



Special Area Planning Committee (Central and East)

Date Tuesday 22 September 2015
Time 2.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest, if any
4. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/15/01520/FPA - Land adjacent to Evergreen Park, Crimdon
(Pages 1 - 14)
Change of use and associated works to permit siting of 16 executive holiday lodges.
 - b) DM/15/01717/FPA - 4 Mayorswell Close, Durham, DH1 1JU
(Pages 15 - 28)
Detached two-storey dwelling in side garden of 4 Mayorswell Close.
 - c) DM/15/01812/FPA - 67 Front Street, Pity Me, Durham, DH1 5DE
(Pages 29 - 40)
Proposed residential development of 6 No. linked dwelling houses.

- d) DM/15/01825/FPA - 40 South Street, Durham (Pages 41 - 50)
Change of use from dwelling to 8 bedroom guest house (all with an suits) with operators accommodation on the second floor and care taker / night porter accommodation on the ground floor.
Consent for a rear extension and retrospective consent for an orangery to the rear.
- e) DM/15/02067/FPA - Ness Furniture Ltd, Croxdale, Durham, DH6 5HT (Pages 51 - 60)
Change of use from office accommodation to car dealership, formation of new vehicular access door, re-fenestration of showroom windows, new roof and provision of new upstand fascia board.
- f) DM/15/00793/OUT - Land to the east of Prospect Place, Commercial Road East, Coxhoe (Pages 61 - 90)
Construction of 55 residential dwellings comprising 22 affordable dwellings and 33 open market dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access).
5. 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

14 September 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

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/01520/FPA
FULL APPLICATION DESCRIPTION:	Change of use and associated works to permit siting of 16 executive holiday lodges
NAME OF APPLICANT:	Evergreen Park Ltd
ADDRESS:	Land adjacent Evergreen Park, Crimdon
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Barry Gavillet, Senior Planning Officer, 03000 261958, barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site:

1. This application site is situated off the Coast Road in the Crimdon Dene area of the former District of Easington area, just north of Hartlepool. It is not within a settlement boundary and is technically classed as being in the countryside. Evergreen Park is an established rural enterprise which operates as a residential park, the majority of residents on the park are of retirement age and live on site permanently. The area of land to which this application relates is north of the existing park and is a paddock area used for occasional storage of materials but is not part of the same planning unit as the existing caravan park.

Proposal:

2. This application seeks planning permission for the siting of 16 executive holiday lodges with associated hardstandings, access roads and landscaping. The lodges would be laid out in accordance with the spacing requirements for holiday sites which would be enforced in the site licence, they would also meet the statutory definition of caravans as stated in the Caravan Sites and Control of Development Act 1960. It is proposed that the accommodation would be high quality and constructed from timber and green tile effect roofs. It is intended that the lodges would be used for holiday purposes only and not as a permanent residence. The lodges would be served by an existing access which would extend into the proposed development. Each lodge would have an individual parking space alongside it and four visitor parking spaces would be provided near to the western boundary. A dog walking area would be provided to along the eastern boundary along with a refuse collection area. Bat boxes would be installed within the existing WWII air raid shelter which is located to the north eastern corner of the site.
3. This application is being reported to committee at the request of local councillors.

PLANNING HISTORY

4. Evergreen Park is a well-established caravan and holiday park which has operated since the 1970's. More recently, the 28 static homes on the park have become occupied on a permanent basis by residents who are mostly of retirement age. The use of the site for permanent residential use was established in 2006 when a certificate of lawful use was issued. The owner of the park also lives on the site in a dwelling that was approved in 2009.

PLANNING POLICY

NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
7. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The following elements of the NPPF are considered relevant to this proposal;

8. *Part 1* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
9. *Part 3* – Supports sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities.
10. *Part 4* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
11. *Part 7* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

12. *Part 8* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *Part 11* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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.

RELEVANT EMERGING POLICY:

The County Durham Plan

19. The emerging County Durham Plan was submitted in April 2014 and is currently the subject of an ongoing Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the

policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). The following policies contained in the Submission Draft are considered relevant to the determination of the application.

20. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.
21. *Policy 28 (Visitor Accommodation)* - All new visitor accommodation or extensions to existing visitor accommodation will be permitted where they are appropriate in scale and character, they do not have an adverse impact on natural or built assets, they are occupied seasonally, there is an identified need and it helps support viability.
22. *Policy 41 (Biodiversity and Geo-diversity)* - New development will not be permitted if significant harm to bio-diversity cannot be avoided, adequately mitigated or as a last resort, compensated for.
23. *Policy 42 (Internationally Designated Sites)* -Development that is likely to impact on designated sites will need to be appropriately assessed and effective mitigation identified.
24. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* – development proposals which are likely to have an adverse effect on Protected and Priority Species and their habitats will not be permitted unless it can be demonstrated that the benefits; significantly and demonstrably outweigh the benefits, make a significant contribution to the management of the site, has demonstrable reasons of over-riding public importance, and provides appropriate mitigation/compensation.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. Northumbrian Water have no comments to make.
26. The Environment Agency have no objections to the proposals.
27. Monk Hesleden Parish Council objects to the application stating that the proposals would lead to highway safety concerns, that there would be increased noise and disturbance and that there would be drainage problems resulting from the development.

INTERNAL CONSULTEE RESPONSES:

28. Tree Officers have no objections.
29. Highways Officers have no objections. They state that the road safety record at the site location is good and the access is safe. Parking provision is also acceptable subject to a condition requiring details of visitor parking.
30. Landscape Officers have no objections subject to a landscaping condition.
31. Drainage Officers confirm that the site is not at risk of flooding.
32. Visit County Durham supports the proposals. They state that the Durham Tourism Management Plan Committee views the proposals as having 'great potential' and have given the project level one status.
33. Ecology Officers confirm that the site contains no notable protected species or habitats and requires some mitigation in relation to nearby protected European Sites.

PUBLIC RESPONSES:

34. This application has been advertised by way of a press notice, site notices and letters to individual residents.
35. 17 letters of objection have been received from residents, predominantly residents within the existing park, along with objections from the two local County Councillors. The main areas of concern are that the access to the site is dangerous and the proposals would worsen this highway safety problem, there is also concern regarding the need to increase onsite parking. Residents are further concerned about an increase in noise and disturbance due to additional holidaymakers and state that due to levels there would be a lack of privacy. Other concerns are that the proposals would lead to further surface water flooding and that homes would be devalued. 9 letters of support have been received from residents and local businesses who state that the development would be of benefit to the area.

APPLICANTS STATEMENT:

36. The Applicants were looking to make some visual improvements to the featureless former materials stock working area adjacent to Evergreen Park Residential Park Homes and identified a demand for Holiday Lodges at the higher end of the sector.
37. This was confirmed during protracted consultations with Visit County Durham, who provided information from their County Durham Visitor Accommodation Futures Study which specifically mentions a shortage of Holiday Lodges in the luxury category. We were awarded a level 1 status, the highest rating, for our potential small scale and well thought out proposal.
38. We were able to demonstrate an excellent track record in how we had taken Evergreen Park from a former bottom end caravan site and re-develop it into the well managed, well maintained and high quality residential retirement park it is today.
39. However, from enquiries received from the existing residents of Evergreen Park, it has become clear that few people appreciate the proposed quality and management of the proposed luxury Holiday Lodge project which will be operated and maintained

to at least the same high quality as Evergreen Park, along the same lines for instance as Staxton Vale Luxury Lodge Park.

40. The Applicants would also emphasise that as they live immediately closest to the proposed project and certainly will overlook and see more of it than any of the existing residents at Evergreen Park – then the last thing on their mind is to permit anything other than a high quality, attractive and peaceful facility, with strict rules to maintain standards. In fact, it should be noted that proposed residents of Evergreen Park were strictly vetted, with as many as 7 out of 10 rejected as being deemed unsuitable.
41. The Applicants are keen nature and animal lovers and have grasped the opportunity with the proposed development to greatly enhance the bio diversity and habitat for all local wildlife, from a featureless area to an attractive landscaped and planted park, with thought given to such as a long term protected bat home and sanctuary and varieties of planting to support rare song birds and other species.
42. The proposed scheme is in line with National Policy and local Tourism Development. With the greater net disposable income of the envisaged clientele, will not only support local businesses, shops, pubs, restaurants and visitor attractions, but will also create / preserve employment both during the construction phase and thereafter.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

43. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, the impact on neighbours and the surrounding area, highways issues, Landscape Impact, Ecology and issues arising from consultation responses.

Principle of the development

44. In terms of the principle of the development, the most relevant guidance and policy comes from the saved policies of the District of Easington Local Plan and the National Planning Policy Framework (NPPF).
45. With regard to the District of Easington Local Plan, there are no saved policies which are directly relevant to tourist accommodation. However, saved policies 3, 35 and 36 are relevant. Saved policy 3 of the plan states that no development should be allowed in the countryside (such as the one proposed) unless specifically allowed by other policies. Policy 35 of the plan seeks to protect the amenity of residents and the visual amenity of the area whilst policy 36 relates to highway safety issues.
46. The NPPF has a presumption in favour of sustainable development; planning permission should be granted unless there are material planning considerations that would cause such an adverse impact which would warrant refusal. In addition, saved policies in the local plan should only be given weight if they are in accordance with the NPPF.

47. Part 3 of the NPPF (supporting a prosperous rural economy) is particularly relevant to this proposal. It states that support should be given to sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and development which would respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.
48. Given that the residential park related to this application is well established, has support from Visit Durham and that there is an identified need for high quality tourist accommodation in this area, it is considered that although outside of the settlement boundary (as would be expected of such proposals), that although contrary to policy 3 of the local plan, the proposed development would be in accordance with the aims of the NPPF which seeks to promote a prosperous economy, support rural businesses, existing tourist accommodation in rural areas and sustainable development. As such, and notwithstanding other planning considerations such as the impact on neighbours and the visual amenity of the surrounding area and highways issues, it is considered that the principle of the development is acceptable.

Impact on neighbours and surrounding area

49. Policy 35 states that development should have no serious adverse effect on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
50. There is currently an existing residential use on the adjacent site, which originally catered for tourists on a short or long stay basis. More recently the accommodation on site has become home to residents on a permanent basis, most of which are of retirement age. The development proposed is also a residential use, albeit the lodges would be occupied on a seasonal basis rather than permanently.
51. It is acknowledged that there is concern from existing residents that the holiday lodges would cause additional noise, disturbance and traffic. It is also acknowledged that the proposed holiday lodges (although also a residential use) would be occupied by seasonal tourists rather than permanent residents which may bring about some additional disturbance. However, given the scale of the development it is not considered that the proposed development would result in such a significant increase in noise, disturbance or traffic which would warrant refusal of planning permission. It is therefore considered that the benefits of the proposal would outweigh any minimal impact on existing residents and that the proposal would be in accordance with saved policy 35 of the District of Easington Local Plan and the aims of the NPPF.

Highways issues

52. Saved policy 36 of the District of Easington Local Plan relates to highway safety issues. It states that To ensure good access and to encourage alternative means of travel to the private car, the design and layout of development will be required to provide safe and adequate access capable of serving the amount and nature of traffic to be generated. In addition to policy 36 of the Local Plan, part 4 of the NPPF (Promoting Sustainable Transport) is also relevant. Importantly it states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

53. Highways officers have been consulted as part of the proposals and have stated that the access into the site off the A1086 Coast Road does not have the benefit of a protected right turn lane. However, the history of Road Traffic Collisions on the A1086 Coast Road at this location is good. There have only been 2 road traffic collisions in just over 5 years at this location, and involved motor vehicles associated with turning manoeuvres linked to the road junction on the opposite side of the road to Evergreen Park. On this basis the Evergreen Park access arrangements would be described as being safe. The Evergreen Park egress onto the A1086 Coast Road is located on a de-restricted 60mph and accommodates the necessary 2.4 x 215 metres junction sight visibility splays in both directions, which supports the view that the egress would be safe.
54. There is adequate northbound public transport provision within 160 metres of the site egress onto the A1086 Coast Road, with the southbound public transport provision being even closer despite being on the opposite side of the main road.
55. The proposed holiday lodges would be required to provide a minimum of 5 no. visitor car parking spaces on-site to comply with the County Durham Parking and Accessibility Standards 2014, this would be secured by way of an appropriate planning condition.
56. In view of the above there would be not appear to be any reasons for highways officers to object to these proposals. In addition, the residual cumulative impacts of development would not be severe and therefore would accord with part 4 of the NPPF.

Landscape Impact

57. The saved Easington Local Plan seeks to protect landscape character (Policy 1) and provide adequate open space, landscape features and screening (Policy 35).
58. The proposed development will have limited visual impact, being at some distance from nearby paths, and well screened from the Coast Road by a tree belt. Within the scheme itself there is opportunity for provision of additional planting to contribute towards the landscape setting.
59. Subject to the inclusion of an appropriate landscaping scheme, for which a condition is suggested, the proposal is considered to have an acceptable landscape impact in accordance with policies 1 and 35 of the Easington District Local Plan

Ecology

60. Whilst it is noted that the site itself is generally of low value, development of the site does have the potential to have an impact on nearby European Sites.
61. Policy 18 of the Easington Plan seeks to protect species and habitats and Policies 41, 42 and 43 of the County Durham similarly protect sites and ensure appropriate mitigation. These policies in the County Durham Plan were not found to be unsound by the Inspector and can therefore be afforded limited weight.
62. This proposal has been the subject of consideration and a Habitats Regulations Screening Assessment by Ecology officers. The conclusion is that there will not be a direct impact on European protected sites but that there is potential without mitigation to indirectly affect little tern breeding through disturbance or displacement.

63. Mitigation is proposed by way of a dog exercise area within the site, interpretation boards and information within holiday rental agreements. Subject to some additional details which can be considered via condition, the project is considered to be acceptable in terms of its relationship with habitats, species and protected sites and therefore compliant with Policies 18 of the Easington Local Plan and Policies 41, 42 and 43 of the County Durham Plan.

Other issues and consultation responses

64. In response to the public consultation a total of 19 objections have been received along with 9 letters of support. As stated earlier in the report, the main areas of concern are that the access to the site is dangerous and the proposals would worsen this highway safety problem, there is also concern regarding the need to increase onsite parking. Residents are further concerned about an increase in noise and disturbance due to additional holidaymakers and state that due to levels there would be a lack of privacy. Other concerns are that the proposals would lead to further surface water flooding and that homes would be devalued.
65. All of the above issues been covered in the report and are not considered to have any significant adverse impacts that with or without mitigation, would warrant refusal of planning permission. In particular, issues relating to highways and the impact on existing residents are not considered to result in a significant adverse impact that would warrant refusal of planning permission. Other concerns raised relating to flooding have been fully assessed by both Northumbrian Water and the Highways Agency, neither of which have objected to the proposals. The issue of existing homes being devalued is not a material planning consideration.
66. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during the planning application process and their impacts, are not considered to outweigh the benefits of the development and give rise to grounds for refusal.

CONCLUSION

67. In conclusion, it is considered by officers that although the proposals are in conflict with policy 3 of the local plan, they are in accordance with the NPPF which seeks to promote a prosperous economy, support rural businesses, existing tourist accommodation in rural areas and sustainable development and are therefore acceptable in principle. The development would lead to additional, high quality tourist accommodation in a location which has an identified need for such development and which has the support from Visit County Durham. It is acknowledged that there is some concern from existing residents on the park, however it is considered that residential accommodation is well established on this site and that the development proposed would bring about both economic and tourism benefits to the area. In addition, the occupation of the lodges would be seasonal and controlled by planning conditions.

RECOMMENDATION

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

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

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

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

Proposed site plan dated Feb 14, sheet 10, Project no. 306, Rev A

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 an updated mitigation strategy has been submitted to an approved in writing by the Local Planning Authority. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Ecological Appraisal by Quants Environmental Ltd, dated October 2014 as updated by the approved updated mitigation strategy.

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.

4. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The works agreed to shall be carried out within the first planting season following occupation of the first caravan and shall thereafter be maintained for a period of 5 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Reason: In order to protect the visual amenity of the area in accordance with the objectives of saved Policy 35 of the Easington District Local Plan and part 7 of the NPPF.

5. The lodges hereby approved shall be occupied for holiday purposes only.

Reason: to ensure that approved holiday accommodation is not used for permanent residential occupation and in order to meet the need for holiday accommodation.

6. The lodges shall not be occupied as a person's sole, or main place of residence.

Reason: to ensure that approved holiday accommodation is not used for permanent residential occupation and in order to meet the need for holiday accommodation

7. The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual lodges on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning

authority. The register shall normally be collected by the caravan site licence holder or his/her nominated person.

Reason: to ensure that approved holiday accommodation is not used for permanent residential occupation and in order to meet the need for holiday accommodation

8. Not more than 16 holiday lodges shall be stationed on the site.

Reason: To determine the scope of this permission in the interests of visual amenity. In accordance with Policy 1 of the Easington District Local Plan 2001

9. The caravans hereby approved shall comply with the definition of caravans as stated in the Caravan Sites and Control of Development Act 1960.

Reason: In order to protect the visual amenity of the area in accordance with the objectives of saved Policy 35 of the Easington District Local Plan and part 7 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

District of Easington Local Plan

The County Durham Plan (Submission Draft)

Statutory, internal and public consultation responses



Planning Services

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Comments

Date September 2015

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/01717/FPA
FULL APPLICATION DESCRIPTION:	Detached two-storey dwelling in side garden of 4 Mayorswell Close
NAME OF APPLICANT:	Mr M Lawson
ADDRESS:	4 Mayorswell Close, Durham, DH1 1JU
ELECTORAL DIVISION:	Elvet and Gilesgate
	Laura Eden
CASE OFFICER:	laura.eden@durham.gov.uk 03000 263980

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located within an established residential area located within the north eastern part of the Durham City Conservation Area. Surrounding the application site are a number of residential properties including the host property no. 4 Mayorswell Close, a two storey semi-detached property which lies directly to the west of the proposed development site.

The Proposal

2. The application seeks full planning permission for the erection of a three bedroomed dwelling measuring a maximum of 7.6m in width by 8.5 in length. The pitched roof of the dwelling would measure 8m to ridge height and 5.25m to eaves height. It is proposed that the property would be built from red facing brickwork, a tiled roof, with white timber painted sash windows to the front elevation and white UPVC to all other elevations and decorative detailing such as heads and cills.
3. The existing garage associated with no.4 would be demolished to accommodate the development. Vehicular access to the proposed dwelling would be gained from the existing highway and the development would be served by two car parking spaces provided in a car port style arrangement. The existing property would still be served by a single off street parking space.
4. The application is brought before members at the request of Councillor Freeman on grounds of overdevelopment of a small garden and highway concerns.

PLANNING HISTORY

5. DM/14/03696/FPA - Detached 2.5 storey dwelling within garden of 4 Mayorswell
Close withdrawn 12/02/2015

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

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. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
9. The following elements of the NPPF are considered relevant to this proposal.
10. 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
11. 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
12. 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
13. 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
14. 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.

15. 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.
16. 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.

LOCAL PLAN POLICY

City of Durham Local Plan

17. Policy E6 (Durham City Conservation Area) Sets out the Council's aim to preserve the especial character, appearance and setting of the Durham City Conservation Area by ensuring a high quality design.
18. 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.
19. Policy H2 – New Housing within Durham City states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with saved Policies E3, E5, E6, Q8, R2, T10 and U8A
20. 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.
21. 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.
22. 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 minimized.
23. 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.

24. 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
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

RELEVANT EMERGING POLICY

The County Durham Plan

26. 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 of this part of County Durham the statutory development plan currently comprises the ‘saved’ elements of the City of Durham Local Plan. 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.
27. 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.
28. 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.
29. Policy 1 (Sustainable Development) – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
30. Policy 15 (Development on Unallocated Sites) – States that all development on sites that are not allocated in the County Durham Plan will be permitted provided the development is appropriate in scale, design and location; does not result in the loss of a settlement last community building or facility; is compatible with and does not prejudice any intended use of adjacent sites; and would not involve development in the countryside that does not meet the criteria defined in Policy 35.

31. Policy 18 (Local Amenity) – Seeks to protect the amenity of people living and/or working in the vicinity of a proposed development in terms of noise, vibration, odour, dust, fumes and other emissions, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.
32. Policy 48 (Delivering Sustainable Transport) – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

33. Northumbrian Water Limited – No comment to make at this stage

INTERNAL CONSULTEE RESPONSES:

34. Contaminated Land - No adverse comments
35. Highways – No objection
36. Design and Conservation – No objection
37. Landscape – No comments received
38. Trees – The trees on site do not warrant individual tree preservation orders. No objection raised to the scheme.

PUBLIC RESPONSES:

39. The application has been publicised by way of a press and site notice in addition to individual notification letters to neighbouring residents. Three letters of objection have been received raising concerns relating to:
 - Overdevelopment of the site
 - Highways concerns
 - Impact on street scene
 - Likely use as a HMO
 - Loss of greenspace and impact on wildlife

APPLICANTS STATEMENT:

40. I welcome the opportunity to make this statement to the Committee. The applications is a result of a number of months consultation with the planning department and all of the immediate surrounding properties, who we, the applicants, have seen personally

to discuss the planning application. We hope that the committee will appreciate that this demonstrates our desire to be open, honest and approachable to all those in the local area and take neighbours' thoughts into consideration with the result that our proposal has been carefully considered. Apart from a few neighbours, such as those who have officially objected, other members of the surrounding area were largely in support of the application and interested in the proposal.

41. Since we moved into 4 Mayorswell Close, we have returned a house that was an HMO into a smart, modern family home, going through a complete program of internal and external renovation. The presence of a permanent resident family, rather than transient tenants, has been remarked upon and appreciated by neighbours. As passionate residents of Durham City, we are proud to have returned a house back to a family dwelling near to the centre of the city. Further to this, the proposed application enhances the local area. Given the closely populated area surrounding the site, the addition of a single residential property fits in well with the surround dwellings.
42. We note that objections and concerns have been made in respect to the application. We are confident that after working closely with the planning department, these issues have been carefully considered and addressed, which is evidenced by the consultee comments. However, I wish to address one point in particular. Dr. Gray quite rightly points out that access at the bottom of Mayorswell Close could be enhanced. The proposed development has been designed to actively improve the access to the bottom of Mayorswell Close. By relocating the short drive way in short drive way, which leads to cars overhanging the drive and blocking the road, to the front to a full length drive at the front of 4 Mayorswell Close, will help improve traffic flow around at the bottom of the cul-de-sac. In summary, the application has been carefully considered, with a proposal that enhances the local area, improves access and fits in well with the surround area.
43. In regards to the use of the building, I would like to reiterate our position as discussed previously on the phone earlier today, we simply do not know what our intention is for the building. Our options depend on the success of the application, our job positions, and how we finance the build, etc etc. At this moment in time, the important thing for us, is to get any form of planning approval. If this means getting C3 (family residence) approval with restrictions on C4 (HMO), then we are pragmatic and would prefer to go with whatever option is likely to get us approval of any form. However to reiterate, we preferred stance is simply 'unknown' if possible.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

44. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
45. The main considerations in regard to this application are the principle of the development, effect on the character and appearance of the conservation area, residential amenity and highway safety.

Principle of Development

46. The application site is located within the settlement limits for 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 provided the site is classed as previously developed land. Being garden curtilage, the site would fall within the definition of greenfield land.
47. 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.
48. 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.
49. 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, concerned that the new dwelling 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 of 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 for 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. Although the Council has plans to introduce an Article 4 direction the effect of this would take some time to implement and therefore would not have a bearing on this particular application however would have implications for it in the future.
50. 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.
51. The fourth criterion of policy H9 relates to the level of concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock. Not all sub-divided properties are occupied by students but the data on student occupation is more readily available. The Council has detailed information on student concentrations available which comprises information by postcode area on properties that are exempt from Council Tax as they are occupied by students. Analysis of the information shows that the postcode where the site falls has 25% student exempt properties however the surrounding areas are significantly higher. In

the context of other parts of the city these percentages are generally considered to be high and the surrounding area is one of high concentrations of student accommodation.

52. The Council has proposed an Interim Policy on HMOs, Student Accommodation and Purpose Built Student Accommodation. This was approved for public consultation by Cabinet on 15 July 2015. Interim policies have less weight than the adopted Local Plan policies which are consistent with the current national policy framework, because they haven't been subject to examination by an inspector. The Interim Policy says that applications for new build HMOs and changes of use will not be permitted if more than 10% of the total numbers of properties within 100 metres of the application site are already in use as licensed HMOs or student accommodation exempt from council tax charges. The proposal does not accord with either the Interim Policy or Policy H9 in respect to the levels of concentration prescribed within them.
53. The wider matter of student accommodation is also referenced within the 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 very limited weight as it is not an emerging or adopted policy.
54. Overall it is considered that the proposed development is located in a sustainable location. Although, part of the dwelling would represent development on a Greenfield Site therefore is not wholly in accordance 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 which adopts a presumption in favour of sustainable development.
55. There is the possibility that this dwelling could be used either immediately or in the future as a house in multiple occupation, if its use is not restricted. If so in an emerging policy context the proposal would be unacceptable given existing student numbers in the area. Whilst it is recognised that these policies carry very limited weight given their stage of adoption officers are aware that addressing the impact and need for student accommodation is an important topic in the City. The thresholds identified do however allude to numbers of student concentrations which are considered to be acceptable. The evidence base that has been built up in support of these policies demonstrates that student concentrations in postcode areas where the application site falls are high. This information demonstrates that the fourth criterion of policy H9 of the local plan is not met as the level and concentration of sub-divided dwellings in the area is having a detrimental impact on the range and variety of the local housing stock. Therefore the creation of additional HMO's in the area would be unacceptable.
56. Furthermore, paragraph 50 of the NPPF considers the need to create sustainable, inclusive and mixed communities. As considered above the percentage of students in the area is considered to be high in relation to Policy H9 therefore the proposal would be also be against paragraph 50 of the NPPF. Whilst the principle of residential use is considered acceptable, the use of the property as a HMO would not be for the aforementioned reasons. It is however considered that this matter could be addressed by way of a planning condition preventing the change of use of the

dwelling to C4 (HMO) without first submitting a planning application to the Local Planning Authority.

Impact upon the Conservation Area and street scene

57. The National Planning Policy Framework in part 12 requires that the impact of the development is considered against the significance of the Heritage Asset which in this case is Durham City Conservation Area. Part 7 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people.
58. At a local level Policy E6 and E22 of the City of Durham Local Plan are also considered to be relevant. These policies state that the special character, appearance and setting of conservation areas will be preserved or enhanced. This will be achieved by only approving development that would be sensitive in terms of its siting, scale, design and materials.
59. The aforementioned policies and guidance requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and this would be entirely in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
60. Saved Policies H13 and Q8 of the local plan are also considered to be relevant and relate to the character of residential areas and the layout and design of residential development.
61. The application site relates to a plot of garden land to the side of no.4 Mayorswell Close, Gilesgate which is located in the eastern part of the designated conservation area. Mayorswell Close is a small cul-de-sac approximately 150 metres north of the main historic frontage along Claypath leading into lower Gilesgate. The site lies within a densely developed residential area. The properties within the area date from the 1970's and comprise of a variety of forms, styles and massing with no common theme to replicate. The private garden area, located towards the end of the cul-de-sac, is not considered to have any significant function or visual importance with regard to the character of the area. In view of this and the standard design quality of the properties the site is considered to be of no historic or architectural interest making a neutral contribution to the significance of the surrounding designated conservation area.
62. The overall design of the development is considered to be much improved following the withdrawal of the initial application. The scale and height of the build has been reduced, the ridge and eaves heights are similar to no. 4 Mayorswell Close and the footprint has been modified effectively. Although gabled frontages are not common within this part of the conservation area other design detailing is largely traditional and given the wide variety of the surrounding properties it is not considered that the proposed dwelling would be incongruous. It would be stepped back from the predominant build line of the street concealing it from certain vantage points. The design improvements suggested by the conservation officer have been incorporated into the scheme including the increase of the front gable roof pitch, changes to the window size and timber mullioned sashes, solid timber six panel front door and the inclusion of a 'dummy' chimney.
63. In summary the proposed development is considered acceptable in view of its modest scale and traditional design approach and would only impact in the immediate context of the well contained modern estate in accordance with policies E6, E22, H13 and Q8 of the City of Durham Local Plan. On this basis it is not

considered that it would have any significant adverse effect upon the special historical or architectural interest of this part of the Durham City Centre Conservation Area. It is considered that the proposal meets the test of preserving enhancing the character and appearance of the Conservation Area.

Residential Amenity

64. Policies H10 and Q8 of the Local Plan require schemes associated with residential developments to give consideration to the privacy and amenity of neighbouring residents. Section 7 of the NPPF seeks to ensure that development provides a good standard of amenity for all existing and future occupants of land and buildings. Policy 18 of the emerging plan deals with local amenity however only very limited weight can currently be attached to this policy.
65. Objections have been received from neighbouring residents expressing concerns regarding the development which they consider would amount to overdevelopment of the site. Although their concerns are appreciated and duly noted officers do not consider that on balance a significant loss of amenity would arise.
66. The proposed dwelling is set back from the adjacent property of no.4 Mayorswell Close and although it projects past their rear build line, the two storey rear projection has been set in from the shared boundary to help limit its impact. With regard to 12c Mayorswell Field that lies to the east, it is acknowledged that the proposed dwelling would be positioned within close proximity to this neighbour. They would however have slightly different orientations and the windows in 12c are centrally located therefore it is not considered that the development would be significantly overbearing.
67. Given the historic layout of the streets in this area privacy distances are difficult to achieve. The majority of the properties surrounding the development only benefit from distancing standards of around 15m. With respect to properties 5b Mayorswell Close and 16 Mayorswell Field separation distances between them and the proposed dwelling would be in the region of 18/19m, just short of the 21 metres recommended by policy Q8 of the local plan. No objections have been received from either property.
68. It is considered that the future occupants of the proposed dwelling would have sufficient standards of amenity in terms of separation distances with neighbouring properties and that the dwelling would benefit from an area of private rear amenity space.

Highways

69. Following detailed discussions between the Agent, Case Officer and Highways Officer, the Agent acting on behalf of the Applicant has since submitted revised drawings to attempt to ensure this application may be looked upon favourably.
70. Parking in this part of the city is considered to be satisfactorily controlled as this street falls within the Durham City Controlled Parking Zone (CPZ). Given the location of the development within the city centre there are no requirements placed on new dwellings to provide any in curtilage parking however these properties would not be eligible to apply for parking permits. The fact that the new dwelling proposes two off-street car parking spaces is welcomed. Although the car parking spaces appear narrow the highways officer is satisfied that a car can manoeuvre into the space as depicted by the applicant's proposal plan.
71. The existing property of no.4 Mayorswell Close, which existed prior to the introduction of the CPZ, is eligible to apply for up to two parking permits. When

applying for parking permits any existing in-curtilage parking is taken into account. A single garage, or a drive less than 4.8m, does not count as in curtilage parking for the purposes of the CPZ therefore currently the property is eligible to apply for up to two permits. As part of the current proposal the applicant is proposing to provide one off street car parking space which therefore represents an improvement on the current situation. Although colleagues in the highways section acknowledge it will likely involve an onerous manoeuvre to access they have however raised no objection to the scheme. With regards to the new vehicular access crossings the applicant is advised to contact the relevant highways officers. This would be added as an informative to the decision.

72. A raised planting bed was originally proposed to the front of the property however this has since been removed from the scheme following objections from local residents and highways officers that it was located within the public highway. Furthermore, concerns have been raised by neighbouring properties about cars parking in the turning head and restricting access and manoeuvring ability to the lower portion of the street. Cars should not be parked within this area, it has been established that satisfactory vehicular access can be gained to both the existing and proposed dwelling should the area be kept free from obstruction therefore it would be a matter for parking enforcement/police to control any unauthorised situation. Whilst both planning and highways officers note the current issues it would not be a reason to withhold planning permission.

Other Issues

73. The site is not at risk of flooding and surface water drainage will be subject to the requirements of Building Regulations.
74. The Contaminated Land Officer has assessed the available information and historical maps and has confirmed there is no requirement for a land contamination condition.
75. There is an existing tree located in the north west corner of the site that is proposed to be retained as part of the scheme. The tree officer has assessed the proposal and confirms that individual tree preservation orders would not be warranted and on this basis offers no objection to the scheme with regard to impact of the development on this tree. An informative is proposed in relation to bats and birds given a hedgerow is proposed to be removed.
76. An informative is proposed to advise the Applicant of their responsibility in respect of noise, dust and construction hours, as a condition would not be considered appropriate.
77. Concerns have been raised by neighbours in respect to the proximity of the development to adjacent properties. With this in mind, an 'informative' would be attached to any decision advising the applicant of their duty to give notice to the resident of their intentions before commencing work as legislated under 'The Party Wall etc Act 1996'. Other concerns raised by residents and the local County Councillor have been addressed within this report.

CONCLUSION

78. In conclusion, the location of the proposed development is considered sustainable as it is well related to the existing settlement. It is considered that the site has the potential to be developed without causing a significant adverse impact to residential and visual amenity or to highway safety. It is considered that all other matters can be dealt with by means of Conditions. As a result, it is considered that the proposal is in

RECOMMENDATION

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be carried out in strict accordance with the following approved documents. Application Form, site location plan, drg. no. 2332-5 Rev A block plans, design and access statement, heritage statement and contaminated land screening assessment received 02/06/2015, drg. no. 2332-2 Rev C – Proposed layouts and drg. no. 2332-4 Rev C – proposed elevations and sections received 02/07/2015.
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved Policies H2, Q8 and T10 of the City of Durham Local Plan
3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
Reason: In the interests of the appearance of the area and to comply with saved Policies E6, E22, H2 and Q8 of the City of Durham Local Plan. Required to be precommencement as construction matters must be agreed prior to development commencing.
4. Prior to the commencement of the development, details of means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling.
Reason: In the interests of the visual amenity of the area and to comply with saved Policies Q8 and T10 of the City of Durham Local Plan. Required to be precommencement as construction matters must be agreed prior to development commencing.
5. The hardstandings and car parking areas shown on the approved plans shall be provided before the dwelling hereby approved is first occupied, and shall thereafter be used and maintained in such a manner as to ensure their availability at all times for the standing and garaging of private motor vehicles.
Reason: In the interests of highway safety and to comply with Policy T1 of the City of Durham Local Plan..
6. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the premises shall be used as a Class C3 (Dwellinghouse) only and for no other purpose.
Reason: In the interests of the amenity of the area in accordance with Policy H9 and paragraph 50 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted Application Forms and Drawings
- Design and Access Statement
- Heritage Statement
- Contaminated Land Screening Assessment
- National Planning Policy Framework
- City of Durham Local Plan 2004
- Emerging County Durham Plan
- Consultation Responses



Planning Services

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**Detached two-storey dwelling in side garden of 4 Mayorswell Close
4 Mayorswell Close, Durham, DH1 1JU**

Comments

Date. 8 September 2015

Scale 1:1250

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/01812/FPA
FULL APPLICATION DESCRIPTION:	Proposed residential development of 6 No. linked dwelling houses.
NAME OF APPLICANT:	McCarrick Construction Company Ltd.
ADDRESS:	67 Front Street, Pity Me, Durham, DH1 5DE
ELECTORAL DIVISION:	Framwellgate and Newton Hall
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a parcel of land situated to the north of 67 Front Street in Pity Me. The application site measures approximately 0.1 hectares, with the west section of the site being relatively flat and the east section sloping upwards significantly towards the residential properties at Smithfield. The site was predominantly covered by vegetation however this has recently been removed and the site scraped.
2. To the north of the site is mature tree planting and these trees are protected by Tree Preservation Orders. Immediately to the south of the site is the gable elevation of No. 67 Front Street with the terrace situated beyond. To the west of the site is the A167 highway and the Rotary Way roundabout. The residential properties of Smithfield are located to the east which is situated at a higher level to the level of the application site. Residential apartment blocks are located to the south west.

The Proposal

3. This application seeks planning permission for the erection of 6no. linked dwelling houses. Each property would have lounge and kitchen area at ground floor with three bedrooms and a bathroom at first floor. The properties would be set back from the road to accommodate 10 parking spaces and bin shelters which would be located to the front of the properties. The rear garden areas of the properties are to be graded into three levels with patios at ground level and steps leading up to the two grassed levels. Access to the site would be taken from Front Street and the proposals would include the extension of the highway from Front Street along the site frontage.

4. This application is being referred to the planning committee at the request of Cllr Wilks.

PLANNING HISTORY

5. Planning permission was approved in February 2002 for the erection of a single dwelling on the site (ref: 4/11/00776/FPA)
6. Planning permission was also approved in July 2013 for the erection of 5no. new dwellings. (ref: 4/13/00308/FPA)

PLANNING POLICY

NATIONAL POLICY:

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
9. The following elements are considered relevant to this proposal;
10. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
11. *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.
12. *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.
13. *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.

14. *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.
15. *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.
16. *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:

City of Durham Local Plan

17. *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.
18. *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.
19. *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.
20. *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.

21. *Policy H14 (Improving & Creating More Attractive Residential Areas)* seeks to improve the environment of existing residential areas and their housing stock.
22. *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.
23. *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.
24. 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.
25. 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.
26. *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.
27. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

The County Durham Plan

28. 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.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

29. *County Highways Authority* has not raised any objections to the proposed development. The proposed parking provision would meet the minimum parking standards for 6no. 3 bed dwellings. The developer would have to enter into an agreement under Section 278 of the Highways Act to permit construction of the access road and footway.
30. *Northumbrian Water* has not raised any objections to the proposed development subject to a condition for the details of foul and surface water discharge to be submitted.
31. *The Coal Authority* has not raised any objections to the proposed development.

INTERNAL CONSULTEE RESPONSES:

32. *Ecologist* has not raised any objections to the scheme.
33. *Landscape Team* has indicated that the development would not have an effect on the natural life expectancy of the tree.
34. *Tree Officer* has not raised any objections to the scheme.
35. *Drainage Officer* has not raised any objections to the scheme.
36. *Sustainability Officer* has not raised any objections and has indicated that the applicant should seek to minimise energy from construction whilst also considering renewable/low carbon technologies.

PUBLIC RESPONSES:

37. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. One letter of objection has been received. The objections consider that the development will have a negative impact on the vista of the area. It is also felt that the development will create a parking problem and problems for the refuse collection truck. It is considered that the road would be a problem in the winter when vehicles have to negotiate the steep incline. It has also been questioned where the refuse bins will be located.

APPLICANTS STATEMENT:

38. To be inserted.

PLANNING CONSIDERATIONS AND ASSESSMENT

39. 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 development; residential amenity, visual impact on surrounding area; and highway safety.

Principle of development

40. It is noted that planning permission has been granted on this parcel of land as recently as 2013 and this permission is still extant and the development can be constructed. The committee report for the 2013 application stated the following in respect of the principle of development:
41. *The application site is located within the settlement limits for Durham City as identified by the City of Durham Local Plan 2004 proposals map. The site represents undeveloped land, which is located within a primarily residential area. Durham City is identified as an area where development will be directed to under local plan policy H2 'New Housing in Durham City' provided the development would not be in conflict with other local plan policies or any other designations. It is considered that the proposed development would be in accordance with policy H2 of the City of Durham Local Plan 2004. The proposals conform with other relevant local plan policy is discussed below.*
42. *National Planning Policy guidance contained within the NPPF applies a presumption in favour of securing sustainable development. Sustainable housing development is created by directing new housing to those areas best able to support it in terms of provision of services and facilities and good public transport links. The settlement in question is well served by facilities and services. The application site is located approximately 2 miles from the amenities of Durham City Centre. The area is also serviced by good public transport links.'*
43. There has been no major change in local or national policy in terms of directing housing development to sustainable locations since the previous application was approved in 2013. It is therefore considered that the above assessment is considered relevant in the determination of this planning application. The proposed development is considered to be acceptable in principle as the houses would be located within the settlement boundaries of Durham City and would be sustainably located in relation to good access to shops service, public facilities and public transport links. The proposal would be in accordance with policy H2 of the local plan and guidance within the NPPF.

Residential amenity

44. The main windows in the proposed development would be in the front and rear elevations. The front windows would look over the roundabout and there would be no loss of privacy to neighbouring dwellings in this direction. The windows in the rear of the proposed properties would overlook the proposed garden areas. The residential properties of Smithfield are located beyond the gardens however these properties are located at a much higher level than the proposed site which would ensure there would be no loss of privacy. There are no windows in the gable elevation of No. 67 Front Street and therefore it is not considered that this property would be adversely impacted in terms of loss of privacy. Each property would have a rear garden which would be split over three levels given the topography of the site. These gardens are considered useable and would be adequate amenity space for future residents of the properties. Bin stores have also been provided to the front of each property ensuring that refuse from the properties is adequately dealt with.
45. The proposed development would also be subject to Building Regulation Approval which would ensure that the proposed properties can be accessed adequately by all users. The proposal would therefore be in accordance with policies Q1 and Q2 of the local plan.

46. It is considered that the proposed development would not have an adverse impact on residential amenities of existing and future occupiers of neighbouring dwellings and the proposed properties. The development would therefore be in accordance with policy Q8 of the local plan.

Visual impact on surrounding area

47. The site does not fall within a conservation area and it has no specific heritage significance, nor is it within the setting of any heritage asset. That being said, the site is within a prominent location being highly visible from the busy A167 and Rotary roundabout.
48. The surrounding area has a mixture of different house types with modern houses located on Smithfield, traditional Victorian terrace properties to the south of the site and modern apartment blocks located to the south west. The layout of the scheme would reflect the character and form of the terraced properties, and would appear as an extension to the existing terrace. The proposed dwellings are of two storey design and would be constructed from Ibstock Birtley Olde English and Drumquin brickwork, Marley Edgemere smooth grey roof tiles with white upvc windows and doors. Canopy features are proposed above the front doors of the properties. The proposed driveways would be constructed from tarmac with the entrance paths being Beamish Flat block paving.
49. The proposed properties are of a simple design which would relate to the existing terraced properties in the area. The proposed materials would be acceptable and would not appear out of keeping in the area. It is considered that the design, scale, materials and appearance of the proposed properties would be appropriate and acceptable in this location.
50. There are some trees located to the north of the site which are protected by Tree Preservation Orders. A tree constraints and landscape plan has been submitted with the application along with a retaining wall construction plan to show how the proposed development would not adversely impact upon the protected trees. The Council's Landscape and Tree Officer originally had concerns regarding the impact the development may have on the protected trees. Following submission of further landscape information and the retaining wall construction plan the Landscape and Tree Officers have indicated that they do not raise any objections to the scheme.
51. One of the protected trees does overhang the application site. The details submitted with the application indicate that the proposed buildings would utilise sheet piling construction which will be carried out from within the site and protective tree fencing would be erected. The proposed building and foundations (including construction zone) will encroach into 9% of the protected tree's root protection area (RPA). British Standards (Trees in relation to design, demolition and construction) BS5837:2012 indicates that an intrusion into an RPA of 20% is acceptable for a development. It is therefore considered that the proposed development would not have an adverse impact on the nearby protected trees. It is noted that the proximity of the tree to the dwelling may lead to future pressure to fell, however the relationship of the amenity space to the tree has previously been considered acceptable in the grant of 5 units. Officers considered that sufficient out door amenity space remains unaffected by the tree and that with continued tree management the dwelling proximity to the tree should not result in justification for future removal.
52. Bin stores are proposed to be located to the front of the proposed properties, given access from the rear of the properties to the front is unachievable on some of the properties due to the level differences. Details have been submitted indicating that

the bin stores are to be constructed from timber fencing. Given the prominent location of the site it is considered that timber bin stores are unsuitable and would be visually unattractive within the street scene. In this location it would be more appropriate that the bin stores are constructed from the same materials as the properties. A condition is recommended for details of the bin stores to be submitted and agreed by Officers prior to works commencing on site.

53. Overall, it is considered that the proposed development would not have an adverse impact on the visual amenity of the surrounding area and would not compromise the protected trees adjacent to the site. The proposal would be in accordance with policies H13, H14 and E14 of the local plan.

Highway issues

54. 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.

55. The development would be served by via the existing adopted road on Front Street and would include extending the road further along the front of the site. 10 parking spaces are proposed as part of the development which meets the minimum requirements set out in the Council's parking standards. Durham County Highways Officers have not raised any objections to the proposed scheme. A suitable condition is recommended to ensure the construction of the new road is done to a suitable standard prior to the dwellings being occupied. A resident has raised concerns regarding parking and problems with refuse collection and also problems during the winter of the road incline. It is not considered that any of these issues are sufficient to warrant refusal of the application.

56. The proposed development would not create any adverse impacts in terms of highway safety. Sufficient parking provision is provided. The proposed development would be in accordance with policies T1 and T10 of the local plan.

Other issues

57. Northumbrian Water has not raised any objections to the proposed development. A condition is requested to ensure that the disposal of surface and foul water from the site is adequately dealt with. A condition is recommended accordingly. It is not considered that the proposed development would have any adverse impacts in terms of drainage and would comply with policy U8a of the local plan.

58. The County Ecologist has been consulted on the proposed development and no objections have been raised. It is considered that the proposed development would not have an adverse impact on protected species or their habitats and would be in accordance with policy E16 of the local plan.

59. The Council's Sustainability Officer has provided some advice to the developer in terms of minimising energy from construction whilst also considering renewable/low carbon technologies. Building regulations will also require the proposed properties to achieve a satisfactory level of energy efficiency. It is considered that the proposed development would comply with policy U14 of the local plan.

CONCLUSION

60. There is an extant planning permission on this site for residential development; therefore the principle of development has previously been established. The site is located within the settlement boundaries of Durham and the site is considered to be sustainably located within close walking distance to shops, services and public facilities, including public transport links. The proposal is therefore acceptable in principle and would meet the key aims of sustainable development in accordance with policy H2 of the City of Durham Local Plan and the NPPF.
61. Adequate levels of separation distance would be met with adjacent neighbouring properties and sufficient levels of useable garden areas would be provided for each property. The proposed development would not have an adverse impact on residential amenities of existing and future occupiers of neighbouring dwellings and the proposed properties. The development would therefore be in accordance with policy Q8 of the City of Durham Local Plan
62. The proposed development would be of a good quality design and would contribute to the housing mix in the area. The proposals would not appear out of keeping with the existing built form within the surrounding area. Trees protected by Tree Preservation Orders next to the site would not be compromised as a result of the proposed development. The proposal would be in accordance with policies H13, H14 and E14 of the City of Durham Local Plan.
63. Adequate levels of parking provision would be required. The proposed access to the site is acceptable via the existing adopted road of Front Street. Durham County Highway Officers have not raised any objections and it is considered that highways safety would not be compromised. The proposal would be in accordance with policies T1 and T10 of the City of Durham Local Plan.

RECOMMENDATION

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

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

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

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

Plan Ref No.	Description	Date Received
	Location Plan	10/06/2015
8350/02C	Proposed Site Layout	12/08/2015
2010/PA/01C	Tree Constraints and Landscape Proposals Plan	12/08/2015
8350/03A	Proposed Ground Floor and First Floor Plans	10/06/2015
8350/04B	Proposed Elevations and Roof Plan	10/06/2015
8350/101A	Proposed Retaining Wall Construction Schedule of Materials	12/08/2015
		17/08/2015

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

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

Reason: In the interests of the amenity of the area and to comply with policy U8a of the City of Durham Local Plan. Required to be precommencement as construction matters must be agreed prior to development commencing.

4. Notwithstanding the details submitted with the application, no development shall take place until details of the proposed bin stores have been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding area and in accordance with Policy H13 of the City of Durham Local Plan 2004. Required to be precommencement as construction matters must be agreed prior to development commencing.

5. No development shall take place until a scheme for the extension of the highway and provision of parking areas has been submitted to and approved in writing by the Local Planning Authority. Thereafter no dwelling shall be occupied until the works have been done in accordance with the approved details

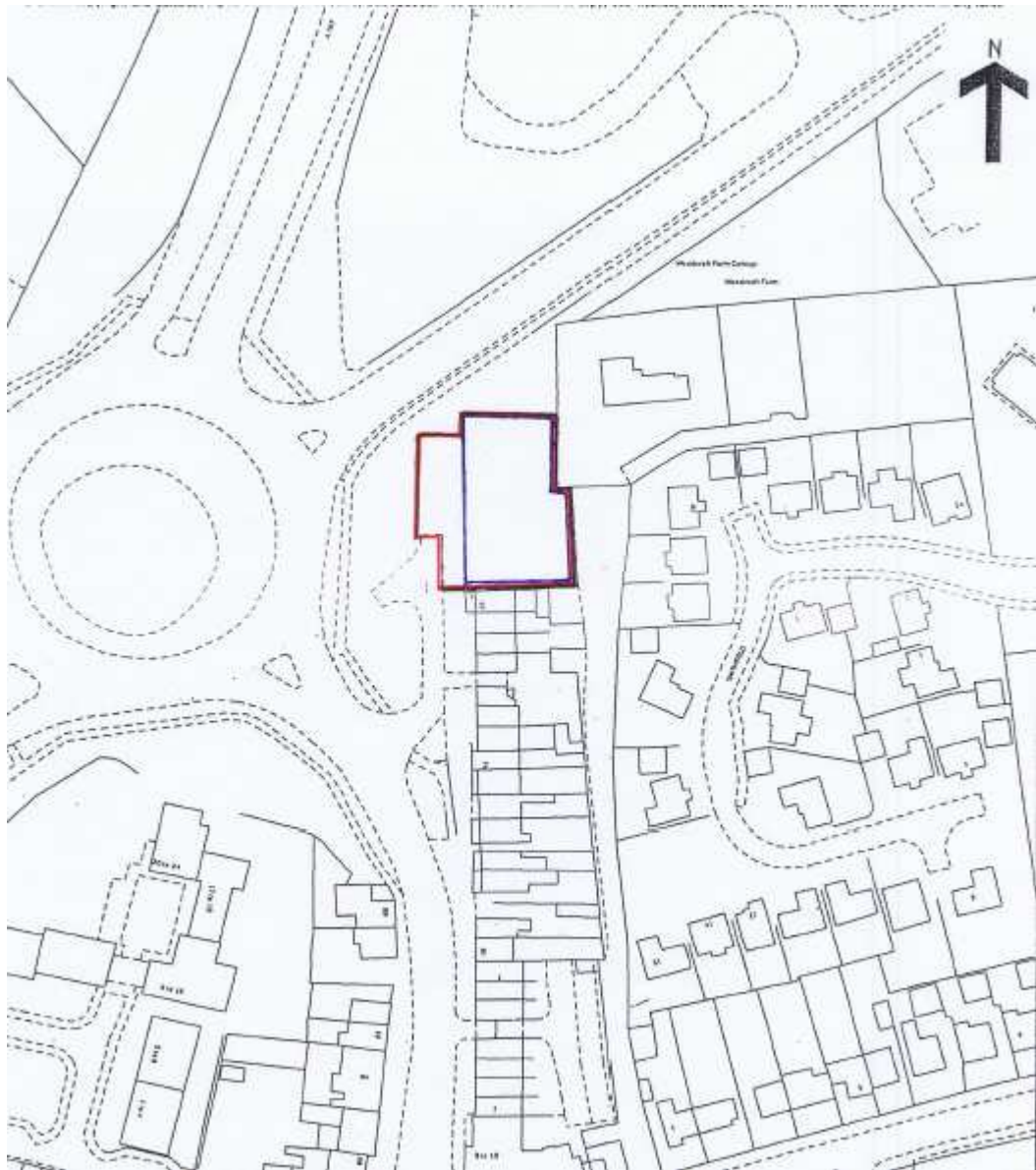
Reason: In the interests of highway safety and in accordance with Policy T1 of the City of Durham Local Plan 2004. Required to be precommencement as construction matters must be agreed prior to development commencing.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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)





Planning Services

**Proposed residential development
of 6 No. linked dwelling houses at
land to the north 67 Front Street,
Pity Me, Durham, DH1 5DE**

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**Date
22nd September 2015**

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/15/01825/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwelling to 8 bedroom guest house (all with an suits) with operators accommodation on the second floor and care taker / night porter accommodation on the ground floor. Consent for a rear extension and retrospective consent for an orangery to the rear.
NAME OF APPLICANT:	Mr Nigel Gadd
ADDRESS:	40 South Street, Durham.
ELECTORAL DIVISION:	
CASE OFFICER:	Susan Hyde, Planning Officer, 03000 263961 susan.hyde@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1 No.40 South Street is a mid terraced residential property located on the main (west) side of South Street which is possibly the finest street in the city centre in terms of its historic interest and architectural diversity. The site lies in the Conservation Area and although the application site is not listed the majority of properties on this street are listed buildings. The elevated street has fine views eastwards across the River Wear gorge to Durham World Heritage Site, and the rear is bordered by the graveyard of St Margaret of Antioch Church in Crossgate. The front street elevation maintains a high level of original character whereas to the rear many of the properties have been altered and extended over the years, these are generally confined to the smaller rear yard spaces, with the long narrow gardens and old stone and brick boundary walls adding to the setting of the properties.

2. Planning permission is sought for the change of use of No.40 South Street named "Grafton House" from a residential dwelling to form an 8 bedroom guest house. In addition accommodation for the applicant is retained on the first floor and night porter accommodation is proposed on the ground floor which includes a proposed single storey infill extension to the rear. Retrospective consent is also sought for a single storey rear orangery extension.

3. The application is being reported to Committee at the request of Councillor Freeman.

PLANNING HISTORY

4 Planning consent granted in 2005 for the change of use from residential dwelling to a guest house.

5. Planning consent was granted in 2005 for the erection of first and second floor pitched roof extension to rear of existing building to extend the guest house accommodation.

6. Planning consent was granted in 2008 for partial use of the existing guest house as a restaurant

7. In 2010 planning consent was granted for the change of use from guest house to single dwelling with associated fenestration changes

PLANNING POLICY

NATIONAL POLICY

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

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

10 In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

11 The following elements of the NPPF are considered relevant to this proposal;

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 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

LOCAL PLAN POLICY

14 Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.

15 Policy E16 (Nature Conservation) requires development proposals, where appropriate, to identify any significant nature conservation interest that may exist on or adjacent to the

site, avoid unacceptable harm to such interests and provide mitigation measures to minimise unacceptable adverse impacts that cannot be avoided.

16 Policy E21 (Historic Environment) states that the historic environment of the district shall be preserved and enhanced by requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site, and encourage the retention, repair and re-use of buildings and structures which are not listed, but are of visual interest.

17 Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details

18 Policy E23 (Listed Buildings) seeks to safeguard listed buildings and their settings by only permitting alterations and extensions to listed buildings which are sympathetic in design, scale and materials; not permitting alterations to architectural or historic features which adversely affect the special interest of a listed building; not permitting total or substantial demolition of a listed building; and, not permitting development which detracts from the setting of a listed buildings.

19 Policy H13 Residential Areas - Impact upon Character and Amenity

20 Policy V6 Visitor accommodations within Settlement Boundaries

21 Policy T10 Parking – General Provision

22 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.

23 Policy Q9 Residential Amenity

RELEVANT EMERGING POLICY

24 The County Durham Plan

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.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

27 Highway Officer – Have raised no objection and consider the site is in a sustainable location where a range of public transport choices are available close to the site. They note parking is restricted on South Street.

INTERNAL CONSULTEE RESPONSES:

28 Design and Historic Environment Officer – Raised no objection to the change of use to the guest house or the retrospective orangery or the proposed rear extension.

29 Environmental Health Officer – Considered that the noise from guests arriving and leaving the building is domestic in nature and therefore acceptable in a residential area. Raised no concerns with regard to odour from cooking or from the bin storage.

PUBLIC RESPONSES:

30 The application was advertised in the press, on site and in the locality by letters to the neighbours. 15 individual letters of objection have been received and these include an objection from Roberta Blackman Wood MP, Councillor Ormorod and the City of Durham Trust.

Summary of objections to the proposal

31 The proposal will bring additional cars onto an already busy street that is very narrow in places.

Car parking on South Street has become critical recently with the approval that has recently been granted for residential development on the garage site at Pimlico.

Concern that rooms will be let out to students

Concern the proposal will lead to noise and disturbance from people arriving and leaving and taxis picking up and leaving at unsocial hours.

Consider the proposal will contravene Policy H13 as it will have a significant effect on residents

Concern the property will be used as a property in multiple occupation which would be will be contrary to Policy H9 as there is no adequate parking and it will have a detrimental impact on neighbours.

When the property operated as a boutique hotel it caused many problems for residents in relation to parking problems, noise and disturbance from occupants and particularly from taxis dropping off and picking up.

Building an extension to the rear will affect a potential badger set

The orangery extension is already built and affects neighbours privacy and is out of keeping with the existing historic dwelling.

A solid fuel stove is installed in the orangery which causes problems from smoke affecting the neighbours house and garden,

South Street is a residential street with families living in it and a commercial use is not appropriate here.

The proposed extension in addition to the orangery will leave the property to be too big to convert back to a single dwelling.

Smells from the kitchen will affect the residential amenity of residents

Deliveries and collection of glass to the bed and breakfast will detract from the residential amenity through noise and parking blocking the road.

Concern that the extensions have extended over too much of the outdoor space / garden area.

APPLICANTS STATEMENT

32. I'd like to allay concerns that this application is intended to obtain a sub-divided multiple occupancy student plot. That is not our client's intention. This venture is pure to provide Durham with a high end Guest House at which the applicants will also reside full time.

33. It looks like the main concern of the local residence is the impact on the limited parking on the street. This point will be made explicitly clear in the Guest House literature & on the Website, as it's very much in the interests of the applicants as much as the neighbouring residence. Their overriding desire has always been to give their patrons the best experience possible during their stay, with parking / travelling to & from the property. Appreciating the parking restrictions a taxi service is to be provided for the customer's convenience to take guests to & from the Train/Bus Station to Grafton House & onto wherever they require in the local area. Again in the Grafton House literature it will clearly offer this service & suggest to the patrons where possible, it may not be necessary to bring a car & the point will clearly be made that they should seek other sustainable means of transport to enjoy the city. As our clients are long standing hoteliers they do have the experience & knowledge of this. In addition & as stated previously, the property is already a 7 bed house which could quite easily be occupied by a large family all above the driving age.

34. Regarding deliveries & refuse collection, as the Guest House will only accommodate 8 bed rooms which is a comparatively modest number, linen deliveries will be picked up & dropped off in the applicants own domestic vehicle. In addition the food supply will simply be an increase in their weekly shop. This eliminates any requirement for larger delivery vehicles to visit the address regularly & minimises any impact on neighbouring properties. The home is already a 7 bedroom house which if fully occupied by a large family would generate more waste than as a Guest House, so again allowing the change of use will not exasperate the refuse collection that could not easily already be the current situation.

35. Lastly, regarding the retrospective element of the application as stated in the Design Access Statement, at the time of the build this was simply & wrongly assumed to fall under the laws of Permitted Development. As the agent appointed to prepare this application we advised that retrospective approval be sought at the same time in an attempt to rectify this anomaly.

PLANNING CONSIDERATIONS AND ASSESSMENT

36 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 development, the impact

upon the heritage asset, design of the property and street scene, residential amenity and highway safety and parking.

Principle of development

37 The application is for the change of use of the existing dwelling to guest house accommodation and for the single storey extensions to the rear. Guest houses fall within use class C1 which is a separate use class to family houses and to houses in multiple occupation. Policy V6 of the City of Durham Local Plan supports new visitor accommodation or extensions to existing visitor accommodation within the settlement boundary provided the development is appropriate to the scale and character of the area and that it does not conflict with other policies in this plan.

38 In this case the site lies in a central location in Durham City within the settlement boundary. As such the principle of both the change of use and the extensions is acceptable subject to the impact on the other material planning issues discussed below.

Access and Parking

39. Policy T1 requires development that generates traffic not to detract from highway safety and not have a significant effect on the amenity of occupiers of neighbouring property. The County Highway Officer was consulted on the application and has commented that given the city centre location, sustainable transport modes are easily accessible and as such all guests do not require on street parking. Parking restrictions apply on South Street and the adjacent streets which will restrict the business and visitor parking permits available for this property. The County Highway Officer therefore does not object to the development on highway grounds.

Impact on the Conservation Area, Heritage Assets and Design Appraisal.

40. Policy E6 and E22 require the special character and appearance of Durham City to be preserved. In addition the design should be in keeping with the host property and the street scene.

41. The property 40 South Street was put forwards for listing in 2005 but assessment by English Heritage concluded that despite noting the buildings strong facade making a positive contribution to the conservation area, with a number of attractive Neo Georgian and Arts and Crafts style fixtures and fittings, it falls short in terms of sufficient special historic or architectural interest in the national context to merit its listing. This decision was appealed by the City of Durham Conservation Officer at the time stating that the assessors report did not fully recognise the quality and significance of the internal spaces of the building, but the outcome of the appeal was again not to list the property. Despite the above Grafton House is a non-designated heritage asset and occupies two plots in South Street and Conservation Officers consider it is an almost complete Edwardian remodelling of two 18th century properties into one dwelling.

42. Conservation Officers have noted that the reuse of historic buildings and maintaining them in active use can be challenging particularly when proposals seek to change the use from their original use. In this case the building is reverting back to a previous consent and the alterations would be simple to execute and again reverse.

43. In relation to the rear orangery constructed without consent, orangery type extensions of this nature are commonly found on, and suited to, large domestic properties. Historically they were added to fashionable residences from the 17th to the 19th centuries giving a classical architectural form. As such it can be considered in keeping with the general period

and character of the building on the rear that is less architecturally embellished than the frontage. This is reinforced by including rendered/heritage brick walls, timber painted doors and timber roof lantern, and stone coping etc giving a traditional aesthetic matching details and finishes of the main house. It has also been constructed off the later 3 storey extension approved in 2005, which is appropriate in preserving what remains of the original rear elevation of the main building while creating an attractive courtyard arrangement around the external space.

44. The building is not listed and the buildings evolution would remain appreciable with the extension subordinate creating a clear hierarchy of built forms. The unauthorised extension is completely concealed from public view it causes no adverse effect to the special interest of the property itself, the surrounding conservation area or the setting of the world heritage site. The Conservation Officer therefore considers that the design, siting and appearance of the orangery is acceptable.

45. Infilling an area of what is effectively 'dead space' with a further small extension merging into the orangery is also considered acceptable with regard to siting, materials and design. It is acknowledged that this combination results in two extensions perceived as a single mass across the full width of the rear plot, which ordinarily is resisted, but in this instance the extensions taken together would be of an acceptable scale and design compared to the substantial building constructed over two plots.

46. The change of use of the building and the operational development to the rear to form the single storey extensions are not considered to detract from the setting of the Conservation Area or the adjacent listed building. Thus, the proposal would be considered to be in accordance with policies V6, Q9, E6, E22 and E23 of the Local Plan, Part 12 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990.

Residential Amenity

47. Policy H13 requires planning permission to be withheld for changes of use that have a significant adverse effect on the character and appearance of a residential area or the amenities of residents within them. The impact on the appearance of the area has been discussed above and this section will consider the impact on the amenities of residents.

48. The existing property has no off street parking and all parking is available on street or in car parks away from the site. The County Highway Officer has noted that the site is located in a sustainable location where a range of alternative transport options are available to guests. The applicant has also clarified that marketing of the property will clearly acknowledge that no private parking is available with the property and that sustainable means of transport, or parking away from the property, is encouraged.

49. The County Councils Environmental Health Officer has also carefully assessed the application and has commented that the potential noise associated with the development is mainly noise from visitors arriving / departing. Considering the type and scale of development and nature of the residential area he does not consider that noise of this kind is likely to significantly impact on neighbouring properties.

50. With regard to odour the County Environmental Health Officer has carefully considered the existing kitchen and flue and considers it is adequate for the commercial breakfasts proposed in the guest house. He has also noted that the enclosed bin store is adequate subject to it being managed effectively by the applicant.

51. Policy Q9 also requires alterations or extensions to residential properties to respect the privacy of adjoining neighbours. The effect of the use of the property as a guest house on the privacy and amenity of adjacent residents is considered acceptable, with a three storey

full height extension to the south, and the premises to the north separated by a long single storey pitched roof extension from the application site. Bedroom windows are predominantly to the front of the building to take advantage of the views of the Cathedral, and to the rear which looks onto the graveyard. It is noted that comments from residents about the impact on overlooking windows is restricted to the impact on a bathroom window which is considered to be a non-habitable window.

Additional matters raised by objectors.

52. Residents have raised concerns that the property will be used as student accommodation or a house in multiple occupation. The application is for a guest house which falls within a C1 Use Class. If the property was then used as a house in multiple occupation this would fall thin a different use class (Class C4) and planning permission would be required for such a change. Officers do not consider that the change of use to a guest house would imply any precedent for the acceptability of subdivision of the property for such a change of use.

53. Concern was expressed that a badger set to the rear of the property may be affected by the extension. The proposed extension is to fill the gap between the existing dwelling and the orangery on an existing paved yard and is not proposed to extend beyond the existing residential curtilage. As such a stage 1 Habitats Survey would not be required for this extension.

54. Residents have also raised a concern that the property will be too big to change back to dwelling following the guest house use. The size of the existing property is substantial and is in operation now as a single dwelling. The size of the proposed extension is relatively small at 3 metres by 4.2 metres and is not considered to detrimentally affect the option to revert the property back to a single dwelling.

55. Concern about a wood burning stove creating residential amenity problems from smoke entering the adjacent dwelling and garden is a matter than can be considered by separate legislation as Durham City is a smoke free area.

56. Commercial deliveries and collections to the premises will block the road and be inconvenient to residents. As residents are aware South Street is narrow with on street parking and so it is acknowledged that some temporary disruption will occur as is the case on many of the historic streets in Durham. This would not provide a reason to withhold planning permission, given the limited nature of the development.

57. Concerns are also raised that the existing and proposed extensions have significantly reduced the garden area for the property. Objectors are quite right that the amount of garden area is limited and for the size of property is small. Policy V6 on visitor accommodation does not require a minimum amount of outdoor space and the property does provide an adequate bin store and landscaped courtyard for occupants.

CONCLUSION

58. The existing property at 40 South Street is a substantial mid terraced property which is a non-designated heritage asset in the City of Durham Conservation Area. Planning policies support the introduction of visitor accommodation in the settlement boundary and although this property does not have the benefit of private car parking it is centrally located and benefits from good public transport links. The effect of the use of the property as a guest house on the privacy and amenity of adjacent residents is considered acceptable. The proposal is therefore considered to conform with NPPF 7 and 12 and Local Plan Policies

V6, Q9, E3, E6, E22, E23, E24, H13 and T10. The recommendation is therefore for approval with conditions.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out only in accordance with the approved plans and specifications contained within following documents validated on the 13th July 2015:

Site Location Plan

Proposed First and second floor layouts with rear elevation

Existing rear elevation

Existing ground first and second floor plans

Currently as built rear elevation

Reason: To secure an acceptable form of development that meets the objectives of Policies V6, Q9, E3, E6, E22, E23, H13 and T10 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

59. The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework

National Planning Practice Guidance Notes

City of Durham Local Plan 2004

Statutory, internal and public consultation responses

Emerging County Durham Plan

Site Location Plan



COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/02067/FPA
FULL APPLICATION DESCRIPTION:	Change of use from office accommodation to car dealership, formation of new vehicular access door, re-fenestration of showroom windows, new roof and provision of new upstand fascia board.
NAME OF APPLICANT:	Bett Homes Limited
ADDRESS:	Ness Furniture Ltd, Croxdale, Durham, DH6 5HT
ELECTORAL DIVISION:	Coxhoe
	Lisa Morina
	Planning Officer
CASE OFFICER:	03000 264877+
	lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to part of the building known as Ness Furniture which is located within the settlement of Croxdale which is predominantly residential however does have an established commercial area. The area of the building in question has been used as offices for Ness Furniture and is currently vacant due to the redevelopment of Ness Furniture relocating to its sister site. Access to the site is from the A167. Residential properties are located to the front of the site with an existing Citroen garage and repair garage located to the south.

The Proposal

2. This application seeks the change of use from office accommodation which was used as an ancillary office operation for Ness Furniture to a car dealership in association with the existing Citroen car dealership which lies to the south of the site. Alterations to the property are also proposed which includes a new vehicular access door, re-fenestration of showroom windows, a new roof and the provision of an upstand fascia board.
3. This part of the building was originally a car show room and only ceased trading when it relocated to the larger site which sits to the south and is currently still trading.
4. This application is being referred to the planning committee at the request of Cllr Williams.

PLANNING HISTORY

5. Planning permission was granted for extensions to the Ness Furniture factory both in 1992 and 2005. .

PLANNING POLICY

NATIONAL POLICY:

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
10. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
11. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

The above represents a summary of 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

12. Policy EMP11 Employment within Settlement Boundaries but Outside Designated Sites - seeks to protect the amenity of neighbouring occupiers, the character and appearance of the area and should not result in an increase in traffic generation to the detriment of local amenity and highway safety.
13. Policy T1 Traffic – General - states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
14. Policy Q2 General Principles Designing for Accessibility - Sets out the criteria which development should consider in relation to meeting the access requirements of all

users of the development. Development should also address safety and be adequate for the needs of the particular use of the proposal

15. Policy S11 Miscellaneous Sales – Advises that particular control should be given to the location of the sales of motor vehicles, to protect the amenities of neighbouring residents or highway safety.
16. Policy H13 Residential Areas – Impact Upon Character and Amenity Seeks to protect the character, appearance and amenity of residential areas.

RELEVANT EMERGING POLICY

The County Durham Plan

17. 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.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. *County Highways Authority* has not offered any objection to this proposal as the operations are not considered to raise any severe impacts on the highway network. Amendments were sought to provide an area for the car transporter to access and leave the site and these have been received.

INTERNAL CONSULTEE RESPONSES:

19. *Environmental Health Officers* have no evidence demonstrating the existence of a statutory nuisance and do not consider the application likely to significantly increase the impact therefore does not object to this development in principle however does advise that certain conditions and restrictions may be considered.

PUBLIC RESPONSES:

20. The application has been advertised on site by way of a site notice to the front of the site and neighbouring residents were also notified individually of the proposed development. At the time of report preparation, 16 letters of representation have been received from local residents (13 in a standard pro-forma and one containing

photos to be read in conjunction with the letters received). The majority of the letters are objecting or raising concerns with the proposed development.

21. Objections are raised in relation to loss of privacy issues and noise disturbance for residents as well as the addition of a further franchise and the removal of the hedge. In addition to this highway safety issues are raised including parking issues, the parking of transporter vehicles on the A167 while delivering cars, the parking of display vehicles within the grass verge, the current speed restriction to the access road, access/egress from Queens Garth onto the A167 and the increase in vehicles the proposal will create and the hazardous flammable tanks within the existing garage. Residents consider that their concerns should take priority.

APPLICANTS STATEMENT:

22. Croxdale in its various guises has occupied the site alongside Ness Furniture since the 1960's, both business being under the same overall control. As the site evolved the various buildings were adapted to suit requirements as necessary at that time, and as such the showroom has been used for the display of cars and furniture, and although we have been unable to ascertain an "established use" as a furniture showroom (its last use until it became vacant) this planning application has, with the proposal to refurbish and return the existing vacant showroom (which has been used as offices in connection with the Ness Furniture business to its original intended use, i.e. to display motor vehicles, been made in order to regularise matters and ensure full compliance now.
23. The new Subaru dealership is under the complete control of Croxdale as a "bolt on" to Croxdale Citroen, the only requirement being the display internally of 5no cars. Hence as delivery of vehicles and the layout of the forecourt will remain unchanged there will be no impact on the external operation of the site, although it is estimated that the number of visitors to the site will be reduced as the showroom reverts from displaying furniture back to displaying motor cars. It is envisaged however, that in terms of employment, 2no new jobs will be created to supplement the existing workforce who will operate the showroom.

PLANNING CONSIDERATIONS AND ASSESSMENT

24. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, the impact on the residential amenity of the neighbouring properties, highway safety issues, impact on the amenity of the area and any other issues.

Principal of the Development

25. The application site in question was originally a car show room and was made redundant following the growth of the business which occupied the site. This building was then occupied by Ness Furniture as an office in connection with their business. The garage premises then relocated to the south of the site where it is currently still trading. Given this, the site was originally used as a car dealership.
26. The Durham City Local Plan sets out that as a general principle new business development should be located on designated sites for sustainability objectives and to minimise the impact on residential areas. However saved policy EMP11 of the Local Plan sets out that planning permission for extensions to existing businesses

outside of defined sites will be considered acceptable in principle, subject to a detailed analysis of their impacts. This approach is replicated within the NPPF which looks to promote the growth of sustainably located businesses.

27. Overall it is considered the location of the development would represent part of an established employment site and would result in the re-use of part an existing building which is no longer required for its present use as an office for Ness Furniture due to its relocation to its sister site in another area. The development is therefore considered acceptable in principle subject to a detailed analysis of the specific impacts of the development.

Impact on residential amenity

28. Concern has been raised that the proposal will result in a loss of privacy from the additional people who will visit the site given the increase in cars which will be available for sale in the new showroom. Whilst it is acknowledged that the additional amount of cars to be displayed would potentially increase the number of trips generated to the site however this is not considered to be significant enough to warrant a refusal of this application based on the impact on the residential amenity of the area. This is due to the fact that the additional amount of cars to be displayed has been quoted as only 5-6 over and above the current arrangement, therefore this is not considered to be a significant increase that would be detrimental to the privacy of the residents. In addition to this, given the distance the proposed showroom is away from these neighbours, privacy is not considered to be reduced from its current levels.
29. In addition to this, noise disturbance has also been raised as an issue from the transporters which deliver the cars to the site. Again given the limited increase in the amount of cars to be displayed due to the constrained size of the showroom it is not considered that this would result in a detrimental impact on the residents. The Council as local planning authority is unable to control the parking of vehicles on the highway. It may be possible to control the timing of deliveries within the site, however, it is not felt that such a condition would be of any significant benefit, given the proposed opening hours of the business. In addition to this, it is felt that controlling the times the vehicles could enter the site could result in transporters parking for longer periods on the highway waiting for the specified opening hours potentially with engines running.

Highway Safety Issues

30. Various issues have been raised with regards to highway safety and these will be considered separately below.
31. Whilst it is accepted that the additional show room may attract more customers, allocated parking space has been provided and this is considered sufficient to meet the parking demand that the increase may provide. Given this, it is not considered that unacceptable parking issues would arise. The County Council Highways officer also agrees that the parking demand would be less in this instance than that of the previous business on this site.
32. The increase in traffic generation as a result of the proposal is a concern for residents; however it is considered that the additional traffic as a percentage of the existing background traffic which uses this main road is not considered to be significant. A road traffic accident is referred to in the objections, however there is no evidence that this was as a result of the existing car sales operation. The highways officer has searched police data and this suggests that there has only been one

slight injury in 5 years which is not considered to suggest that there are significant road safety problems within this area.

33. Concern is also raised from residents that the existing parking layby would be used by customers and this would reduce the space available for residents. This area is a public highway and thereby any highway user may use this area. Regardless of this however, as stated above it is not considered that the addition of a 5-6 space car showroom will have a significant detrimental impact compared to what is already in existence.
34. Concern has been raised regarding the location of transporters and where they park when delivering vehicles. Highway colleagues have confirmed that whilst the unloading of vehicles takes place on the highway, due to the carriageway widths and forward visibility splays, it does not compromise road safety. In addition to this, infrastructure is available on site for the transporters to enter and exit the site and this is shown on drawing number 591/4 received 24 August 2015. It is not felt that a condition can be imposed which states they have to use this area, as parking on the highway cannot be prevented via the planning process however, it is felt necessary to condition that this area remain available for the parking of the transporter at all times whilst the development is in existence.
35. Whilst it is acknowledged that there are potential speed issues on the access road, this is not considered to be linked to the number of trips and manoeuvres to this site and this is not considered to be a highway safety risk. As indicated above, police data suggests only one slight injury accident in 5 years which is not considered a significant road safety problem.
36. Given the above, it is not considered that the additional increase in traffic movements as a result of the additional show room space being created would result in a significant detrimental impact on highway safety and the proposal is therefore, considered acceptable in terms of Policy T1 of the saved local plan.

Impact on the visual amenity of the area

37. The application site is located in an area where there is residential development to one side and commercial to another separated by a main roadway. Alterations are proposed to the building which includes the formation of a new vehicular access door, re-fenestration of showroom windows, a new roof and the provision of a new upstand fascia board. These works are considered appropriate and are not considered to be out of keeping with the area in which the property is located. It is considered, therefore, that the visual amenity of the streetscene would not be adversely affected.

Other Issues

38. Issues have been raised by objectors regarding hazardous flammable tanks within the existing garage and previous incidents where residents have been evacuated and that the intensification of this use would be a concern for the residents. There is no indication within the plans that additional tanks would be provided, therefore this is not considered to be a material planning consideration.
39. It has been suggested that the car dealership may be increasing from one dealership to two, this is something which is in consideration but has not been formally agreed by the applicants. Regardless of this, however, the proposal is for an increase in the showroom of up to 6 cars only which is not considered to be a significant increase.

Furthermore, the planning permission relates to the use of the site for car sales, irrespective of whether more than one dealership operates from there.

40. The applicants have clarified that until the redevelopment of the rest of the site, which is apparently being marketed for housing, is completed the precise boundary is negotiable and remains fluid. Regardless of this however, planning permission is not required to remove hedging and it is unlikely that this will be removed until any future development is considered on the site.
41. Residents consider their views should take priority over the changes proposed to the site. However, a decision has to be made on the planning merits of the proposals, taking all relevant issues into account including representations received.

CONCLUSION

42. The proposed development for a car showroom is considered acceptable in principle given its previous commercial use. The proposal is also considered to be in keeping within the existing area and is not considered to have a significant detrimental impact on the surrounding residents.
43. Highway Safety issues have been considered however, the proposal is not considered to result in any significantly detrimental impacts on the highway network.
44. As such, it is considered that the proposed development would be in accordance with saved policies EMP11, T1, Q2, S11 and H3 of the City of Durham Local Plan and parts 1, 4 and 7 of the NPPF.

RECOMMENDATION

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

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

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

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

Plan Ref No.	Description	Date Received
None	Site Location Plan	2 July 2015
591/1	Plans, Elevations & Section As Existing	2 July 2015
591/2	Plans, Elevations & Sections As Proposed	2 July 2015
None	Supporting Information	31 July 2015
None	Statement of Works	15 July 2015
591/3	Forecourt Layout As Existing	6 August 2015
None	Supporting Information	6 August 2015
591/4	Forecourt Layout As Proposed	24 August 2015

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with policies EMP11, T1, Q2, S11 and H3 of the City of Durham Local Plan.

3. *Notwithstanding the details on the submitted application, the area made available for the on-site transporter deliveries as shown on drawing number 591/4 received 24 August 2015 shall be operational prior to the use hereby approved commencing, and shall thereafter remain available for that use at all times whilst the development hereby approved is in operation.*

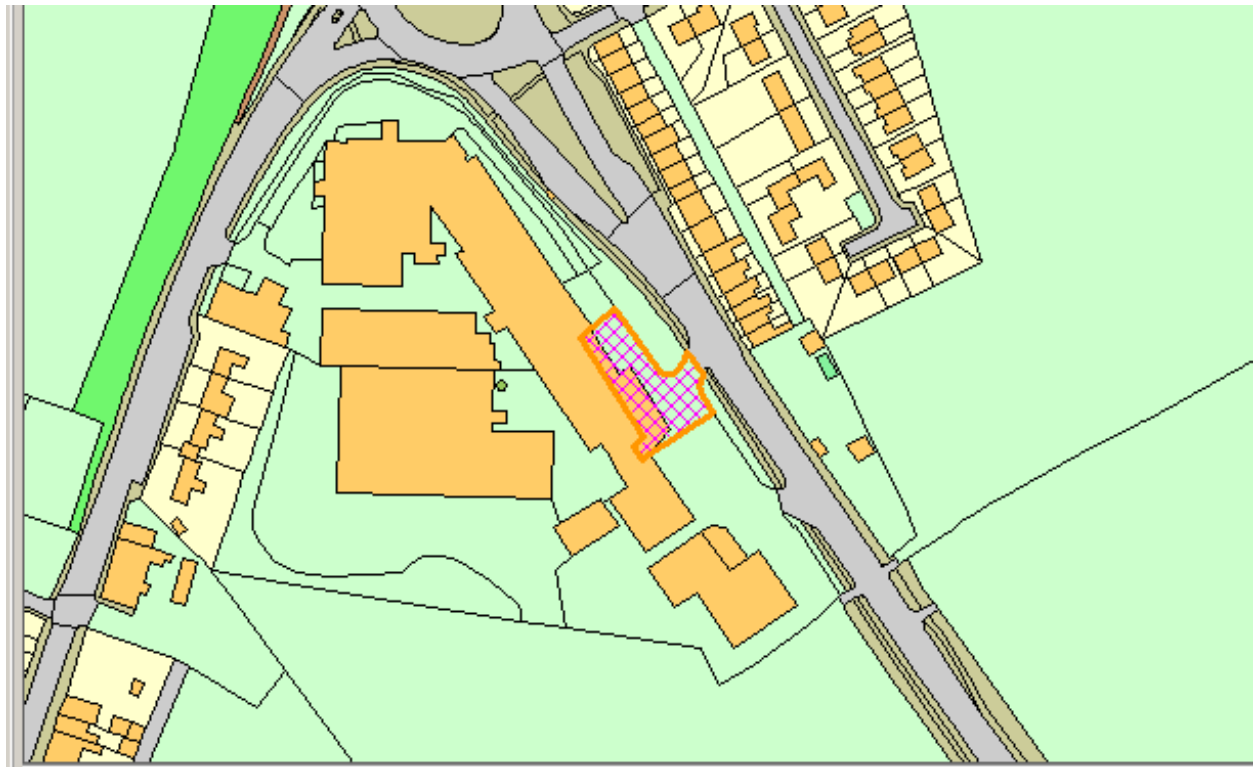
Reason: In the interests of highway safety in accordance with policy T1 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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)



Planning Services

Change of use from office accommodation to car dealership, formation of new vehicular access door, re-fenestration of showroom windows, new roof and provision of new upstand fascia board at Ness Furniture Ltd Croxdale, Durham, DH6 5HT
Application reference DM/15/02067/FPA

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Date
September 2015

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00793/OUT
FULL APPLICATION DESCRIPTION:	Construction of 55 residential dwellings comprising 22 affordable dwellings and 33 open market dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access)
NAME OF APPLICANT:	Hellens Group Limited
ADDRESS:	Land to the east of Prospect Place, Commercial Road East, Coxhoe
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application site relates to a parcel of land of 1.56ha. The site has previously been used as a limeworks. This was removed in the late 1970's. The site is considered to be Greenfield as identified within the Council's Strategic Land Availability Assessment. The site now comprises a range of grasses and shrubs. The site is generally level, gradually sloping from east to west.
2. Turisdale Beck is located to the north of the site and this is bordered by woodland. Coxhoe Ponds Local Wildlife Site (LWS) and Crow Trees Nature Reserve (LNR) border the application site to the east. To the south lies a road whilst to the west is the "The Limes" residential development which is nearing completion and has been in the process of construction since 2008.

The Proposal:

3. Planning permission is sought in outline for the construction of 55 residential dwellings comprising 22 affordable dwellings and 33 open market dwellings with associated works and landscaping. All detailed matters except access are reserved.
4. Access to the development site is proposed via the road which borders to the south with the access point situated in the south-west corner of the site.

5. Whilst final details of the proposed dwellings is at this stage unknown, the application documents propose a range of houses including the provision of eight bungalows.
6. The application is accompanied by a biodiversity management plan which proposes management measures to the land within the ownership of the applicant though outwith of the application site which forms part of the Coxhoe Ponds Local Wildlife Site.
7. The application is being reported to Planning Committee as the development constitutes a major residential development comprising of more than ten dwellings.

PLANNING HISTORY

8. The land to the west of the site (land to the south and north of Commercial Road East), was granted outline planning permission for 80 new dwellings and 2,400m² of employment space in 2008. A reserved matters application was subsequently approved for 80 new dwellings in 2009 which have now been constructed. An application to vary condition 7 on the 2008 outline permission was approved in 2009 which restricted occupancy until a scheme for the treatment of foul flows from the development had been completed. In 2010 planning permission was granted for a substitution of a housetype within the development originally approved in 2008.
9. The employment use approved in the 2008 planning application was not implemented and instead planning permission was granted in 2011 for an additional 47 houses.
10. Further variation of condition applications to permit the substitution of housetypes were approved in 2012 and 2013.
11. In December 2014 an application for the erection of 103 dwellings and associated works on the application site and additional neighbouring land was withdrawn (DM/14/01858/OUT).

PLANNING POLICY

NATIONAL POLICY

12. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should 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. 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’.
13. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.

14. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
15. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
16. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities.
17. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning 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.
18. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
19. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
20. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
21. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

22. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; health and well-being; land stability; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

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

23. *Policy E7 – Development outside of Settlement Limits.* Development outside of settlement boundaries will only be permitted when it accords with other policies in the plan.
24. *Policy E14 – Protection of Existing Trees and Hedgerows.* Views hedgerows and trees as a valuable resource to be protected when new development is being considered.
25. *Policy E15 – New Trees and Hedgerows.* Tree and hedgerow planting is encouraged.
26. *Policy E16 – Nature Conservation – the Natural Environment.* Is aimed at protecting and enhancing nature conservation assets. Proposals outside protected sites will be required to identify significant nature conservation interests that exist on or adjacent to the site. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts should be identified.
27. *Policy E17 – Sites of Special Scientific Interest.* States that development that would adversely affect a SSSI will only be permitted where the development is of overriding national importance, the development cannot be located elsewhere and remedial and compensatory measures are undertaken.
28. *Policy E18 – Sites of Nature Conservation Importance.* Seeks to safeguard such sites by resisting development which would be detrimental to their nature conservation interest unless it is demonstrated that the benefits from the development would outweigh the nature conservation interest of the site, that there are no appropriate alternative sites for development, that commensurate measures are undertaken to minimise adverse effects and that appropriate habitat creation or enhancement in the vicinity of the site to compensate unavoidable damage undertaken.
29. *Policy E24 – Ancient Monuments and Archaeological Remains.* Ancient monuments and other nationally significant archaeological remains and their settings will be preserved in situ and damage would not be permitted. Archaeological remains of regional and local importance will be protected in situ and where preservation in situ is not justified by, ensuring that in areas where there is evidence that significant

archaeological remains exist, or reasons to pre-suppose they exist, pre-application evaluation or archaeological assessment will be required and requiring as a condition of planning permission, that a programme of archaeological investigation, recording and publication has been made.

30. *Policy E26 - Historic Parks and Gardens.* States that development will only be permitted at such locations where it would not detract from the enjoyment, layout, design, character, appearance or setting of the park/garden or result in the loss of its integral features.
31. *Policy H3 – New Housing Development in the Villages.* New housing development comprising windfall development of previously developed land will be permitted within settlement boundaries.
32. *Policy H5 – New Housing in the Countryside.* In the countryside new housing development will be permitted only when it is; required by persons employed in agriculture or forestry where there is a functional need and the enterprise is financially viable, the size is commensurate with the established functional need; adequate provision cannot be made within the settlement/existing buildings and it respects the character of its landscape setting.
33. *Policy H12 – Affordable Housing.* Requires residential schemes of 25 units or more, of 1 ha or more, to provide a proportion of affordable housing where a local need exists.
34. *Policy H12A – Type and Size of Housing.* States that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.
35. *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.
36. *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.
37. *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.
38. *Policy T21 – Walker’s Needs.* The Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths are protected; new footpaths are provided; and footpaths are appropriately signed.
39. *Policy R2 – Recreational and Amenity Space in New Residential Developments.* *Seeks to ensure that the provision of open space for outdoor recreation is evenly distributed and is maintained at a level that meets the needs of its population.*
40. *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.

41. *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.
42. *Policy Q6 – Structural Landscaping.* Development located on the edge of settlements or in exposed sites will be required to use peripheral structural landscaping in order to minimise adverse visual impact.
43. *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.
44. *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
45. *Policy U5 – Pollution Prevention – General.* States that development that may generate pollution will not be granted if that pollution would have an unacceptable adverse impact upon the quality of the local environment, upon the amenity of neighbouring occupiers or would unnecessarily constrain the development of neighbouring land.
46. *Policy U7 – Pollution Prevention.* Development Sensitive to Pollution states that developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
47. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
48. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative less vulnerable areas are unavailable, that no unacceptable risk would result, that no unacceptable risk would result elsewhere, or that appropriate mitigation measures can be secured.
49. *Policy U11 – Development on Contaminated Land.* Development will only be permitted where the nature and extent of contamination is established, the development would not add to the level of contamination, proposals include remedial measures and that there is no detrimental effect on the environment.
50. *Policy U13 –Development on Unstable Land.* Development will be permitted provided that there is no risk to the intended occupiers from stability or that satisfactory remedial measures can be undertaken.
51. *Policy U14 – Energy Conservation.* States that the use of energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY:

The County Durham Plan

52. 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. Relevant policies are listed below, and the weight to be afforded to them is discussed in the main body of the report.
53. *Policy 15 – Development on Unallocated Sites in Built Up Areas.* This policy sets out that development on unallocated sites that are in built up areas will be permitted provided that; they are appropriate to the character and function of the settlement; would not result in the loss of the settlements last community or facility (unless there are exceptional circumstances) and the development is compatible with and does not prejudice any intended use of adjacent land.
54. *Policy 35 – Development in the Countryside.* States that planning permission in the countryside will only be granted where the development accords with other relevant policies and exceptional circumstances apply such as; being necessary for agricultural or rural based enterprise; directly supporting services and facilities; enhancing the County's environmental or tourism assets or representing the acceptable re-use of a dis-used building or heritage asset.

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/ldf> (City of Durham Local Plan)
<http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

55. *Coxhoe Parish Council* – Express concerns with regards to the cumulative impacts of housing developments in the area and the ability for Coxhoe Primary School to cater for the school places need. Comments are provided regarding the allocation of S106 monies emerging from the development and it is requested that monies are equally divided amongst the primary school, Future Leisure in Coxhoe and the village hall. The upgrade of the bridleway on land owned but not sought for development by the applicant would be welcomed and it is considered appropriate that the land be transferred to the Parish Council.

56. *The Highway Authority* – Raise no objections. The content of the submitted transport assessment is acceptable with the level of traffic generation from the development considered to have no material impact on the surrounding highway network. The access point is suitable. Whilst a matter for the reserved matters stage it is commented that revisions to the layout to improve connectivity should be made. Although a travel plan has been supplied a condition is requested to ensure it is effectively delivered.
57. *Natural England* – Raise no objections with regards to the potential for the development to affect statutory nature conservation sites. General and standing advice is provided with regards to protected species, green infrastructure, locally designated nature conservation sites, landscape and biodiversity enhancements.
58. *Environment Agency* – Raise no objections. Given the proximity of the site to Coxhoe East landfill site it is stated that there potential for migrating gas from the landfill to affect the site. It is therefore considered that a gas risk assessment to determine ground gas conditions is undertaken and a condition could resolve this. General and standing advice is provided with regards to foul water disposal, land contamination and in regards to Great Crested Newts.
59. *Northumbrian Water* – Raise no objections. The development should be implemented in accordance with the submitted flood risk assessment.
60. *Coal Authority* – Confirm that the site is located within the defined Development High Risk Area. The application is accompanied by a coal mining risk assessment and a preliminary site investigation. However, it is considered that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site and condition is recommended to this effect.
61. *Drainage and Coastal Protection* – Raise no objections. Final details of the proposed drainage arrangements for the development should be agreed in accordance with the hierarchy of preference for surface water disposal and the Council's surface water principles. Officers advise that discharge from the development should be restricted to greenfield run-off rates.

INTERNAL CONSULTEE RESPONSES:

62. *Spatial Policy* – The principle of developing the site as an extension to Coxhoe is in conflict with the existing Local Plan (Policy H3). Policy H3 which establishes a settlement boundary to Coxhoe is considered only partially compliant with the NPPF, however, and less weight should be attributed to the proposal's conflict as a result. This revised application proposes a smaller quantum of development than previously submitted and as a result the degree of incursion into the open countryside and visual and landscape impact has lessened. The ecological implications of the development in regards to both protected species and County Wildlife Site are a key consideration. The site is not allocated within the emerging County Durham Plan and the most relevant County Durham Policies are therefore Policies 15 (Development on Unallocated Sites) and 35 (Development in the Countryside). These policies carry only very limited weight. Should the development be deemed an intrusion into the countryside of an acceptable degree without significant landscape or townscape impact then the development could be viewed favourably against these policies.

63. The Local Planning Authority can demonstrate a 5 year housing land supply. However, it is not the intention to resist schemes solely on the grounds a five-year supply can be demonstrated, but instead recognise that it enables the LPA to be more selective over which sites it does release, to ensure that the most sustainable and appropriate sites in the context of the NPPF are brought forward for development.
64. Support to the revised scheme could be offered should the impacts of the extension of the development beyond the settlement boundary and ecological impacts be considered acceptable and that the proposal can demonstrate further benefits (by way of the delivery of 40% affordable housing) in a finely balanced planning application.
65. *Design and Conservation* – No objections are raised to the impacts of the development upon heritage assets but consideration should be given to matters of archaeology having regards to the age of the former Steetley Lime works.
66. *Ecology* – Raise no objections to the development subject to the submitted habitat management plan conditioned and site maintained in perpetuity.
67. *Landscape* – The development would have some adverse landscape and visual effects and the extent of which would depend on whether some final modest amendments to the layout could be achieved. Landscaping to ease the transition from the built environment to a rural one is advised.
68. *Tree Officer* – No objections.
69. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. Taking into account the scale of the development and likely vehicular movements as a result there is no requirement for the application to be accompanied by an Air Quality Assessment.
70. *Environment, Health and Consumer Protection (Contamination)* – Raise no objections but due to the fact that the proposed development constitutes a change of use to a more sensitive nature a contaminated land condition should be applied to any approval.
71. *Environment, Health and Consumer Protection (Noise, Dust, Light, Smoke and Odour)* – Raise no objections. The submitted noise assessment is considered appropriate, the mitigation measures proposed should be implemented. Noise from the construction phase could occur and a condition to control such noise is recommended. A condition to control the lighting scheme having regards to proximity to existing property is recommended. A construction management plan to control dust and the potential for smoke is advised. No concerns are raised with regards to odour.
72. *Archaeology* – No objections and no matters of archaeological interest are raised.
73. *Access and Public Rights of Way* – No objections. The proposed contribution to upgrade the Limestone LinX Bridleway is welcomed.
74. *Housing Delivery* – The development seeks to deliver in excess of the 20% affordable housing requirement for the area. The affordable housing should be provided on a split of 70% affordable rent and 30% affordable home ownership with a mix of 2, 3 bed and 2 bed bungalows. Details are requested in relation to the percentage discount of the affordable home ownership units.

75. *School Organisation Manager* – Raise no objections. At this point in time there are sufficient primary and secondary school places for the additional pupils likely to emerge from the development having regards to current need and existing committed development in the area.
76. *Sustainability* – Object to the application due to the potential impacts upon ecology and the distance from services, facilities and public transport services.

PUBLIC RESPONSES:

77. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 6 letters of objection to the development have been received. The matters raised are summarised below.

Principle of the Development

- The need for the housing is questioned with existing properties being slow to sell

Design and Layout

- The development is of too high density
- Absence of landscape buffer between the proposed development and existing houses
- The open space design and positioning is considered to be poor

Residential Amenity

- Loss of privacy from property
- Harmful impacts of overshadowing from the development
- Disruption and noise from the construction phase

Ecology

- Impacts on Great Crested Newts
- Impacts upon a range of other species within the nature reserve
- Impacts upon yellow-wort and autumn gentian

Other issues

- Devaluing of property
- Loss of view from property
- The site is used for dog walking
- Understood that the developer of previous phases of The Limes had provide assurances that this land would not be developed
- Inadequacy of the parking provision and the access arrangements to the site
- Lack of public access to the wildlife site adjacent

78. The following comments have also been received;

79. *The Durham Constabulary Architectural Liaison Officer* – The crime risk assessment for the development is considered low. The only concern within the layout is highlighted as being the area of open space which has the potential to generate nuisance complaints. Approaches to landscaping for the open space such as

defensive planting could reduce the potential for such nuisance. General advice with regards to the principles of “Secured by Design” is provided.

80. *The Campaign to Protect Rural England* – Reference is made to the Planning Inspector’s Interim Report on the County Durham Plan and that the objective assessment of housing need is too high and planned growth is not realistic. It is considered that the Inspector left open whether Coxhoe and Parkhill could accommodate more development. Reference is made to High Court judgements considered applicable to the application in regards to 5 year housing land supply and the weight to be attached to Local Plan Policies. It is also considered that weight can be attributed to emerging County Durham Plan Policies which have not been identified as unsound by the Planning Inspector with particular reference to Policies 15 and 35.

APPLICANTS STATEMENT:

81. Hellens Group have already successfully delivered much new housing for the village of Coxhoe brought forward at the Limes Developemnt which represented one of the bestselling sites in the County and indeed the Region. That development brought forward a contaminated vacant site with much needed market and affordable housing including bungalows for which there is an overwhelming demand locally. They have a track record of delivering quality sustainable development.
82. The current application site would further remediate the land and make a logical and moderate addition of new housing for the village and meet with a high demand recognised by Durham
83. County Council Choice Based Letting Service for affordable housing in the village, including further bungalows. Following detailed pre-application discussions with the Council an application was submitted and subsequently amended and reduced in scale to seek to address ecological and landscape concerns. Following discussions with the Council a further revised application was submitted which has now fully addressed all technical issues and previous objections.
84. The scheme will deliver much needed affordable housing which represents 40% of the housing proposed. The scheme will also deliver much needed new family homes that will provide housing at an affordable price in a sustainable location with benefits to the local community through employment during construction and a boost to the local economy from increased spending in local services.
85. In summary, we consider that the scheme will bring overall benefit to the village, in particular much needed housing in a sustainable location and there are significant benefits of the scheme, particularly the delivery of affordable housing that should be given substantial weight in the determination of the application

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/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

86. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that

should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, landscape, visual impact and layout, residential amenity, viability and planning obligations, ecology, highway safety, heritage impact and matters of flood risk and drainage.

Principle of Development

The Development Plan

87. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The CDLP remains a statutory component of the development plan and the starting point for determining applications as set out at paragraph 12 of the NPPF. However, the NPPF advises at paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
88. Furthermore, paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii) specific policies in this Framework indicate development should be restricted.
89. The application site lies adjacent to but outside of any settlement boundary as identified by Policies E7 and H3 of the CDLP. The direction of Policy H3 is that housing may only be approved where it lies inside of the settlement boundary, to help to contain settlements and prevent sprawl into the surrounding countryside. Additionally, Policy H5 of the CDLP establishes a general presumption against allowing housing development beyond a settlement boundary unless it is required to fulfil an employment role. The proposal, seeking a residential estate beyond the settlement boundary of Coxhoe is therefore in conflict with Policies E7, H3 and H5 of the CDLP.
90. Nationally, recent planning case law has found that policies within existing Local Plans that refer to settlement boundaries can be considered to be policies for the supply of housing. Furthermore, the Secretary of State has previously concurred with a Planning Inspector who considered that where policies for the supply of housing are based on housing figures of some age, which did not represent an objectively assessed need, are "out of date" irrespective of the position on 5 year housing land supply (discussed separately below).

91. In relation to this case, policies for the supply of housing within the CDLP, which includes Policies H3, H5 and E7, were based upon housing supply figures derived from the former County Structure Plan which considered housing need up to 2006.
92. The housing requirement identified within the CDLP found that 3000 new dwellings were required in the period 1991 – 2006. By the time of the plan's adoption in 2004, the vast majority of this requirement had already been achieved, and as a consequence, only one housing allocation was proposed for the entire former district. As a result, the settlement boundaries within the CDLP are drawn very tightly around settlements. Where there was an allocation, at West Rainton, the settlement boundary was expanded to include the allocated site.
93. In contrast, the most recent objectively assessed need for housing to 2030, which informs the CDP, has identified a level of need that cannot be provided only within existing settlement limits. Indeed, the CDP proposes that a number of greenfield sites, within the former City of Durham district are allocated for residential development. It is clear therefore, that the settlement limits approach taken within the CDLP is not consistent with, or reflective of, current housing needs.
94. Therefore, housing supply policies within the CDLP do not reflect an up to date objective assessment of need. These policies must now be considered "out of date", for the purposes of Paragraph 14 of the NPPF and no weight can be afforded to Policies E7, H3 and H5 in relation to their advice on housing supply.
95. Consequently, it is considered that in this instance, the proposal should not be assessed against its compliance with Policies H3, H5 and E7 of the CDLP, but instead should be subject to the planning balance test as contained within Paragraph 14 of the NPPF. Clearly, whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted can only be considered following an examination of all of the planning issues.

The County Durham Plan

96. The Council has now received the Inspector's Interim Report on the Legal Compliance and Soundness of the CDP. The findings of the report means that the weight which can be afforded to the conflict with the emerging plan is limited at present, and the Council has launched a Judicial Review to have the Inspector's Report quashed, and a new Examination in Public (EiP) carried out. Until such time as the Courts arbitrate over the dispute, the authority needs to be considering application in the intervening period in the context of the recently Cabinet endorsed (10th June 2015): "Assessing Development Proposals in County Durham - Council Policy Position Statement following receipt of the Interim Inspector's Report into Stage 1 of the Examination of the County Durham Plan".
97. The application site does not form part of a proposed housing allocation under CDP Policy 30. To ensure that the CDP is flexible over its intended timeframe and resilient to changes which take place within that period, the CDP contains policies to enable proposed development on unallocated sites to be assessed on their merits and individual circumstances.
98. Policies 15 and 35 are relevant in this regard and are criteria based policies which are permissive of development provided that it is appropriate in scale, design and location to the character and function of the settlement; and it would not involve development in the countryside.

99. Policy 15 provides guidance on development on unallocated sites within the built up area. Development, including housing, can be compliant with CDP Policy 15 where it meets a number of criteria and where it is considered to be located within the “built up area”. The built up area is defined within the CDP and this definition includes reference to land on the edge of a settlement. The definition explains that land on the edge of a settlement can be considered to be part of the built up area where; it is physically very well contained by existing built development; its development would not result in coalescence with neighbouring settlements; or result in encroachment into the countryside such that it would cause significant adverse landscape or townscape impact.
100. The site is not well contained by existing built development in that there are, for instance, no buildings or roads that border the site to the immediate east. However, the scale of the development is much reduced from the previously withdrawn proposal (ref DM/14/01858/OUT). The extent to which the application encroaches into the countryside is more limited.
101. Both policies 15 and 35 of the CDP have unresolved objections which have been debated at the recent EiP and consequently only very limited weight can be applied to them at this time. Therefore, whilst some weight can be attached to these policies, they should not alone be a decisive factor in assessing this application.

Neighbourhood Plans

102. Coxhoe does have an emerging Neighbourhood Plan, however, this is at an early stage in development and not at the submission stage which is the stage at which the PPG advises prematurity is more likely an issue to be considered.

Five Year Housing Land Supply

103. The National Planning Policy Framework (NPPF) outlines the Government’s objective of ensuring that the planning system delivers a flexible, responsive supply of land. The NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements); however there is also an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a history of persistent under delivery of housing, LPAs should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. Based on completion rates in recent years it is accepted that 20% is currently applicable in County Durham.
104. The Council has recently reviewed its position to establish whether there is sufficient land supply for the five-year period from 1 April 2015 to 31 March 2020 across County Durham in recognition that the housing completions data for 2014/15 are now known, and the supply position is constantly evolving in terms of new schemes receiving permission and other permissions lapsing during the last financial year.
105. Despite the ongoing legal situation surrounding the emerging CDP, it is considered that for the purposes of assessing the 5-year supply, the Council is to have regard to the Inspector’s conclusions as to the housing land supply requirement (1,435 dpa), even though the Council may disagree with it. Unless and until the Court has determined the judicial review claim, the Inspector’s conclusions as to what the five year housing land requirement is may rationally be adopted. This is a reasonable and supportable approach for the Council to take with respect to the five year supply of housing land.

106. Therefore by assuming the OAN contained within the Inspector's Interim Report there would be a housing requirement of 7,175 units over the next 5-year period of 2015-2020 (i.e. 1,435 units x 5 years), and taking account of the shortfall since 2011, and the application of the 20% buffer, a 5-year housing requirement of 9,912 dwellings is identified.
107. A revised housing trajectory has been prepared which sets out the anticipated completions from sites across the County. It demonstrates that 11,097 (net) new homes could potentially be built within County Durham over the next five-years. This is 1,185 more than required when taking account of the historic shortfall, and application of the 20% buffer. This means that the County has 5.60 years supply of deliverable sites as required by the NPPF, and confirms that there is sufficient potential capacity within the County to maintain a 5-year supply of deliverable sites. Whilst the Council's current position on 5 year supply has not been tested through an Examination in Public, it is noted that the matter was considered in a recent planning appeal in relation to a site at Middlestone Moor. In that case, the Inspector considered that the Council had 'around about a five year supply of deliverable sites'.
108. It is therefore concluded that sufficient sites have been identified to maintain a 5-year supply of deliverable housing sites. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.
109. However, as discussed above, it is considered that in this instance, that the relevant policies for the supply of housing contained with the CDLP are out of date in any event. The presence, or otherwise of a 5-year supply is considered not to be a determinant in how the application is considered, as the authority finds itself in the position of having to apply the planning balance as contained with paragraph 14 of the NPPF regardless.
110. The absence of a 5-year housing supply would potentially count as a benefit of the development when considering the paragraph 14 balancing exercise, in that it would boost the supply of housing. In this case, it is considered that as a 5-year supply can be demonstrated, that this would not form a significant benefit, although the development would contribute towards the maintenance of the supply, and this could still be considered to be a benefit, albeit not one of overwhelming significance. Equally however, the presence of a 5-year supply is not a ceiling, and is not a reason in itself, to resist housing development.

Locational Sustainability of the Site

111. The County Durham Settlement Study is an evidence based document in support of the CDP which assessed the services, facilities and transport modes of settlements so as to inform the formation of a settlement hierarchy to establish where new development such as housing, employment and community facilities should be located. This Settlement Study identifies Coxhoe as a "smaller town/larger village" and as a result within the second tier of settlements behind main towns such as Durham, Consett and Bishop Auckland. Coxhoe is considered to have a range of services and facilities that in principle can support the addition of a further 55 dwellings.

112. The site is considered to be within reasonable access to public transport with bus stops located within 400m of the site. Some businesses and retail units are located on the nearest sections of Commercial Road East and are also located within 400m of the site. The main village centre is around an 800m walking distance from the site. Coxhoe Primary School which is located at the opposite end of Coxhoe is farther from the site at around a 1.7km walking distance. Therefore whilst access to a full range of services and facilities is not entirely convenient it is considered that the location of the site is not unsustainable.
113. The School Organisation Manager has raised no objections to the development. The Council has made a commitment to fund further classroom accommodation for Coxhoe Primary School (though this would be subject to a separate planning process). Based upon current need (which can be subject to change taking into account other development and sites in the catchment area) the commitment to additional accommodation would cater for the development proposed.

Landscape, Visual Impact and Layout

114. The proposal would result in the development of a parcel of land on the edge of the settlement and as a result a degree of incursion into the countryside would result. Part 11 of the NPPF seeks to protect and enhance valued landscapes, whilst CDLP Policy E7 seeks to protect countryside as a finite resource, noting that landscape character is highly valued and worthy of protection in its own right. However, as discussed above, Policy E7 can be considered to be a policy for the supply of housing as it relies upon settlement boundaries to define the extent of the countryside, and consequently is considered to be out of date, and cannot carry weight in the determination of the application.
115. The development has reduced in scale from the previously proposed development under application DM/14/01858/OUT and in turn the magnitude of visual and landscape impacts have also reduced.
116. The application is accompanied by a landscape and visual impact assessment (LVIA) and this considers the impact of the development during both the construction and operational phases and considers a range of landscape and visual impacts including upon landscape character areas, designated landscapes and settlements. The LVIA concludes that the overall landscape and visual impacts of the proposed development would not be significant within the area studied. The LVIA considers that impacts upon the range of landscape and visual receptors considered within the study would range from either no adverse impacts to moderate adverse impact.
117. Similarly, Landscape Officers conclude that the development would have some adverse landscape and visual effects and the extent of which would depend on whether some final modest amendments to the layout could be achieved and landscaping provided to ease the transition from the built environment to a rural one is advised. At this outline stage the final layout and landscaping proposals for the development are not known.
118. It is considered that the scale of the development would not result in an excessive or unacceptable sprawl into the countryside or significantly harmful landscape impact. The degree to which the development would reduce the existing green chain of open sites which stretch up to Quarrington Hill would be reduced from the previously proposed scheme.

119. With the application being in outline with the only detailed matter included being means of access the precise layout and final appearance of the development is not being sought for approval. The indicative layout proposes two main estate roads, one on an east-west axis and a second on a north-south axis around which the dwellings would be arranged. An area of public open space is indicatively identified in a northern section of the site. At this stage the precise appearance and scale of the dwellings are not known.
120. It is acknowledged that the Highway Authority raise a point that they would expect improvements in elements of the layout and connectivity of the site whilst Landscape Officers advise on final modest amendments to the layout and provision of landscaping to ease the transition from the built environment to a rural one is advised.
121. Public objection to the development raises objection on the grounds of the density, absence of a landscape buffer between the proposed development and existing housing at The Limes estate and the open space design and positioning. Ultimately at this stage the final layout, landscaping and appearance of the development is not known and detailed consideration on these matters would be made at the reserved matters stage. However, it is considered that the site in principle can cater for the quantum of development proposed.
122. Whilst the development would result in encroachment in the countryside beyond the existing built form of Coxhoe any landscape harm resultant would be limited and furthermore any adverse landscape and visual impacts must be weighed against identified benefits of the development, a balancing exercise that will be undertaken in this report's conclusion having regard to NPPF paragraph 14.
123. In terms of the layout, appearance and landscaping works of the development itself it is considered subject to the final design approach, to be resolved at the reserved matters stage, the development would be acceptable and there compliant with CDLP Policies E14, E15, R2, Q1, Q2, Q5 and Q6 and having regards to Parts 7 and 11 of the NPPF.

Residential Amenity

124. The site is located to the south west of the former Coxhoe Quarry and to the north east of the Joint Stocks Quarry and Landfill site where ongoing capping and restoration works are to be undertaken. It is located directly to the north of Commercial Road East which serves as a route to the household recycling centre, as well Joint Stocks Quarry and Landfill site. Given the use of this road by heavy vehicles and potential for other noise impacts in the locality of the site, a noise assessment has been submitted in support of the application.
125. The noise assessment identified the requirement to implement noise attenuation measures, by means of the provision of acoustic fencing to the rear of proposed properties fronting onto Commercial Road East, as well as ventilation and fenestration requirements. Environmental health officers have indicated that implementation of these measures would enable the residential amenity of residential properties to be safeguarded. These requirements could be ensured by planning condition. Environment, Health and Consumer Management Officers have raised no objections to the submitted noise assessment or development. It is not considered that future residential occupiers would be significantly impacted on by any nearby industrial or commercial properties or operations, including the operation of the recycling centre and landfill site.

126. Environment, Health and Consumer Management Officers do consider that impacts from noise, dust and smoke could potentially occur during the construction phase. A condition to control the potential for such impacts can be added to an approval.
127. Additionally, Environment, Health and Consumer Management Officers raise no objections with regards to matters of air quality with no requirement for the submission of an air quality assessment.
128. Only indicative details are provided regarding the layout of the development. As a result a detailed assessment of the separation between properties both within the development and to existing adjacent properties would be made at the reserved matters stage. However, it is considered that in principle, the residential development could be accommodated on the site without unreasonably impacting upon the level of residential amenity that both existing residents currently enjoy and future occupiers require having regards to the requirements of CDLP Policies H13 and Q8.
129. Given the proximity of the site to Coxhoe East landfill site there is the potential for migrating gas from the landfill to affect the site and this is raised within the comments from the Environment Agency. It is therefore considered that a gas risk assessment to determine ground gas conditions is undertaken to investigate the risk and where necessary propose appropriate mitigation measures and a condition can be added to any approval. With regards to other potential sources of contamination Environment, Health and Consumer Protection Officers have raised no objections, however, it is considered that a condition to investigate the potential for contamination and the need for mitigation measures can be added to any approval.
130. Officers raise no objections to the development on the grounds of any adverse impact upon the amenity of neighbouring occupiers or land users. The development is considered to result in no unacceptable levels of pollution. The development is considered compliant with CDLP Policies H13, Q8, U5, U7 and U11 and Parts 8 and 11 of the NPPF.

Viability and Planning Obligations

131. In order to widen the choice of high quality homes and widen opportunities for home ownership, paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need. Policy H12 of the CDLP requires a fair and proportionate level of affordable housing on sites over 1ha or 25 dwellings, and Policy H12A requires proposed housing to be of an appropriate type and size.
132. Policy H12 is considered to be only partially compliant with the NPPF. It is consistent with the overall objectives of NPPF, in that paragraphs 47, 50 and 158 of the NPPF require an element of affordable housing to be provided on housing sites, based upon an up to date evidence base. Consequently, the unspecified target of a “fair and reasonable” amount specified by Policy H12, should instead be replaced by an evidence based figure.
133. The County Durham Strategic Housing Market Assessment (SHMA) update report was completed in July 2013 and supplies the evidence base for 20% affordable housing across the Central Delivery Area in which the site falls. The 20% requirement reflects an up to date needs assessment and identifies a significant requirement of approximately 189 net affordable units per annum throughout the Central Delivery Area up to 2016/17.

134. The application proposes that 22 of the 55 dwellings are affordable units which equates to 40%. This is an affordable housing contribution that would therefore be in excess of the SHMA requirements. The applicant considers that there is “a pent up demand” for affordable housing and is therefore proposing an increased provision as a benefit of the development to be taken into account in the planning balance. However, the application also seeks to demonstrate that the provision of affordable housing is unviable without grant funding.
135. The application is accompanied by a planning and affordable housing statement and separate viability assessment. This states that through receipt of grant via the Homes and Communities Agency (HCA) under their Affordable Homes Programme the affordable housing proposed can be delivered.
136. In order to acquire the grant from the HCA the applicant, within a separate process from obtaining planning permission, must demonstrate to the HCA that the development is unviable in order to acquire the grant. In general the HCA look unfavourably upon any applications for grant whereby the related planning permission includes a condition or S106 legal agreement to ensure the provision of the affordable housing. However, even in those circumstances the HCA will still consider an application for grant funding but the application must be considered at a national board and the applicant would have to demonstrate the additional benefits that the scheme would bring.
137. With regards to the viability of the development the applicant has submitted development appraisals to demonstrate the various costs and revenues of the development. These appraisals have been scrutinised with the benefit of advice from the Council’s Valuation Officers. Several development appraisals have been submitted so as to demonstrate the viability of the development with and without affordable housing and with adjustments to the inputs in line with requests from officers. This is to ensure that revenues from sales prices and costs associated with the development appear to officers as accurate as is possible. Officers do conclude that based upon the viability appraisals the development would be unable to provide the affordable housing and remain viable. This is because it would not provide a competitive return for the developer and enable the development to be deliverable. The site has previously been used as a limeworks and this was removed in the late 1970’s. The remnants of this limeworks would require remediation prior to the undertaking of the application and this would be a significant cost. Such remediation was also necessary on the adjacent housing development known as The Limes (the housing provided by the history of planning applications) and those schemes were at that time assessed as being unable to provide affordable homes on viability grounds.
138. However, despite the viability issues of the site the applicant is not seeking to develop only open market housing but demonstrate the viability argument to the HCA to acquire the grant and still deliver the proposed 40% affordable housing.
139. If the Council grant planning permission for the affordable housing without the security of a legal agreement, there would be a risk that the housing would be developed on the open market. Therefore in order for significant weight to be attributed to the applicant’s proposal to provide the affordable the Council would require a S106 legal agreement to ensure the provision of the affordable units in perpetuity. If the HCA grant is not forthcoming and the affordable housing cannot be delivered then the application would not be implementable in accordance with the S106 legal agreement and therefore not deliverable.

140. The Growth and Infrastructure Act inserted Section 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduced an application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing. The application and appeal procedures only assess the viability of affordable housing requirements only. They do not reopen any other planning policy considerations or review the merits of the permitted scheme. Through demonstrating that the development was unviable the applicant would through these provisions be able to release themselves from the S106 obligation to provide the affordable housing. However, discussions have been held with the applicant on the inclusion of a further clause being inserted into the S106 legal agreement whereby the applicant agrees not to submit a S106BA application to remove the affordable housing planning obligation. Such an agreement would therefore prevent the instance whereby the applicant can release themselves from the requirement to provide the affordable housing.
141. Given the viability demonstrations that have been made it is not considered appropriate to request a financial contribution towards public art having regards to CDLP Policy Q15. This is because as national advice within the NPPF and PPG is clear that where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would contribute to the development to be unviable, the local planning authority should be flexible in seeking those planning obligations.

Ecology

142. Coxhoe Ponds Local Wildlife Site (LWS) and Crow Trees Nature Reserve (LNR) border the application site to the east. Quarrington Hill and Coxhoe Bank Plantation LWS lies approximately 175m to the south of the application site. Quarrington Hill Grasslands Site of Special Scientific Interest (SSSI) lies approximately 1km from the site and Raisby Hill Grasslands SSSI 1.4km south east of the site. Cassop Vale SSSI and NNR are approximately 3km north of the site.
143. Natural England raise no objections with regards to the potential for the development to affect statutorily designated sites.
144. The previously withdrawn application site for 103 dwellings (ref DM/14/01858/OUT) was in part located within the Coxhoe Ponds LWS and as a result of the loss of this locally designated ecological site attempts to mitigate and compensate for the losses were proposed. This involved the active management of land adjacent and nearby to the site.
145. The reduction in the scale of the development now proposed under this application has resulted in the entirety of the application site being located outwith of Coxhoe Ponds LWS. With no loss of the LWS now occurring no compensatory measures in this regard are necessary.
146. The application is accompanied by a biodiversity management plan which proposes management measures to the land within the ownership of the applicant though outwith of the application site which forms part of the Coxhoe Ponds LWS. The management proposals which are provided in greater detail within the submitted management plan are broadly divided into a grassland management area, woodland, scrub and pond management area and a stream management area. This management plan is an update on previously devised management plans the implementation of which has been a requirement of previously approved development at The Limes development to the west. Public objection includes

comment that there is limited access to the LWS, however, encouraging too greater public presence within ecological sites can damage habitat.

147. Ecological submissions identify eleven ponds and three small scrapes are located to the east of the site. Surveys undertaken recorded the presence of Great Crested Newts (GCNs) within four of the ponds. Whilst none of these ponds are located within the bounds of the application site, the site is within close enough proximity that it provides terrestrial habitat for the GCNs.
148. The presence of protected species such as great crested newts is a material consideration, in accordance with Circular 06/05 and Paragraph 119 of the NPPF. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010 (and as amended in 2012) (referred to as the Habitats and Species Regulations hereafter). These regulations established a regime for dealing with derogations, which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England. In this instance there will be a requirement to trap-out any GCNs within the site and this will require a European Protected Species (EPS) Licence from Natural England.
149. Notwithstanding the licensing regime, the LPA must discharge its duty under Regulation 9(5) and also be satisfied that these three tests are met when deciding whether to grant planning permission for a development which could harm an EPS. The Local Planning Authority should be satisfied that; i) the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment ii) there must be no satisfactory alternative; and iii) favourable conservation status of the species must be maintained.
150. With regards to the first test, the development is meeting no purposes of public health/safety or safety. The development does seek, however, to make a valuable 40% contribution towards affordable housing as well as contributing towards the maintenance of housing land supply and these are social and economic benefits of the development.
151. With regards to the second test it would be a satisfactory alternative for the development to not occur at this site which would preserve the GCN habitat.
152. The ecological submissions proposed mitigation and compensatory habitat management and it is considered that the favourable conservation status of the species would be maintained.
153. It is concluded that it remains likely Natural England would grant an EPS licence. Ecology Officers have raised no objections to the development provided that the habitat management proposals submitted as ensured in perpetuity and a condition can be added to any planning permission. As a result officers raise no objections to the development on the grounds of impacts upon ecological assets and the development is considered compliant with CDLP Policies E16, E17 and E18 and Part 11 of the NPPF.

Highway Safety

154. The application is accompanied by a transport assessment (TA) which seeks to inform on and assess the key highways related implications of the development. The TA assesses matters such as the accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; committed developments.
155. Vehicular access to the development is sought via a single point in the south-west corner of the site where the site meets the existing B6291. No off-site highway works are proposed with the submitted TA concluding none would be necessary to mitigate the impacts of the development.
156. The Highway Authority have raised no objections to the development. The submitted TA has been assessed and it is accepted that the level of traffic generation will not have a material impact on the surrounding highway network and a suitable access to the site can be formed.
157. As a result no objections are raised regarding matters of highway safety with the development considered compliant with compliant with CDLP Policies T1, T2, T21, R11 and Part 4 of the NPPF.

Heritage Impact

158. The application is accompanied by a heritage statement which considers the potential for archaeological deposits below ground and the impact of the development upon designated and non-designated heritage assets within 1.5km of the site. The heritage statement considers that no impacts would occur as a result of the development. Modern activity on the site as a result of the lime works would have removed the potential for earlier (prehistoric/Roman) deposits. A locally designated historic parkland (Coxhoe Hall Park) is located approximately 200m to the east of the site. A modern plantation screens the parkland the site of Coxhoe Hall and associated grounds from the development and no impacts are considered to result.
159. Design and Conservation Officers raise objections with regards to the potential impact upon heritage assets although the need to consider the potential for archaeological assets is referenced. Archaeology Officers have considered such matters and raise no objections. As a result no objections are raised with regards to the heritage impact of the development with the proposal considered compliant with CDLP Policies E24 and E26 and Part 12 of the NPPF.

Flood Risk and Drainage

160. The application is accompanied by a floor risk assessment (FRA) which outlines the potential for the site to be subject to flooding and considers in principle foul and surface water disposal from the development.
161. The application site is located within flood risk zone one, essentially the land least prone to fluvial flooding. The submitted FRA proposes that foul waters are disposed of to the mains sewer and Northumbrian Water have raised no objections to this. With regards to surface waters the FRA proposes that these would discharge to Tursdale Beck which is situated to the north of the application site with discharge rates controlled to greenfield run-off rates. Drainage and Coastal Protection Officers have stated that final details of the proposed drainage arrangements for the development should be agreed in accordance with the hierarchy of preference for

surface water disposal and the Council's surface water principles. This would require a demonstration that if surface water discharge to Tursdale Beck is to be the final solution then infiltration techniques cannot be utilised which would be sequentially preferable having regards to the above mentioned hierarchy. It is considered that a condition can be added to any planning permission to agree final drainage proposals.

162. As a result officers raise no objections to the development having regards to CDLP Policies U8a and U10 and Part 10 of the NPPF.

Other Issues

163. The application site is accompanied by a low or zero carbon technology feasibility study. This recommends that the use of photovoltaic panels would be the most appropriate means of reducing carbon emissions. A condition to resolve final proposals of energy reduction for the scheme can be added to any approval having regards to CDLP Policy U14 and Part 10 of the NPPF.
164. The Coal Authority has confirmed that the site is located within the defined Development High Risk Area. The application is accompanied by a coal mining risk assessment and a preliminary site investigation. However, it is considered that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. A condition can be added to any approval in this respect having regard to CDLP Policy U13 and Part 11 of the NPPF.
165. No impacts upon formally designated public rights of way would result from the development. The applicant has stated that they would implement improvement works to the Limestone LinX pedestrian and cycle routes and improvements would be welcomed by Access and Rights of Way Officers.
166. Public objections to the development include considers over a devaluing impact on property values and the loss of a view from property however neither of these are material planning considerations to be attributed weight.
167. Limited weight can be attributed to the public objection that the site in its undeveloped form can be utilised for dog walking.

Planning Balance

168. Having regards to the policy situation, whereby relevant policies for the supply of housing within the City of Durham Local Plan are now considered to be out of date, the acceptability of the application in principle now falls to be considered under the planning balance test contained within Paragraph 14 of the NPPF.
169. There are a number of benefits associated with this development which can be identified, and can be related to the three dimensions of sustainable development.
170. Although a 5-year housing land supply can be demonstrated, additional housing will assist in maintaining this supply. This has previously been identified as being able to be considered a benefit in a recent appeal decision from within the County. The maintenance of a 5-year housing land supply will in turn strengthen the ability of the authority to control residential developments in those parts of the County where housing supply policies can be considered to be up to date.

171. The development proposes to provide 40% affordable housing. This would provide a significant contribution towards affordable housing need, a need which is greatest within the central housing delivery area in which the site is situated. The provision of the 40% affordable housing can be ensured by way of the S106 legal agreement. If the HCA funding that the applicant is seeking to gain is not forthcoming then the development would not be deliverable and would not result in a development of solely open market housing coming forward which would negate the benefit of said provision.
172. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy.

Adverse Impact

173. The development would result in an encroachment into the countryside beyond the existing built-up area of Coxhoe with a degree of resultant landscape and visual harm.
174. Due to the viability of the development in addition to the open space that is proposed within the development itself no further contribution towards offsite open space provision/improvements are proposed. The Open Space Needs Assessment (OSNA) highlights that the Coxhoe Electoral Division has a deficiency in parks and gardens space and a financial contribution would normally be expected to cater for such a deficiency. Public art provision or a contribution in lieu of such provision is also not proposed under within the application having regards to CDLP Policy Q15.

CONCLUSION

175. Paragraph 14 of the NPPF requires any adverse impacts of a proposed development to significantly and demonstrably outweigh any benefits, in order justify the refusal of planning permission. In this instance, it is accepted that there would be some adverse impact as a result of the development, and primarily, this would centre around its impact upon the landscape, being located on a predominantly greenfield site on the edge of the settlement.
176. The application site is neither locally, nor nationally designated in terms of its landscape quality, and whilst the development would alter the character of the landscape, such impacts would be limited.
177. The application includes a demonstration of the lack of viability of the site in that with the inclusion of planning obligations, most significantly affordable housing, the development would not provide a competitive return for the developer and enable the development to be deliverable. However, rather than the application include no affordable housing the application still seeks (and can be ensured by a S106 legal agreement) to provide 40% affordable housing, this being – double the necessary requirement. Such a contribution to the delivery of affordable housing is considered a benefit of the development.
178. The key consideration is whether collectively, the identified adverse impacts significantly and demonstrably outweigh the benefits of the development.

179. It is considered in this instance, that the harm identified does not significantly and demonstrably outweigh the benefits that would arise. This being the case, it is considered that the proposals amount to sustainable development, in the context of Paragraph 14 and the presumption in favour of sustainable development is engaged. It is therefore considered that the application should be supported.
180. Concerns expressed regarding the proposal have been taken fully into account, and carefully balanced against the scheme's wider social, economic and community benefits. However, they are not considered to raise issues that justify planning permission being withheld.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following:

- i) The provision of 40% affordable housing
- ii) That the provisions of S106BA of The Town and Country Planning Act 1990 (as amended) are revoked in relation to the development

And subject to the following conditions:

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

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

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

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

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

Plans:

Site Location Plan Rev 1 dated 10/03/15

Landscape Proposals D106.P.101

Documents:

Noise Assessment Document by ENS Ltd reference NIA/5236/14/4965/v2

Biodiversity Management Plan dated February 2015

The Limes, Coxhoe Travel Plan Report by JMP

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regard to Policies E7, E14, E15, E16, E18, H13, T1, T10, R2, Q1, Q2, Q5, Q6, Q8, U5 and U7 of the City of Durham Local Plan 2004 and having regards to Parts 1, 4, 6, 7, 8, 10, 11 and 12 of the NPPF.

4. No development shall take place until the detailed design of the vehicular access to the site has been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004. Required to be pre-commencement as the final access arrangements to the site should be known prior to works commencing.

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

Reason: In the interests of managing surface water disposal and reducing flood risk having regards to Policies U8a and U10 of the City of Durham Local Plan 2004 and having regards to Part 10 of the NPPF. Required to be pre-commencement as designing and potentially implementation of final surface water disposal for the site should be undertaken at an early stage.

6. No development shall take place until a scheme to minimise energy consumption has been submitted and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in accordance with the approved scheme and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance having regard to Policy U14 of the City of Durham Local Plan 2004 and having regards to Part 10 of the NPPF. Required to be pre-commencement as the energy reduction scheme should seek to involve a fabric first approach designed and potentially implemented at an early stage.

7. No development shall take place until the results of an intrusive site investigation of ground conditions having regards to coal mining legacy in the vicinity of the site have been submitted to and approved in writing by the Local Planning Authority. Where the results of the site investigation necessitate the need for remedial measures to be undertaken then said remedial measures must also be submitted to the Local Planning Authority and the development must thereafter be implemented in accordance with the approved details.

Reason: In the interests of land stability and coal mining legacy issues having regards to Policy U13 of the City of Durham Local Plan and Part 11 of the NPPF. Required to be pre-commencement so that any site instability issues are understood and can be catered for prior to development commencing.

8. No development shall take place until;
 - (i) A Phase 2 Site Investigation and Risk Assessment to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications, including the potential for any migrating

gas has been submitted to and approved in writing by the Local Planning Authority.

If the Phase 2 report identifies any unacceptable risks remediation is required and no development shall take place until;

- (ii) A Phase 3 Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority detailing the proposed remediation measures to be undertaken. 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 the remediation measures.

Upon completion of the remedial works (if required) then;

- (iii) 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 and having regards to Policy U11 of the City of Durham Local Plan 2004 and Part 11 of the NPPF. Required to be pre-commencement so that the potential for contamination can be understood before disturbance.

- 9. No development shall take place until a construction management strategy has been submitted to and approved in writing by the Local Planning Authority. Said management strategy shall include but not necessarily be restricted to the following;

- i) Methods of suppressing dust emanating from the construction works
- ii) Details of methods and means of noise reduction
- iii) Confirmation that the burning of combustible material on site shall be prohibited unless it has been first demonstrated that the material cannot be disposed of in any other suitable manner.
- iv) Details of wheel washing facilities and means of reducing the potential for mud on the roads in the vicinity of the site.

The management strategy shall have regard to BS 5228 “Noise and Vibration Control on Construction and Open Sites” during the planning and implementation of site activities and operations.

The development shall be undertaken in accordance with the agreed management strategy.

Reason: In the interests of residential amenity having regards to Policy U5 of the City of Durham Local Plan 2004 and having regards to Part 11 of the NPPF. Required to be pre-commencement as construction activity mitigation must be agreed before works commence.

10. No development shall take place unless in accordance with the Biodiversity Management Plan dated February 2015. The management methods and proposals contained within the Biodiversity Management Plan shall be implemented in perpetuity.

Reason: To minimise impacts upon protected species and to preserve nature conservation assets having regards to Policies E16 and E18 of the City of Durham Local Plan and Part 11 of the NPPF.

11. No development shall take place unless in accordance with the noise mitigation proposals contained within section 5 of the submitted Noise Assessment Document by ENS Ltd reference NIA/5236/14/4965/v2.

Reason: To ensure that occupiers of the development receive acceptable levels of amenity having regards to Policies Q8 and U7 of the City of Durham Local Plan 2004 and Part 11 of the NPPF.

12. No development shall take place unless in accordance with the landscaping proposals contained within Landscape Proposals drawing D106.P.101. Trees, hedges and shrubs shall not be removed within five years. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions. The approved landscaping scheme shall be carried out in the first available planting season following the completion of the development.

Reason: In the interests of the visual amenity of the area having regards to Policies E14, E15, Q5, Q6 and Q8 of the City of Durham Local Plan 2004 and Parts 7 and 11 of the NPPF.

13. No construction works shall take place outside the hours of 8am and 6pm Monday to Friday and 8am to 1pm on a Saturday. No works shall occur on any Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policy U5 of the City of Durham Local Plan 2004 and having regards to Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)

- National Planning Practice Guidance
- City of Durham Local Plan 2004
- The County Durham Plan (Submission Draft)
- Statutory, internal and public consultation responses



Planning Services

DM/15/00793/OUT

Construction of 55 residential dwellings comprising 22 affordable dwellings and 33 open market dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access).

Hellens Group Limited

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Comments

Date
22nd September 2015

Scale
Not to scale