application is a resubmission of a previous reserved matters application which was refused by the planning committee for the following reason:

*The development would not be appropriate in scale and form to the character of its surroundings, would fail to respond to local character and would detrimentally affect the residential amenities of nearby and adjacent properties through the proximity and overbearing impact of the new dwellings, contrary to Policy Q8 of the City of Durham Local Plan and Part 7 of the NPPF.*

66. The developer has amended the scheme in line with the comments raised at the previous committee with the intention to overcome the reason for refusal. The developer has also undertaken a public consultation event with local residents. The changes to the scheme include the following:

- Relocated 2.5 storey homes away from the common boundary with Willowtree Avenue;
- Ensure a minimum of 21 metre separation distance;
- Alterations made to the design of some of the properties;
- Clarified topography of the site to demonstrate that the finished floor levels of the proposed homes at the highest part of the site will be below those of existing houses on Willowtree Avenue.

67. Policies H13 and Q8 seek to ensure that new developments preserve the amenities of residents. Policy Q8 provides detailed guidance on separation distances between properties to ensure adequate amenity. Policy H13 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.

68. Officers note that the application has been scaled down from the outline stage with 42 dwellings now proposed as opposed to the maximum number of 49 that the outline application allowed. This has allowed a higher quality scheme with reduced density to be brought forward.
69. It is considered that the scheme which has been put forward, offers a mixed street scene, the majority of dwellings being provided as detached dwellings of two storey construction. Officers acknowledge that the existing residential area adjacent to the site currently comprises of a large degree of semi-detached dwellings, although the closely spaced proposed detached dwellings are not considered significantly at odds with the urban grain of the area.
70. Five house types are proposed. 6no. 4 bedroom semi-detached properties would be provided of two and a half storey design which would be scattered amongst the site but would not be located along the boundary with the properties on Willowtree Avenue. 19 no. 4 bed detached properties are proposed, along with 8 no. 3 bedroom detached properties. In addition within an apartment block towards the eastern side of the site 6no. 1 bed and 3 no. two bedroom apartments would be provided. All properties are of pitched roof design with a variety of materials and design features. The proposed materials for the properties are to consist of a mix of brick and render, with tiled roofs, reflective of materials within the existing residential area.
71. Officers acknowledge concerns that have been raised surrounding the three storey development proposed at the site. Care has been taken to locate the three storey flats on one of the less sensitive parts of the site where their impact would be lessened. There is some very limited 3 storey development within the area, most notably in the form of flats a Belgravia House to the south east. The level of provision of two and a half storey accommodation was negotiated downwards significantly by Officers through the pre application process. The remaining provision of this type of accommodation in the form of 6 units is considered limited in the context of the site with no significantly harmful impacts noted from the scale of these dwelling types.
72. Policy Q8 outlines guideline separation distances between dwellings. This policy seeks a window to window separation distance of 21mtrs and a window to blank two storey separation distance of 13mtrs.
73. Officers consider that the most direct relationship that dwellings on the application site would have to existing development would be the relationship of plots 1-9 with the rear of properties on Willowtree Avenue. The required 21mtr distance would be met or exceeded on this part of the site, although Officers acknowledge that these properties would suffer reduced outlook and privacy as opposed to looking across the undeveloped land. The relationship of properties within the site would be acceptable when considering properties at The Paddocks, situated across Willowtree Avenue to the east.
74. Within the site these guidelines on the whole would be met. The separation distance between the rear of the flat block and the side of plot 32 would be approximately 12.5mtrs, this slight reduction from 13mtrs not being considered significantly harmful.
75. Footpath links would be maintained on the site and the applicant is engaged in other legal processes outside of the scope of the reserved matters application to resolve matters relating to public rights of way. Part of the north of the site has been left vacant due to the electricity lines that pass above it. Officers understand that the

responsibility for this area of the site will be passed to a management company. Clearly while access to this part of the site will not be encouraged it would be difficult to close off completely as access will be required by Northern Powergrid and for the footpath which passes through the north of the site. Officers understand that the site has for a long time been used for recreational activity and are not aware that there have been any previous issues relating to the power lines.

76. A general landscaping scheme has been provided which would allow for the provision of tree and hedge planting within the site. Grass and driveway areas will be provided along with patios within the gardens of dwellings. This scheme has been arrived at through detailed discussion between Officers and the applicants landscape team and the latest scheme is considered the best possible at the site, of a higher standard than would be achieved at many similarly sized developments.
77. Tree Officers have concerns that more tree removal will be required to the western side of Willowtree Avenue as it passes to the east of the site than has been suggested within the tree report, due to the need to provide a pavement in this location which would likely sever roots and cause die back of the trees. Officers have had to take a pragmatic approach to this as clearly an adoptable footpath is required in order to deliver the development. As such the reinforcement of existing hedging along this site boundary is secured through the latest landscape plan along with some replacement tree planting. This landscaping would be situated on the public side of fencing that would bound the site.
78. The application proposes no plans to remove landscaping features such as trees and hedging which are situated outside of the application site adjacent to Broomside Lane and the A690 slip road which are predominantly on highways land. These features will assist in screening the site from north west and north east.

#### Highway issues

79. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety or have a significant effect on the amenity of occupiers of neighbouring property. The NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
80. A significant level of concern has been raised by adjoining occupiers relating to Highways issues at the site, however the principle of development at the site and the access was agreed under the previous outline approval and discussion in this regard is limited to the greater highways detailing that accompanies this application and any residual matters such as parking provision.
81. Highways Development Management Officers have given consideration to the proposed scheme and have offered no objections to the proposals. An acceptable level of parking internal to the site has been provided both at the dwellings and in terms of visitor spaces. A condition was attached to the outline application requiring engineering details, these have been submitted and are considered acceptable.
82. Concern over the management of contractors parking has been noted. With this in mind Officers have worked with the applicant to ensure that a contractors parking area has been provided within the site compound, this is detailed on submitted plans.

#### Planning obligations

83. The outline application was accompanied by a completed S106 agreement to make a financial contribution of £54,000 towards open space and recreational facilities and £29,055 as a public art contribution. An affordable housing provision of 20% was proposed within the agreement which would have equated to an on-site provision of a minimum of 10 units relating to the proposed 49 units.
84. Given the reduction in units down to 42, the applicant has sought to vary this agreement through a deed of variation. The deed of variation seeks approval to reduce the number of affordable units to 8 for affordable renting purposes. Affordable housing officers consider this acceptable. In response to concerns about the developer finding an organisation to take on the affordable units, the applicant has supplied a letter of interest from one provider and is confident the affordable units would be able to be placed with an appropriate organisation.
85. The public art and recreational space contributions are considered to adhere to the requirements of Policies Q15 and R2 of the Local Plan and the affordable housing provision is also considered appropriate. Officers note that the proposed financial contributions relating to public art and open space are above levels that would be required for 42 dwellings, relating instead to levels required in association with the original plans for 54 dwellings and therefore consider on balance the revised section 106 offerings acceptable.
86. However, it should be noted that as any variation to the existing Section 106 Agreement is a matter which is delegated to the Head of Planning, this is not something upon which Members are asked to make a decision. The detail of the proposed Deed of Variation is contained in this report for Members information, for the sake of completeness.

#### Other issues

87. The outline approval was issued with conditions requiring details to be submitted in relation to the disposal of foul and surface water, energy minimization scheme, gas monitoring relating to coal mining legacy issues, tree protection plans and archaeological investigation.
88. Again, the discharge of conditions other than reserved matters conditions is not a matter for Members to reach a decision upon as this is delegated to the Head of Planning. However, this information is reported to Members for the sake of completeness.
89. Plans for the disposal of foul and surface water have been submitted and accepted by Northumbrian Water and the Councils Drainage and Coastal Protection team. The Environment Agency has also raised no objections. Monitoring relating to mining legacy issues has been undertaken and the Coal Authority is satisfied that the site can be safely developed. A fabric first approach to energy minimization has been adopted and accepted by the sustainability team. Conditions relating to these matters therefore have not been carried across to this application. Officers acknowledge points of public concern relating to drainage and flooding issues but have consulted with the relevant bodies who are satisfied that arrangements are acceptable. Significant weight cannot be afforded to concerns about loss of property value, and Officers do not consider the provision of the flats inappropriate to the area. They would help to achieve one of the aims of the NPPF in creating inclusive and mixed communities.

90. The appropriate archaeological investigations have been undertaken and these conditions discharged under a previous discharge of conditions application, therefore these conditions are no longer applicable.
91. Officers are aware that a totem style sign and flag advertisement have been erected at the site and it can be confirmed that this signage now has the relevant consent from the local planning authority.
92. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through the NPPF most notably at paragraphs 118 and 119.
93. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010. 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 licence from Natural England.
94. The application is accompanied by a protected species report. The survey notes the existence of seven types of habitat, and states that in general terms, the site is poor in terms of habitat structure and wildlife value. A risk to nesting birds was identified at the site, with appropriately timed works recommended to reduce risks to bird species. Ecological enhancements have been proposed to the site which would involve the creation of a grassed area under an ecological management routine in order to increase its species richness. This is proposed to the area in and around power cables which occupy the northern part of the site. It is also recommended that a small pond/scrape be created to increase species richness at the site.
95. The Councils Ecology section has raised no objections to the proposal, the mitigation measures within the submitted habitat surveys have been conditioned on the outline approval.
96. As a result no objections are raised with regards to the impact of the development upon protected species in accordance with Policy E16 of the Local Plan and the provisions of the NPPF.

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## **CONCLUSION**

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97. Significant alterations have been made in this application from the previous scheme which was refused by Members. The 2.5 storey houses have been relocated away from the existing properties on Willowtree Avenue and a minimum of 21 metre separation distance has been achieved. This would therefore ensure that the residential amenities of neighbouring occupiers would not be adversely affected. Alterations have been made to the design of the proposed properties and material samples have been provided which indicates that the proposed scheme would be of high quality which would be appropriate to the scale and character of the area.
98. Overall, it is considered that a scheme of acceptable appearance, landscaping, layout and scale has been brought forward through this reserved matters application which would comply with local plan policies and national planning guidance.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the signing of a Section 106 legal agreement to secure an affordable housing provision of 8 affordable rented flats; and the payment of commuted sums of £54,000 towards open space, recreational facilities; and £29,055 for public art in the locality; and subject to the following conditions;

1. The development to which this permission relates shall be begun not later than two years from the date of this permission or five years from the date of the grant of outline planning permission, whichever is the later.

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

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
WT/PL/01 B	Proposed Layout	20/04/2015
ACP.Willowtree.1	Arboricultural Constraints Assessment	24/03/2015
WT/PL/02 B	Boundary Treatment & EHL	24/03/2015
WT/CP/02 B	Construction Plan Detailed	24/03/2015
MOY AS	Floor Plans and Elevations (Mowbury)	24/03/2015
NEN AS	Floor Plans and Elevations (Newton)	24/03/2015
NOY AS	Floor Plans and Elevations (Norbury)	24/03/2015
PEY AS	Floor Plans and Elevations (Pendlebury)	24/03/2015
ROY AS	Floor Plans and Elevations (Rosebury)	24/03/2015
APT/A10 1	Floor Plans and Elevations (RSL Apartments)	24/03/2015
D122.L001 D	Landscape layout	24/03/2015
D122.P002 G	Planting Plan	24/03/2015
SEC001 B	Section Thro' Plots 1-4 & 33-42	24/03/2015
WT/PL/03	Site Location Plan	24/03/2015
??	Tree Protection Plan	??

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

3. The extended Phase 1 report (Sirius Ref C5992 07-2014) has outlined remediation options for the removal off site of materials posing unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11 and Policy U11 of the City of Durham Local Plan.*

4. No development shall take place unless in accordance with the mitigation detailed within part 4.3 the Extended Phase 1 Survey by Durham Wildlife Services, land north of Willowtree Avenue, Durham City dated August 2014.

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

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

*Reason: In the interests of the appearance of the area and to comply with Policy E14 of the City of Durham Local Plan 2004.*

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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.

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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  
Internal consultee responses  
Public responses  
Responses from statutory and other consultees  
National Planning Policy Guidance  
County Durham Plan (Submission Draft)





 <p style="text-align: center;"><b>Planning Services</b></p>	<p><b>Reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space.</b></p> <p><b>Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT at Land to the north of Willowtree Avenue, Gilesgate Moor</b></p>
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<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.          Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.          Durham County Council Licence No. 100022202 2005</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; padding: 5px;"><b>Date</b></td> <td style="padding: 5px;"><b>12<sup>th</sup> May 2015</b></td> </tr> </table>	<b>Date</b>	<b>12<sup>th</sup> May 2015</b>
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