



## Area Planning Committee (North)

**Date** Thursday 30 June 2016  
**Time** 2.00 pm  
**Venue** Council Chamber, County Hall, Durham

---

### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 19 May 2016 (Pages 1 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
  - a) DM/15/03222/FPA - Land To The West Of Briardene, Cadger Bank, Lanchester (Pages 11 - 46)  
Residential Development of 52 Dwellings with new access and associated works.
  - b) DM/16/00871/OUT - Land To The South Of And Including No. 7 The Paddock, Lanchester (Pages 47 - 68)  
Outline planning permission for residential development (C3) of up to 14 dwellings with all matters reserved except access, including demolition of no. 7 The Paddock
  - c) DM/16/00905/FPA - Stanfield House, Joicey Square, Stanley (Pages 69 - 80)  
Conversion of former care home to 14 residential 1 bed flats, 3 training rooms, 15 office suites and cafe
6. Appeals Update (Pages 81 - 84)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham  
22 June 2016

To: **The Members of the Area Planning Committee (North)**

Councillor C Marshall (Chairman)  
Councillor I Jewell (Vice-Chairman)

Councillors B Armstrong, H Bennett, P Brookes, J Cordon,  
J Maitland, O Milburn, J Robinson, K Shaw, A Shield, L Taylor,  
O Temple, K Thompson, S Wilson and S Zair

---

**Contact: Lucy Gladders**

**Tel: 03000 269 712**

---

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 19 May 2016 at 2.00 pm**

**Present:**

**Councillor C Marshall (Chairman)**

**Members of the Committee:**

Councillors H Bennett, P Brookes, J Cordon, I Jewell (Vice-Chairman), K Shaw, A Shield, L Taylor, O Temple, K Thompson and S Zair

**1 Apologies for Absence**

Apologies for absence were received from Councillors B Armstrong, J Maitland and S Wilson.

**2 Substitute Members**

There were no substitute Members.

**3 Minutes**

The Minutes of the meeting held on 28 April 2016 were agreed as a correct record and were signed by the Chairman.

**4 Declarations of Interest**

Councillor Shield declared an interest in item 5(a) as a local Member.

The Chairman agreed that the order of business be amended to allow planning application 5(d) DM/16/00672/FPA – 23 The Green, Nettlesworth, Chester-le-Street to be considered following planning application numbered 5(a).

**5 Applications to be determined by the Area Planning Committee (North Durham)**

**5a DM/16/00473/FPA - Land at the South of Broomhill South Farm, Ebchester**

The Committee considered a report of the Planning Officer regarding the change of use of land to horse grazing, erection of stable block and retention of existing shed (resubmission) (for copy see file of Minutes).

The Planning Officer provided a detailed presentation on the application which included photographs of the site and a plan of the proposed layout.

An objector and local resident, Mr Philips, had submitted additional information which included photographs of vehicles visiting the site and an activity log, copies of which had been provided to Members. Members were informed that Mr Philips had also asked for a DVD to be shown of activities on the site. At approximately 20 minutes long the footage exceeded the allotted 5 minutes to make representation, and therefore Mr Philips had been given the opportunity to highlight key issues from the DVD in the time allocated, shorten the length of the footage or have it played in the background while he addressed the Committee. Mr Philips had declined, preferring the footage to be shown in full. The Planning Officer advised that the DVD showed past activities on the site which were detailed in the activity log circulated to the Committee. Although much of what was included in the footage was not relevant to the consideration of the planning application, it may be useful to support any enforcement action.

The Planning Officer also advised of additional representations received since the report had been circulated. The Landscape Section remained concerned about the impact on the trees along the southern boundary and that there was no mitigation proposed. Three further letters of objection had been received from members of the public which related to parking, the proposed access, the proposed entrance and impact on the landscape. It had also been submitted that there had been an unwillingness on the part of the applicant to work with Planning Officers and a disregard of the planning process with a number of amended plans having been submitted. There was also concern that conditions would not be adhered to in future.

Councillor W Stelling, local Member, addressed the Committee in objection to the application. Referring to the considerable history in respect of the site, he advised that a key concern was access; the site was adjacent to a busy highway with a speed limit of 60mph. The proposed entrance would be huge and although used by slow moving vehicles this would not make the highway any safer. The fence on the western boundary was not suitable for the enclosure of horses and was of a type used for dogs. A shed on the site had been painted black, and the existing fencing, caravan and new access had all been erected or placed on site without planning permission.

The Member had visited the site earlier that week and had witnessed 7 people entering the site with 4 cars parked at the point of the proposed new entrance. They did not appear to be members of a single family. Turning to planning policy and the NPPF, Councillor Stelling did not consider the proposals to be sustainable or of economic benefit. He noted a recent Ministerial Statement which added weight against developments of a retrospective nature. Action had already been taken by the Enforcement Team for the removal of the caravan and he questioned whether the conditions would be adhered to when work had already been carried out without planning permission. The access to the stable site would not be made-up and left as grass would become muddy, causing problems on the highway as vehicles entered and left the site.

Councillor Stelling agreed with the views of the Landscape Officer and he noted the concerns of Environmental Health as set out in the report. He believed that horse-riding near residential properties would cause anti-social behaviour and as this was a Police matter there would be a reliance on residents to report problems, as there would be with regard to any parking on the highway verge.

In conclusion he stated that developments should only be allowed which would benefit the rural economy, enhance and maintain landscape character and which protected wildlife. He urged Members to refuse the application.

Mr Philips, local resident spoke against the application. He advised that all residents who lived in the vicinity of the site had objected to the proposals. His own property was surrounded by the development and the actual use of the land bore no resemblance to what had been applied for. This was a retrospective application and its true use should be made clear. The field had been developed for greyhound racing with the painted shed used to store the track and lawn-mower. The fencing erected was clearly to be used to enclose dogs. The land had also been used as a rifle firing range, for exercising dogs and social outings, and the static caravan had been used as a store for building materials. This did not appear to be a retirement project as claimed by the applicant, or for his personal use. The applicant did not own horses or tended them. He was only present when there were dogs on the land. 15 different vehicles and 25 people used the field yet only 1 parking space would be provided.

The development already had an impact on his family's privacy and security to the extent that his property was now for sale. His right to the peaceful enjoyment of his property and private life had been overlooked in the report. The applicant allowed horses to be ridden around the boundary and he could not sit in his garden without being harassed. This could be shown in the DVD he had provided.

There were no conditions with regard to disposal of waste, screening of his own property, noise mitigation or to make up the grassed road. The views of the Landscape Officer had not been addressed and a condition should be imposed to ensure that the trees were protected. Mr Philips did not believe that the applicant would adhere to conditions and referred to the Ministerial Statement mentioned by the local Member which should carry weight in deciding the application.

In response to a question from the Chairman, the Planning Officer advised that if the application was approved, Officers would seek to pursue enforcement action in respect of any activities on the land which were outside the prescribed use specified in the planning permission.

Councillor Shield advised that he had been aware of potential issues with the site but had not taken part in any specific discussions on the application. He advised that an impact of living in the countryside was the cumulative effect of equestrian facilities, and he was aware of a number of others in the area, however none that were as visually prominent as the site under consideration.

The Member understood that the site was in an area of high landscape value but was informed by the Planning Officer that the land was outside the boundary of the AHLV. Councillor Shield continued that an application for residential development had been granted 200m from this site, causing an increase in traffic on the highway, and he noted that Highways Officers considered that the proposals would be acceptable as long as the highway verge was maintained. He hoped that parking on the verge would not become an issue which would affect the whole community.

The NPPF and Policy EN1 of the Local Plan only allowed development where it enhanced or maintained landscape character and the report stated that the landscape within which the fields were located had substantial value as part of a consistent and undeveloped area of countryside within the Derwent Valley.

Councillor Shield also considered that the views of the Landscape Officer could not be ignored and concluded that he was unable to support the Officer's recommendation for approval. The Member moved refusal of the application on the grounds that it was contrary to Part 11 of the NPPF and to Local Plan Policies GDP1 and EN1.

Councillor Brookes shared Councillor Shield's concerns. He agreed that there had been an explosion of equestrian developments, and having heard the submissions made was concerned about the use of the site and the impact this would have on neighbours in terms of noise and intrusion. He also noted the Ministerial Statement with regard to retrospective applications and considered that the application was contrary to the NPPF Part 11 and Local Plan Policy EN1 which stated that development in the countryside would only be permitted where it enhanced the landscape character. It could not be said that this development would enhance the landscape character and he therefore supported Councillor Shield.

Councillor Clark stated that the photographs and log provided by Mr Philips showed the extra activity on the site and the concerns of residents should be recognised. There had been a disregard of the planning process by the applicant and no evidence of his co-operation with neighbours. The Councillor could not envisage the applicant adhering to the conditions imposed if the application was granted.

In response to a question from Councillor Temple regarding the unwillingness of the applicant to work with Planning Officers, the Planning Officer advised that this statement had been made in a letter submitted by an objector, however up to this point in time a number of amended plans had been submitted and an earlier application had been withdrawn.

Councillor Temple considered that given the high landscape value of this site, a site visit would have been appropriate and useful, although he acknowledged that the application must be determined in a given timescale.

The Chairman responded that if Members considered that a site visit would be helpful the application could be deferred, however the presentation by the Planning Officer had included clear photographs of the site.

Councillor Thompson seconded Councillor Shield's motion to refuse the application. He also noted the concerns about parking on the highway verges, and believed that this would be a problem which may not be a high priority for the Police.

Councillor Jewell made the point that this was a retrospective application and going forward it could not be assumed that the issues would continue as the proposed use was not the same. However he was uneasy about activities on the site in the past and was also cognisant of the views of the Landscape Officer.

In responding to the comments made by Members, the Solicitor – Planning and Development acknowledged the concerns expressed about past activity, however advised that this was not a consideration for Members and that the application should be determined on its own merits with a presumption that conditions would be adhered to.

Councillor Shield confirmed that his motion to refuse the application was put forward on the merits of the application before Members and not about activities on the site which was a separate matter.

Upon a vote being taken it was **Resolved:**

That the application be refused for the following reason:-

The proposed development is considered to be contrary to Part 11 of the NPPF, specifically in relation to the protection of valued landscapes, and the proposed development does not contribute to and enhance the natural environment (paragraph 109). The visual impact of the proposal upon the character of the landscape and the harm to its protection would prove contrary to Policy GDP1 (C and E) of the saved Derwentside District Local Plan. Furthermore, the proposed development would not contribute to the rural economy contrary to Policy EN1 of the Derwentside District Local Plan.

#### **5d DM/16/00672/FPA - 23 The Green, Nettlesworth, Chester-le-Street**

The Committee considered a report of the Planning Officer regarding a Change of Use from Class D1 (non-residential institution) to B1 (offices) with ancillary treatment rooms for aromatherapy massage purposes (for copy see file of Minutes).

The Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

Members were informed that since the report had been circulated further discussions had taken place with the applicant who had sought an amendment to condition 3 to relax the proposed working hours in order to give flexibility in emergency situations. The Planning Officer advised that no enforcement action would be pursued if the hours were exceeded as a result of work directly related to the Charity.

The application had been presented to Committee at the request of the local Member who was concerned about parking arrangements given the congestion in the area and as residents already struggled to park. An additional condition was therefore proposed to retain the land to the front of the property for use as a parking area in perpetuity.

Mr D Smith and Mr J Elliott of the If U Care Share Foundation were in attendance to address the Committee. Mr Smith thanked Planning Officers for their support during the application process and provided background to the work of the Charity which promoted emotional well-being in young people and supported families affected by suicide. The Charity which had been in existence for 6 years had outgrown the premises it occupied in Great Lumley due to demand for the service. The applicants sought their own premises to allow greater flexibility of working hours. The core hours proposed were acceptable, however the inclusion of 'shall not be open' in the proposed wording of condition 3 was restrictive; the nature of their work meant that they had to react in emergency situations, and therefore general access to the building outside these times was requested. Early access to the building may be required, for example to collect resources, and therefore the extra flexibility would be welcomed. Whilst he acknowledged that no enforcement action would be taken if the hours were exceeded as a result of their charity work, Mr Smith asked Members to consider amending the proposed wording of condition 3 to the following:-

'The use of the premises as an office (B1) with ancillary treatment rooms shall be restricted to the hours of 8:00 am to 9:00 pm on a Monday to Friday, to the hours of 8:00 am to 6:00 pm on a Saturday and to the hours of 10:00 am to 6:00 pm on a Sunday and on Bank Holidays.

Use of the premises shall be permitted outside of the restricted times only in the event of an emergency situation arising when it is necessary for If U Care Share Foundation to provide its support services in response to that emergency and for general access purposes, always provided that such use does not constitute normal business operations'.

In response to the suggested wording the Planning Officer advised that planning conditions had to meet certain tests, one of which was that they must be enforceable. The wording proposed for outside the restricted times was subjective and the condition would be difficult to enforce.

In response to a question from the Chairman, Mr Elliott confirmed that they would be able to demonstrate why working hours had been exceeded if challenged, however reiterated that general access was required to allow entry to the building for legitimate reasons, but not to work. The wording proposed by Officers would prevent access to the building at all outside the core hours.

Councillor Jewell considered this to be a straightforward application for a good, worthwhile facility and suggested that problems were being identified which might not exist. If there had been concerns about parking local residents would have made representation. The Member moved approval of the application with the changes suggested.

Councillor Shield advised that this service was much-needed within County Durham, the County having the second highest suicide rates in the UK. The Member noted on the plan shown in the Officer's presentation that there was an unused area of land near to the application site and asked if it could be utilised for parking.

The Planning Officer advised that the land formed part of Phase 2 of the nearby housing development.

The Chairman, having heard the deliberations of Members observed that the proposals appeared to have the support of the Committee, however the wording of condition 3 with regard to use of the premises outside the restricted times 'in an emergency situation' and 'for general access', needed to be addressed.

The Planning Team Leader advised that Officers were in support of the proposals and the use of the premises 'in an emergency situation' was acceptable, but reiterated that allowing 'general access' outside core hours would be difficult to enforce as a condition. The Chairman therefore suggested that 'general access' be removed.

Upon a vote being taken it was **Resolved:**

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

i) Condition 3 being amended to read as follows:-

The use of the premises as an office (B1) with ancillary treatment rooms shall not be open: before 8am Monday to Saturday; before 10am Sundays and Bank Holidays; after 9pm Monday to Friday; after 6pm Saturdays, Sundays and Bank Holidays.

Use of the premises shall be permitted outside of the restricted times only in the event of an emergency situation arising when it is necessary for the If U Care Share Foundation to provide its support services in response to that emergency.

ii) the following additional condition:-

4. The car parking area as shown on the approved plans shall be retained in perpetuity and shall be used as car parking for the users of the premises only and for no other purposes.

Reason: In the interests of highways and parking and to accord with Policy T15 of the Chester-le-Street District Local Plan.

**5b DM/16/00351/FPA - Mendip House, Mendip Avenue, Chester-le-Street,**

The Committee considered a report of the Principal Planning Officer regarding the demolition of former care home and erection of 20 two bed homes and 2 one bed apartments (for copy see file of Minutes).

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

Members were informed that an e-mail had been received from local Member Councillor K Davidson expressing his wholehearted support to the application.

Councillor Thompson referred to a recent application for residential development nearby which had been approved but where there had been concerns expressed about drainage. In view of the proximity of the site to Mendip House, the Member asked if this would have an impact on drainage in respect of the scheme under consideration.

Members were referred to the comments of the Drainage Officer which were included in paragraph 44 of the report and who was satisfied with the proposals in principle subject to the submission of a detailed drainage design. This had been included as a condition.

Councillor Shield stated that the proposals offered 100% affordable housing, was on a brownfield site in a residential area with good transport links, and moved approval of the application.

In expressing his support for the application, Councillor Brookes referred to NPPF Part 4 and the importance of promoting sustainable transport, and Local Plan Policy T8 which stated that new development should seek to minimise parking provision other than for cyclists and disabled users. The Member noted that there was no provision for cyclists within the site which he felt would be welcomed by the new tenants given the proximity of the properties to the town centre.

The Planning Officer advised that this matter had been raised with the developers but had not been included in the scheme because of viability concerns.

The applicant's agent was in attendance and advised that a viability assessment had been submitted to the Local Planning Authority which demonstrated that the scheme was extremely marginal in terms of return for the developer.

Councillor Brookes was of the view that the provision of cycle racks within the site would be inexpensive, and felt that this should be a requirement for this scheme and other schemes coming forward.

The Chairman suggested that this could be included as an additional condition.

Councillor Jewell considered that the scheme had many positive benefits and conditions would mitigate matters raised by consultees. The Member felt that cycling provision should be looked at as an overall policy matter. Councillor Jewell seconded approval of the application.

Councillor Thompson appreciated that the applicant was a social housing provider but considered that viability was not a valid argument for not including provision for cycle parking in the scheme. The Councillor moved an amendment to the original motion that the application be approved subject to an additional condition requiring on-site cycle provision. Councillor P Brookes seconded the motion.

Upon a vote being taken it was **Resolved:**

That the application be approved subject to the conditions outlined in the report and to the following additional condition:-

Prior to the occupation of the dwellings and apartments Sheffield stand cycle loops or similar shall be provided on site in a secure, well lit, open area on the site .Details of the number, design and location of the cycle stands shall be submitted to the Local Planning Authority prior to their installation.

Reason: To promote cycling in accordance with Chester-le-Street Local Plan Policy T17.

At this point Councillors P Brookes and K Thompson left the meeting.

**5c DM/16/00986/OUT - Land to the rear of 1 To 8 Wesley Terrace, Castleside Industrial Estate, Castleside**

The Committee considered a report of the Senior Planning Officer regarding an outline application for residential development of up to 21 units, including details of site access (for copy see file of Minutes).

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

Following a question from Councillor Shield the Senior Planning Officer confirmed that the proposed site access would be sited off the industrial estate.

Upon a vote being taken it was **Resolved:**

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

This page is intentionally left blank

## Planning Services

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/15/03222/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Residential Development of 52 Dwellings with new access and associated works.
<b>NAME OF APPLICANT:</b>	BDW Trading Limited
<b>ADDRESS:</b>	Land To The West Of Briardene Cadger Bank Lanchester
<b>ELECTORAL DIVISION:</b>	Lanchester Steve France
<b>CASE OFFICER:</b>	Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

#### The Site

1. Lanchester is a large village that sits on the A691 midway between Durham City and Consett. To the north are the larger mining originated settlements of Annfield Plain and Stanley, whilst south of the village is a network of small rural and mining related settlements including Cornsay, Quebec and Esh. The settlement is identified within the Durham Settlement Study 2012 as a 'local service centre'.
2. Based around a central historic core designated as a Conservation area, the village was extensively extended in the late 20<sup>th</sup> Century by primarily Local Authority built housing on the east A691 access to the settlement, and latterly large estates of private residential development on the west side, where Newbiggin Lane and the B6296 at Cadger Bank enter the village. Lanchester sits astride Smallhope Burn, with the modern estates sited on the sometimes steep valley sides. This watercourse, although small, has a history of flooding the village centre. The surrounding countryside is a mix of arable and grazing agricultural land, and whilst the countryside to the north, east and south of the village subject to an Area of High Landscape Value (AHLV) designation in the Derwentside District Local Plan, the land to the west, including the application site, is not.
3. Some 130m west of the village, on the south side of the B6292 lies the Roman Fort of Longovicium with Dere Street Roman Road running north/south across the modern highway. The fort is the standard playing card shape, some 2.80 ha in size, with the extent of the associated formal scheduled ancient monument (SAM) designation, which stretches across the River Browney to the south, and farmland to the north of the main road, some 74.5ha in area. A layby with an information board sits just west of the Fort.

4. The application site is some 3.61ha in size and sits on the north side of the B6292 at Cadger Bank, with its north and east boundaries shared with modern residential development on Briardene and Fox Hills Crescent, and the site itself and its west and south boundaries semi-improved agricultural grassland. The site boundaries are hedged and reflect the historic field pattern showing on Ordnance Survey Maps dating to 1880. The northern part of the site falls steeply to a small watercourse – Alderdene Burn – from a belt of mature trees, some of which are formally protected. A second belt of protected mature trees bisects the middle of the site. The front, southern, boundary of the site, facing the B6292 is formed of a stone wall separated from that highway by around 5.3m of steeply sloping verge designated as Adopted Highway and a public footpath that runs on one side of the main road. A field gate currently accesses the land from adjacent the nearest dwelling. The whole site slopes down to the north-east, towards the village centre. The site is not part of the scheduled ancient monument.
5. A subterranean pipeline, described by the applicant as a high pressure water main, runs north/south across the western part of the site, this feature including a 'no-build' buffer zone either side of it.

### The Proposal

6. The application proposes a residential development of 52 houses served from a new single access point on Cadger Bank. A single spine road leads to the north of the site where it terminates in a cul-de-sac head. The tree belts are retained, with the housing layout led by the topography, these existing natural features and the presence of the aforementioned pipeline. A set-back site 'frontage' onto main road attempts to integrate the development into the existing settlement, with further efforts to achieve such through a design of house style that sets out to pick up on the best examples of the local vernacular. The dwellings include a mix of detached, semi-detached and terraced properties. Ten of the dwellings would have 1 bedroom, six would have 3 bedrooms, twenty-three would have 4 bedrooms and thirteen would have 5 bedrooms. The affordable housing provision is unusually included as a small clustered character group near the entrance to the site. Ten affordable housing units are proposed.
7. The pipeline route and easement is used as an area of communal open space with a footpath that extends around the front of those properties fronting the main road. Because of the site levels this route includes a number of steps, which would preclude its adoption, meaning maintenance would be the responsibility of the developer through a management company.
8. The steeply sloping land between the north tree belt and Alderdene Burn was included within garden curtilage when the application was submitted – this area now ceded as a separate ecology/wildlife area during the course of the application to meet the requirements of the County Ecologist. No public access is proposed to this area.
9. There has been revision to the proposed road layout during the course of the application primarily in order that the slopes of the public highway are such that it can be adopted by the Council as Local Highway Authority.
10. The applicant proposes to mitigate any negative effect on archaeology by enhancing the interpretative materials associated with Lanchester Roman Fort.
11. The application is reported to Committee as a major application.

---

## PLANNING HISTORY

---

12. There is no recent planning history on this site. Objectors to the scheme refer to refusal of an application for open-casting in 1977 and of housing in 1989 the grounds of refusal are summarised by objectors in paragraph **????** of the report below.

---

## PLANNING POLICY

---

### NATIONAL POLICY

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
14. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’ .
15. 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.
16. The following elements of the NPPF are considered relevant to this proposal;
17. *NPPF Part 4 – Promoting Sustainable Transport.* Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
18. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Housing applications should be considered in the context of a 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. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area. Paragraph 55, within this part of the NPPF seeks to promote sustainable development in rural areas, stating that housing should be located where it enhances or maintains the vitality of rural communities – for example developing within groups of smaller settlements that mutually support each other’s services. Local planning authorities are advised to avoid new isolated homes in the countryside unless there are special circumstances, such as a defined functional need, to secure the future of heritage assets, or where a ‘truly outstanding or innovative’ design of ‘exceptional quality’ can be argued to; reflect the highest standards of architecture; significantly

enhance its immediate setting; and be sensitive to the defining characteristics of the local area.

19. *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.
20. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. 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.
21. *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.
22. *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. Any harm or loss should require clear and convincing justification. Where substantial harm would be caused to designated heritage assets, permission should normally be refused.

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

23. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
24. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.
25. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
26. *Conserving and Enhancing the Historic Environment* – Explores the terms 'significance' and 'special architectural or historic interest' and 'harm', noting assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and

the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

27. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
28. *Design* - The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
29. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
30. *Tree Preservation Orders and trees in conservation areas* - A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the: cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.
31. *Rural Housing* - It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.

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

32. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
33. *Policy GDP1 – General Development Principles* – is an overarching policy which aims to ensure that all developments incorporate a high standard of design, conserve energy and are energy efficient, protect the existing landscape and natural and historic features, protect and manage the ecology of the area, protect valuable open land, provide adequate landscaping, incorporate crime prevention measures and improve personal safety, protect amenity, provide adequate drainage, protect flood risk areas and protect the water resource from pollution.

34. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
35. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.
36. *Policy EN6 - Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.
37. *Policy EN9 – Works to trees covered by preservation orders* – Only allows the cutting down, lopping, pruning, topping or uprooting of protected trees if the work is necessary because of good arboricultural reasons or the survival or growth prospect of other protected trees is threatened, or if the tree is causing structural damage and no other remedial action is possible, or the tree is a danger to life or limb.
38. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible and development will only be permitted which will not cause harm to, or result in the loss of trees protected by preservation orders, or trees which contribute to the character and appearance of conservation areas. Throughout the district existing trees should be retained where possible. In determining planning applications consideration will be given to the effect of a proposed development on any existing trees, which contribute significantly to the setting of nearby existing buildings or visual amenity.
39. *Policy EN19 - Protection of Sites and Settings of Ancient Monuments and Archaeological Features* - there will be a presumption of the retention in situ of nationally important remains. Remains of more local significance will be protected from damage. An archaeological assessment may be requested prior to determining an application. Recording of known remains will be required where these would be affected.
40. *Policy HO7 – Development Limit for Lanchester and Burnhope*, states that no new housing development in Lanchester will be approved outside of the Development Limit.
41. *Policy HO22 – Recreation Public Open Space within housing sites*, sets out a requirement for such, with a preference for on-site provision or monies in lieu if this cannot be achieved.
42. *Policy TO1 – Sites for the development of new tourist attractions* – proposes ‘interpretation’, subject to no adverse effect on that character and appearance of the Conservation Area.
43. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

**OTHER MATERIAL DOCUMENTS:**

44. *The Lanchester Village Design Statement, May 2004* – outlines guidance to conserve the valued aspects of the village and the land around it and seeks to enable appropriate development based on guidance and aspirations.

## **RELEVANT EMERGING POLICY:**

45. 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 and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan is being prepared. In the light of this, policies of the withdrawn CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

*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:**

46. *Highways* – County Highways Engineers have expressed reservations as to the distance of the site from the village centre in terms of sustainability, and criticise its lack of connection and links into the existing residential estates. In terms of the site's internal layout and car parking provision, its proposed access / egress, and the implications for the surrounding highways environment no objection is raised.
47. *Historic England* – write in detail that 'the proposed development lies directly to the east of the boundary of the Scheduled Monument known as Lanchester Roman Fort. For 2,000 years the fort, and its associated settlement or 'vicus' have remained undeveloped and the resulting rural setting is an important factor in our understanding and appreciation of the site which allows its military function to be understood and the poignant event of its abandonment to be felt. The proposal would markedly erode this rural setting by developing a field that currently separates the monument from the edge of Lanchester. This would curtail the commanding views of, and from, the Fort to the east and heavily intrude upon its rural, peaceful setting. Historic England considers that the proposal will cause a substantial degree of harm to the significance of the Scheduled Monument through its negative impact upon setting.
48. Section 132 of the NPPF states that Scheduled Monuments are amongst the most nationally significant designated heritage assets in England and that substantial harm to that significance, through alteration or destruction to the heritage asset or its setting, should be a wholly exceptional occurrence.
49. The remit of Historic England is to advise upon the impact of the proposal upon the historic environment and from this view point we object to the application.

Noting the policy guidance within sections 17, 132, 133, 134 and 135 of the NPPF we ask that any public benefits of the proposal are 'robustly scrutinised'.

50. In terms of the significance; for the Roman Fort, 'the proposed development lies directly to the east of the boundary of the scheduled monument known as Lanchester Roman Fort (Longovicium) (SM DU22; HA 1002361). The monument consists of the military fort and its civilian settlement, the 'vicus', and originated in the mid-2nd century AD. It was rebuilt several times until the end of the Roman occupation of Britain around 410 AD. The fort is situated at the eastern tip of a high spur of land with the vicus occupying a much larger area falling away to the north, south and east of it. Remains of civic baths are recorded to the SE of the fort; with a reservoir at the terminus of two aqueducts, and a cemetery recorded to the SW. Taken altogether this designated heritage asset covers 73.46ha. The site is on Historic England's Heritage at Risk Register due to land management and some illegal metal detecting issues.
51. It could be argued that the fort and vicus represent the origins of the modern village. Many abandoned Roman sites formed the focus of new settlements re-colonised in the early Middle Ages, indeed '-chester' is a place name that reflects this link. Beyond this important link to the identity of the village, the site's significance as a scheduled monument lies in the good state of preservation of its archaeological deposits in addition to its rural setting close to, but set apart from, the modern village. It is important to note that, in the degree of preservation and the quality of its setting, Lanchester is the best example amongst the six Roman Forts within County Durham and it remains the only one where the original strategic location of the fort can still be fully understood and appreciated without the impediment of later and/or modern settlement encroaching directly upon it.
52. The monument's landscape and rural setting is important to its significance for two reasons. Firstly, its location on a high spur of land with strategic and commanding views over the landscape, in particular along Dere Street and the crossings of the River Browney and Smallhope/Stockerley Burns, illustrates Roman military planning. Secondly, aside from the intermittent traffic, a sense of remoteness is part of the experience of appreciating this site. The modern development of Lanchester sits below the brow of the hill to the east / north-east and thus there is little visual intrusion into the immediate setting. This emphasises the poignant event of the site's abandonment and the passage of time over the preceding 2,000 years'.
53. In addition to the effect on the Scheduled Ancient Monument, the development site is adjacent to the Lanchester Conservation Area, specifically a spur of that area which radiates out from the historic core of the village along Cadger Bank. For the effect on the significance of the Conservation Area; 'whilst the bulk of the Area's significance is contained within its historic core this spur illustrates the village's historic links with its rural landscape, doing so in an visually appealing way that includes stone walls, mature planting and the gradual thinning out of historic buildings'.
54. Considered next is the issue of 'impact'. For the Lanchester Roman Fort Scheduled Monument;
55. Direct impact - Whilst the application site lies outside the Scheduled Monument, the submitted archaeological report indicates that it is likely to impact upon archaeological deposits that are related to it. Specifically these are settlement and property ditches; pits, and probable Roman quarrying activity; and importantly, there is the potential for the boundary of the vicus to be identified.

56. Historic England recently considered whether the application site should be included within the scheduled area reaching the conclusion that on the basis of existing evidence that it did not meet the criteria. In paragraph 5.20 of the submitted Planning and Affordable Housing Statement, the applicant considers that the findings of the designation review infer that "...the proposed development is...acceptable in terms of its impact on any archaeological resource on the site..." Such a conclusion stretches the remit of the designation review too far, from considering what is nationally significant to what may or may not be acceptable in planning terms. What the review confirms is that the site has archaeological potential of at least local importance and potentially national importance, noting that should a substantial feature (2m wide and 1.23m deep) interpreted as the possible eastern vicus boundary be accurately identified as such, then this would be: "...a rare feature of some significance..." suggesting that once more evidence becomes available there is some potential that it may satisfy the designation criteria. This feature contained both Roman pottery sherds and a fragment of Roman glass. The palaeo-environmental data taken from it and other samples across the site support the theory that the archaeological features are most likely Roman and represent domestic activity.
57. The archaeological features are located at relatively shallow depths below ground. Proposed finished floor levels show that there will be significant reductions in levels of ca. 400mm to 1m along the western boundary. In addition, there appears to be retaining walls on Plot 44 between the house and garage; and between Plots 45 and 52, indicative here of reductions of 3.25m in site levels. Archaeological features will certainly be severely impacted upon. Recording of archaeological deposits to be lost through development is well-established through the planning process, but should not be a factor in deciding whether their loss should be permitted.
58. This loss of archaeological data from features which clearly form a continuation of the Scheduled Monument, directly and irreversibly harms our ability to fully understand the significance of the Monument, thus harming its significance.
59. Indirect impact – Setting; as described above, 'the rural setting of the monument makes a strong contribution to its significance as a designated heritage asset. The suburban village edge is already close to the monument but topography diminishes this effect. Most importantly, the gap between the monument and village creates a very strong visual buffer between the two.
60. The proposal would markedly erode this rural setting by removing the buffer between the village and monument. The effect of the two storey dwellings and their gardens, close to the boundary, in addition to the estate-wide effect of increased light and noise will collectively suburbanise the north eastern boundary of the monument. The effect of this will be to curtail the commanding views of, and from, the Fort to the east; furthermore, the ability to appreciate the monument's setting in peace is lessened. A planted edge between the monument and development does little to mitigate this effect; indeed, it would create a distinct, hard, edge directly abutting the scheduled monument and the breathing space between village and monument, which currently exists, would be permanently lost.
61. The submitted setting report acknowledges in its conclusion that "...development will remove open land, part of which lies within the Roman vicus settlement, between the built-up area of Lanchester and the scheduled area, but this represents only a small percentage of the setting as a whole..." This may be true

in the sense that the monument commands a wide relationship with its landscape, but it is not the amount of setting affected that is the issue here but rather the fact that the proposal site as a undeveloped field makes a major contribution to the monument's setting.

62. To conclude there is a considerable impact upon an important aspect of the monument's setting and that, in turn, causes a substantial degree of harm to its significance as a designated heritage asset'.
63. Considering the impact on Lanchester Conservation Area; 'The proposal site marks the current western edge of the village and as such acts as visual prelude to the conservation area whose boundary along Cadger Bank marks the gradual transition between the rural and urban. An obvious suburban estate boundary would be contrary to this character and care should be taken to analyse the visual connection with the Conservation Area and the possibility for landscape design to mitigate or harmonise any effect'.
64. Heritage England's assessment of the policy implications are that, 'Government policy makes it clear that conserving heritage in an appropriate manner for the benefit of this and future generations is one of the over-arching principles of the NPPF (section 17). Furthermore, section 132 states that Scheduled Monuments are amongst the most nationally significant designated heritage assets in England and that substantial harm to that significance, through alteration or destruction to the heritage asset or its setting, should be a wholly exceptional occurrence.
65. The justification for such a level of harm is a high test, one where the loss or harm is demonstrably necessary to achieve substantial public benefits that outweigh that harm (section 133). Any public benefit, such as housing provision will need to consider the way in which these can be provided in alternative locations, less damaging to the historic environment.
66. In addition, the significance of the non-designated heritage, in this case the archaeological deposits within the proposal site, must be taken into account by making a balanced judgement in relation "...to the scale of any harm or loss and the significance of the heritage asset..." (section 135). It is important to note that the recording of archaeological deposits to be lost is a well-established requirement where the public benefit test has been met, but should not be a factor in deciding whether their loss should be permitted (section 141)'.
67. Therefore the position of the statutory consultee is that, 'Historic England considers that the proposal will cause a substantial degree of harm to the significance of the Lanchester Fort Scheduled Monument through the negative impact upon its setting. The remit of Historic England is to advise on the impact of the proposal upon the historic environment and from this view point we object to the application. Noting the policy guidance within sections 17, 132, 133, 134 and 135 of the NPPF we ask that any public benefits of the proposal are robustly scrutinised'.
68. They 'recommend that you note the objection lodged in this letter regarding the proposal's impact upon the historic environment and that determination takes into account the high tests of justification outlined in the NPPF'.
69. *Northumbrian Water* – have written to confirm they have no issues with the application, providing it is carried out in strict accordance with the applicants submitted Drainage Plan, requesting adherence to the specifications this document be conditioned in the event of an approval. It is noted that their

comments do not relate to the quality of the Flood Risk Assessment as a whole – the Council being the Lead Local Flood Authority.

70. *The Coal Authority* – note the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically historic recorded underground coal mining at shallow depth and likely historic unrecorded underground coal mining at shallow depth associated with coal that outcropped across the site. The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted requiring the site investigation works detailed in the submitted Desk Top Study be undertaken prior to commencement of development, with any recommended mitigation completed thereafter.

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

71. *Spatial Policy* - consider that that the Derwentside District Local Plan (DDLPL) remains the starting point for the consideration of this application. Through the identification of relevant 'saved' policies and their assessment against NPPF it can be demonstrated that there remain sufficient relevant 'saved' policies at this point in time that are eligible to be attributed weight through the consideration of this application.

72. The Council accepts that it cannot currently demonstrate a 5-year supply of housing sites in strict accordance with Paragraph 49 of NPPF and it is therefore appropriate to consider the proposal in the context of the presumption in favour of sustainable development set out in Paragraph 14 of NPPF. However, for the reasons set out in the full text of Spatial Planning Officers' updated response, this stance does not mean that the decision-taker should disregard the relevant 'saved' policies of the DDLPL in conducting the required planning balance assessment.

73. Paragraph 14 of NPPF confirms that a '*presumption in favour of sustainable development*' should be seen as the '*golden thread*' running through the planning process. It goes on to confirm that for decision taking this means that where relevant policies are '*out of date*', (as is the case in this instance), then planning permission should be granted unless the proposal fails either of the two tests set out in Paragraph 14;

- 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
- specific policies in this Framework indicate development should be restricted.

74. In this case the latter test is relevant as the site relates to a designated heritage asset and therefore the presumption in favour of granting permission does not apply and as recent case law has clarified it should be applied first. Hence the proposal must be determined in accordance with heritage policies within the NPPF (namely Paragraphs 128 - 134) which indicate development should be resisted because of the site's relationship with a designated heritage asset unless the relevant test set out in Paragraph 133 is met.

75. In the absence of an Objectively Assessed (housing) Need (OAN), the Council has identified a "proxy" OAN which has been used to measure the current housing land supply against. This provides a context for determining the level of

benefit that would result from the scheme, boosting the housing supply (and therefore the weight that should be attributed to this issue in the decision making process) which should in turn be balanced with any other identified benefits and harm and considered in the context of the relevant 'saved' DDLP policies.

76. Spatial Policy Officers' consultation response: sets out the relevant planning policy context within which the application should be determined, identified key impacts of the scheme in the context of current relevant policies. It identifies potential benefits which would arise from the proposal, but which it was concluded were not considered on balance to outweigh the identified harm to the significance of a designated heritage asset. The response confirms further that the planning application is not considered to be premature; and that no other significant considerations are identified which would outweigh the above policy concerns.
77. In light of the above there is an in principle policy objection to this planning application as the scheme is not considered to meet the test set out in Section 12, Paragraph 133 of NPPF and therefore conflicts with specific policies in the NPPF which indicate development should be restricted and thus fails to meet the requirements of paragraph 14. In relation to the other impacts identified providing that specialists of the relevant disciplines were satisfied with appropriate mitigation measures proposed there would be no policy related objection to these aspects of the scheme.
78. *Archaeology* - This proposal would have significant effects upon the Roman fort and accompanying civil settlement of Longovicium which lie in open countryside west of modern Lanchester. This is the best preserved example of this class of site in the county the majority of which has been designated as a Scheduled Monument of national importance. The proposed development would encroach upon and involve the removal of the physical remains of part of the civil settlement. It would constitute the first ever extension of the built-up area of the village onto the buffer zone of open ground that currently forms a clear separation of ancient and modern settlements. Indeed it would bring the modern settlement right up to the boundary of the Scheduled Monument resulting in a fundamental change to the special character of its setting and consequently degrading its significance. In view of the foregoing the proposal appears to be in substantial conflict with the NPPF (Section 12) and Saved Policy EN19 of the Derwentside Local Plan.
79. Description/Context - The proposal site lies immediately adjacent to the northern sector of the eastern boundary of the nationally important Scheduled Monument of Lanchester Roman fort and its accompanying civilian settlement. It forms part of a zone of open ground between it and the modern housing occupying the lower ground to the east. The Roman fort lies 115 metres to the south-west of the proposal site where its defensive wall still stands to a height of more than 2 metres above ground level. The boundary of the Scheduled area was defined in the late twentieth century at a time when the precise location and extent of the civil settlement beside the fort were unknown. A programme of geophysical survey commissioned by the Friends of Longovicium group and financed by a grant from the Heritage Lottery Fund in the period 2008-09 revealed that, contrary to some earlier theories, the civil settlement here took the form of ribbon development along the Roman road known in later times as Dere Street which passes by the fort some 60 metres to the east. This settlement extends for nearly 300 metres both to the south and to the north of the fort and in total has a length of nearly 1 kilometre. The settlement follows a layout normal for such communities consisting of long narrow buildings set end-on to the road frontage

with fenced and/or ditched property plots to the rear. Beyond the limits of the settlement Dere Street would have been lined by cemeteries belonging to the Roman community.

80. The results of the aforementioned geophysical surveys indicated that the remains of properties on the east side of Dere Street north of the fort extended into the land west of Briardene. This was subsequently confirmed by geophysical survey and trial-trenching commissioned by the applicant which revealed the rear portion of property plots and, running longitudinally across the centre of the site, a substantial ditch considered to define the eastern limit of the settlement.
81. Significance - As an extensive and well-preserved archaeological site Lanchester possesses high evidential value because of the wealth of information it contains relating to an important period in Lanchester's development. It also has high value in historical terms representing a period of at least two hundred and fifty years of Lanchester's existence. The people of Lanchester take great pride in their Roman heritage, as demonstrated by the work of the Friends of Longovicium over many years, and so the Roman site and its surroundings also has great communal value. The proposal site makes a major contribution to the significance of the heritage asset. Firstly, although not included within the boundary of the Scheduled area the site nonetheless contains the physical remains of an integral and important part of the Roman settlement. Lanchester is the best preserved of the six such settlements in County Durham, having largely escaped any form of later development or major erosion. The Roman forts and accompanying settlements at Bowes, Ebchester and Chester-le-Street are buried beneath and have been severely damaged by modern settlements. The Roman fort at Greta Bridge is partly overlain by a hotel and its facilities and has also been subject to erosion by the River Greta, while a large section of its civil settlement was removed to make way for the diversion of the A66 in the 1970s. Finally, at Binchester the fort is partially overlain by Binchester Hall and neighbouring farm buildings, while a substantial part of both fort and settlement has been destroyed by the River Wear eroding the site.
82. Secondly, the proposal site in its current state makes a vital contribution to the setting of the Roman settlement as a whole. A major and fundamental element of the significance of the Longovicium site is its open rural character, enabling the position of the fort and the civil settlement in relation to the landscape to be clearly and fully appreciated. It is the only Roman fort in County Durham where the original strategic location of such an installation, and its relationship to the topography, can be understood without the impediment of later settlement, development or afforestation. As the majority of the civil settlement at Lanchester grew up as ribbon development along Dere Street to the east of the fort, it is this aspect of the scheduled monument that is particularly sensitive to any form of change. The contribution of setting to the significance of a heritage asset is often expressed by reference to views alone but qualitative issues can be equally important such as quiet and tranquillity (English Heritage, Good Practice Advice Note 3 'The Setting of Heritage Assets', para. 9, 2015. In terms of the preservation of both its physical remains and its setting Lanchester is unique among the Roman forts of County Durham.
83. Policy - The following policies are relevant. Saved policy EN19 of Derwentside Local Plan Para 1. Where nationally important archaeological remains, whether scheduled ancient monuments or not, and their settings, would be affected by a proposed development, there will be a presumption in favour of their physical preservation in situ. The National Planning Policy Framework (NPPF), specifically: Para 132 When considering the impact of a proposed development

on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of designated assets of the highest significance, notably scheduled monuments.... should be wholly exceptional. Para 133 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 139 Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments should be considered subject to the policies for designated heritage assets.

84. Impact on Significance - 1. Archaeology. The proposal would encroach upon and entail the partial destruction of the archaeological remains of the settlement associated with the Roman fort. Although not included within the boundary of the area designated as a Scheduled Monument the archaeology within the land west of Briardene is nevertheless part of a heritage asset of which the remainder and majority has been designated of national importance. 2. Setting. Development on the land west of Briardene would constitute the first ever encroachment onto the open area which currently separates the site of Roman Longovicium from the modern housing estates to the east. This would cause a fundamental change to the baseline condition of the monuments setting transforming it from a tranquil area of open ground into a suburban area with all of the associated effects of human activity. This would result not only in significant visual intrusion but also greatly increased levels of vehicular traffic as well as noise, light spill and air pollution. It would cause substantial harm to the setting of the monument which is unique for this class of monument in County Durham. The magnitude of the impact on the significance of the monument can thus be classified as high and its effects substantial and adverse. Once developed it is highly unlikely that the site would ever revert to open ground in the future and thus the harm to the significance of the scheduled monument would almost certainly be irreversible and permanent.
85. Allowing this development could potentially have additional consequences in the future. It would be the first time that development was allowed within the open zone that currently separates the monument from the housing estates to the east. As such it could set a precedent for and serve to encourage further proposals within this clear zone which it would be more difficult to resist resulting in further degradation of the monuments setting and even greater harm to its significance. It would also detract from any future scheme of improved access, interpretation and presentation. As mitigation the applicant offers ten affordable housing units and some interpretation material duplicating the work already done by the Friends of Longovicium.
86. During the course of the application the applicant's archaeology representatives commented on the above comments with a 'rebuttal', with subsequent comment by the County Archaeologist. The rebuttal did not alter the following conclusion.
87. Conclusion - This proposal would appear to be in substantial conflict with the national and local policies listed above. It would involve the destruction of part of the best preserved archaeological site of this type in the county and would also have a detrimental impact on the setting of the scheduled monument, in combination resulting in substantial harm to its significance. The Planning

Authority will need to decide if the mitigation measures offered constitute substantial public benefits sufficient to outweigh the degree of harm caused to a monument of national significance.

88. *Ecology* – Initially raised concerns at the proposals leading to discussions and revision of the proposals. The revised proposals provide for a nature reserve with no public access, separate from the proposed residential curtilages on the northern, steeply sloping part of the site adjacent Alderdene Burn, including the northern belt of protected trees overcame this initial objection. Data from the bat activity surveys provide the LPA with sufficient information to discharge its responsibilities under the Habitat Regulations, with provision of integral bat boxes proposed within the proposed site mitigation. Mitigation is also proposed and accepted to protect the roost for the Barn Owl identified within the site – with a nest box proposed in the nature reserve. Details surrounding the long term management of wildlife areas and the mitigation / working methods for protected species will need to be conditioned as part of any planning permission.
89. *Drainage* – write that according to the EA and Durham County Council SFRA data there does not appear to be a risk of flooding to the development site, and with Durham County Council designated as a Lead Local Flood Authority responsible for flood risk management for its area. Providing that the greenfield run off rate is to be restricted to 3.5l/s/ha to reduce the risk of flooding downstream as agreed pre-submission and full drainage details are submitted and agreed by the County Council, no objection is raised to the proposals.
90. *Design and Conservation Officers* – write that the key issues in dealing with this application concern foremost, the impact on the designated assets - the Roman Fort and the Conservation Area. In the first instance, Design and Conservation Officers concur with the Archaeology Team's comments and concerns about the impact on this Schedule Monument. As the impact upon the setting of the conservation area; the conservation area is located directly to the south east of the site, extending up Cadger Bank from the centre of the village and has a very attractive green and sylvan character, the stone walls, overhanging vegetation and trees are a dominant feature up the steep winding road here, and this provides a very attractive and memorable entrance into the village. At present the site provides attractive open countryside and informal setting to the outskirts of Lanchester and the conservation area. Views along Cadger Bank have a rural inviting atmosphere.
91. The proposed development would impact on the informal rural setting of the village and conservation area, it would encroach with its new access and built frontage to some extent onto the frontage of Cadger Bank. It would extend development westwards and impact on the entrance into the village, impacting on the informal ambience and disrupting rural views down the bank. This development would contribute to changing the special character of the conservation area's setting and street-scene views into the conservation, consequently degrading its significance. In view of the above the proposal appears to be in substantial conflict with the NPPF (Section 12) and Saved Policy GDP1 General Development Principles of the Derwentside Local Plan.
92. In an assessment of the scheme against the principles of BfL (Building for Life) 12, the single, compromised access/egress from the site is noted – with no other connections to the village, leading to a lack of integration. No facilities are proposed in the scheme over and above the Public Open Space, but the site has a reasonable relationship to such in the village centre. Attempts to reflect local character are recognised as are attempts to work with existing site features and

the topography. Other than its lack of connection to the existing settlement, the scheme is considered to score 'reasonably well' against the BfL12 criteria.

93. *Landscape and Arboriculture* – A summary of Landscape Officers comments; the present design will result in unacceptable damage to trees and the landscape character of the area and should be re-considered. They note the site is not within any locally or nationally designated landscape, but is immediately to the north of an Area of High Landscape Value. It is immediately adjacent to part of the Lanchester Roman Fort Scheduled Ancient Monument, and is close to the westernmost extension of the Lanchester Conservation Area.
94. A number of trees within the site are the subject of group or individual Tree Preservation Orders. These are important for a number of reasons, including the screening and softening of the appearance of the site. In the case of the larger trees, in particular, there is a significant contribution to the landscape character as these are trees that were, or still are, hedgerow trees. The site is primarily visible from public viewpoints on the B6296, which passes the site to the south east. When passing the boundary of the site the road is in a shallow cutting, which limits visibility to the near edge of the site, while when approaching the site from the south west the site itself falls away towards Lanchester, reducing the visibility of parts of the site beyond the south western edge. The site is also intermittently visible from Newbiggin Lane to the north-west.
95. In terms of effects on landscape features; the importance of the trees on and surrounding the site is outlined above. The Arboricultural reports detail protective measures, which, if implemented would give adequate protection to almost all the trees on the site. However, the retaining walls shown on the preliminary levels plan are completely incompatible with the necessary tree protection. If these retaining walls are constructed severe, possibly fatal, damage would be done to a large number of the trees, including ones round all sides of the site. Some of the trees that would be affected are situated within neighbouring properties. This is unacceptable, both as regards the landscape character of the area, and because of the loss of screening resulting from the loss of trees. The soft landscaping plan is generally satisfactory.
96. *Affordable Housing* – Officers note the Planning and Affordable Housing Statement proposes the delivery of 52 units of which 10 (20%) would be affordable homes, which would assist in meeting identified housing need. The affordable provision should ideally provide a split of 70% - 30% between affordable rent and affordable home ownership, the developer has indicated that it is proposed that there will be a mix of house type. Early contact with a Registered Provider is recommended.
97. *Environmental Protection (Land Contamination)* – have assessed the submitted documentation and concur with the risk assessment and recommendations. On the basis the land is proposed changed to a more sensitive receptor, a pre-commencement condition requiring a Site Investigation and Risk Assessment, with further investigation and mitigation as required, is requested attached to any approval.
98. *Sustainability Officers* – acknowledge access to local services and facilities on foot is good except for further education, although bus access does not meet minimum access requirements. Stanley is a short drive away, however employment and retail facilities of 'regional significance' are over 7km distant. Reference is made to the SHLAA appraisal which scored the site against the three elements of sustainability as poor for economic, and average for social and

environmental. Submission of the Sustainability Statement is welcomed, but further information would be required.

99. *Travel Plan Advisors* – note that whilst a travel plan has been submitted with the application and recorded on file, the proposed development is below the threshold where one was required.

100. *Education* –No contributions for Education provision are required, with some existing capacity, noting that even if this scheme followed approval of the housing application at Newbiggen Lane (currently refused and under appeal) with that scheme required to build in additional capacity, there would still be no shortfall.

#### **OTHER CONSULTEE RESPONSES:**

101. *Durham Police* – Architectural Liaison Officer notes that whilst the overall layout is acceptable issues of passive security through street lighting design, tree maintenance, and adoption of footpaths should be taken into account. This relates to the Police ‘Designing out Crime’ initiative.

#### **PUBLIC RESPONSES:**

102. Neighbours have been consulted by way of direct mail – 105 letters being sent out to neighbours considered directly affected, or within a reasonable distance of the site. Site notices were displayed at the entrance and at public areas around the site, the main approaches to it and the village centre. A press notice was published in The Northern Echo. Each method of notification specified the application was a Major proposal, and affected the setting of a Conservation Area. In response to this exercise the Council received 371 letters of objection (noting that some correspondents submitted a number of communications), 5 letters of support and a representation.

#### **Against the Application**

103. Objections have been received from Lanchester Parish Council, The Lanchester Partnership, the Friends of Longovicium, Friends of Segedunum, the Campaign to Protect Rural Lanchester, the Architectural and Archaeological Society of Northumberland, Lanchester Dairies, and the Campaign to Protect Rural England. The main points of objection are summarised below, the full text of the correspondence being available on the Council’s website.

104. The Roman Fort and its setting – Significant concern is raised for damage to the unaltered landscape and the integrity of the Roman Fort, a tourist attraction, and its setting, with the importance of the fort, its setting and the surrounding archaeological remains contended not properly assessed in the application nor capable of mitigation in the development, with specific reference made to the relevant paragraphs in the NPPF. It is further argued that the ‘rebuttal’ of the Council’s Senior Archaeologist’s comments by the applicant’s archaeological advisors does not overcome public concerns and objections, being considered a mainly academic discussion around the interpretation of significance. The importance of the fort and its setting, both for its intrinsic and historical importance, and its role in the cultural importance of the identity of the village is set out. The detail of the supporting protective legislation is set out, with detailed technical and policy arguments. It is further noted that the Council’s extended SHLAA exercise discounted development on the site on the basis of the likely archaeological impacts, with residents objecting to its initial inclusion as a SHLAA site. The site was not proposed allocated within the County Durham Plan.

105. Roads, traffic and locational sustainability - The access and egress from the site at the entrance to existing village and its speed restrictions on a steep hill, following a blind crest, the road being utilised by heavy traffic, with the operation of the nearby Lanchester Dairies in particular, are considered to result in an unsafe highway safety arrangement. These issues will discourage both walking and cycling, with particular disadvantage to the elderly and pushchair users. The scheme is unsustainable in locational terms. Residents of the development, detached from the village centre both by an unsustainable walking distance, exacerbated by the steep slopes in the village and the substandard existing footways are likely to rely heavily on private cars, with unacceptable effects on the commercial village centre, reducing parking capacity there for existing residents and driving commercial activity to other settlements, undermining the commercial viability of the businesses in Lanchester. Bus services in and through the village are poor heightening this concern. Particular concern is raised from the increase in traffic and pressure on local infrastructure as to the effect on road safety for young and elderly existing residents crossing the road to access the Medical Centre in the Village Centre. Pollution from exhaust fumes in the village centre will increase to unacceptable levels. Lanchester Dairies consider the proposals could have a significant effect on their business operations from their vehicles interacting with traffic on the new access. The submitted travel plan is contended to contain inaccuracies and be 'of limited value'.
106. The effects of the construction traffic, through the village centre, climbing up the steep hill to the site and near to the blind crest are of concern from noise, vibration, dust and disturbance. Any employment benefits for the village will be temporary – during the build process alone.
107. Economic sustainability – In addition to the contention that the lack of locational sustainability will direct potential commercial benefits elsewhere, the scheme is contended as not supported by local businesses nor of any benefit to the local community or economy. The development will not improve the economic, social and environmental conditions in Lanchester.
108. The Extension of the Village - In terms of the resultant effect on the form of the settlement, this unplanned extension is contended 'lop-sided' ribbon development. The village considers itself to be 'under siege' from development and developers, with housing proposed at Cadger Bank, Newbiggen Lane, The Paddock and Paste Egg Bank – any approval would represent a precedent giving momentum to the other schemes. The intrinsic feel and 'rural charm' of a small village and its community would be sacrificed if new development is approved, with a concern that the settlement would lose its identity and become a town, with further green spaces lost to the village. With a range of properties available for sale within the village, there is no need for new housing developments, with the Council having a 5 year housing land supply in hand. The scheme is presented not to serve a demand or a need but to satisfy the commercial greed of the applicants, with 200 more residents an unreasonable addition to an existing community of only 4000, contended by others as a 10% increase in population. Residents complain there will be a detrimental effect on house prices in the village if the scheme is approved. There are complains that the scheme provides no affordable housing, and others that affordable housing is proposed. This village is presented as having accommodated far more development than the County average to a point where it is now beyond capacity. The developers are pointed to demand and available brownfield land and housing sites in Consett and Stanley.

109. Effect on the countryside and wildlife - The application would result in the loss of green-field, undeveloped countryside and Green Belt, outside the defined settlement boundary. In addition to the harm to the village, the development would harm the surrounding landscape character, being obtrusive in views from different parts of the settlement and more distant receptors. The wildlife in the field, with the Barn Owls identified in particular, will be lost through the development. The Village Green will be at risk from teenagers. There is no indication of the maintenance implication for the open space within the scheme. Light pollution will result from the extension of the village onto a dark green-field site.
110. Effect on the Conservation Area – The development is contended to compromise the setting of the Conservation area in developing the manse that was associated with dwellings within the Conservation Area.
111. Planning Policy - The application is considered premature in terms of the preparation of the Neighbourhood Plan by the Parish Council, the Village Design Statement, contrary to the policies in the Derwentside District Local Plan and the NPPF. The Council has a history of refusing development on this land. In 1988 planning permission was refused on five grounds summarised as follows, with no reason to deviate from this position:
1. The development would extend the physical limits of the village unacceptably into surrounding attractive countryside.
  2. The access would be dangerous, being on a steep hill.
  3. A precedent would be created for other similar proposals.
  4. The site has suspected archaeological value as a result of its nearness to the Roman Fort.
  5. Any damage to the setting of the Roman Fort may prejudice its future development as a tourist attraction and reduce its value as an archaeological site.
112. Flooding and sewage – these issues in the village are well documented and the development will compromise both, the natural soakaway and run-off from the field being lost to the built development. A detailed concern is raised with the appearance of the proposed drainage outfall ramp at the northern end of the site where visible from facing residences in Foxhills Crescent. The extent and detail of the submitted drainage model is considered insufficient both for the effect on Alderdene Burn which floods in its own right and on the wider village.
113. Residential amenity - The effect on existing residents will be unacceptably compromised, both through facing distances and the levels introduced by the scheme resulting in overshadowing and overlooking. The use of existing private gardens will be compromised. Property values will be compromised.
114. Local Services - Demand for the existing school places in the village outstrips supply to the detriment of local children. Local community and medical facilities and services are already over-subscribed. Local Policing budgets will be overstretched.
115. Consultation - The pre-application public consultation exercise carried out by the developer and the application consultation exercise carried out by the Council are both criticised. Inaccuracies in the submitted documentation are referred to including the location of bus-stops, description of the dwellings proposed and the ease of access to the local schools.

116. In support of the application a small number of residents and the land-owner have written in support of the scheme. Ensuring the future sustainability for the future of the village through the provision of housing for young couples is the principle argument. The land owner notes that the site was originally allocated for housing with the knowledge that the site required further investigation, and that investigation found 'little or nothing of particular significance'. The separation of the fort from the site means there is no visual relationship between the two. With the exception of the remains of the fort, the Ancient Monument comprises agricultural fields with no other visible remains, so there can be no reasonable suggestion that development on the application site would affect the setting of any specific remains within the designation. Development would not affect any 'interpretation' of the adjacent fields as a Scheduled Ancient monument. Historic England refused an application to extend the extent of the Ancient Monument in 2015. The Courts have held the test for a grant of planning consent varies according to the quantum of harm to significance. Whatever level of significance is attributed to the adjacent field, that significance will remain entirely unchanged by development on the site. There will therefore be no destruction of an asset and no reduction in its significance.
117. In the absence of an up to date development plan the application must be considered primarily on the basis of the presumption in favour of sustainable development, with the Council's responsibility to deliver a wide choice of high quality homes and maintain a 5 year supply of housing land. There are no site-specific factors that would mean that new housing could not be satisfactorily accommodated and delivered on the application site. It is apparent that a satisfactory access can be provided; no harm will be caused in terms of highway safety; there are no flood risk issues; all services are either available or can be made available; protected trees will be retained; satisfactory landscaping can be introduced, and general and residential amenity will be protected. These are all material considerations that must be taken into account objectively along with the public benefit that will result from new housing on the site and the presumption in favour of sustainable development.

#### **APPLICANTS STATEMENT:**

118. The Cadger Bank site lies on the edge of Lanchester, presenting a logical urban extension to Lanchester. The site would benefit from access to all of the existing amenities in Lanchester, within walking distance and as such would represent a sustainable location. The development of the site offers a genuine opportunity to create a sustainable living environment where the wider objectives of reducing car journeys can be met.
119. The Council assessed the site as suitable for housing development in its SHLAA. The site was subsequently proposed as a housing allocation for an estimated 95 houses in the Preferred Options Plan, 2012. Therefore at this time the Council considered the site to be a suitable, sustainable, location for new housing.
120. However, in the SHLAA update 2013, the site classification was changed unsuitable. The applicant did not consider this change sound. A number of proposed allocations have proved not to be deliverable, given their location in the Green Belt. This site is not within the Green Belt and could make a contribution to meeting housing needs in the County and maintaining a 5-year housing land supply.

121. We are of the opinion that Lanchester, as a local service centre should have some housing development. Lanchester has a significantly ageing population as outlined in and many businesses are being forced to close because of the lack of local spend. These 52 new homes will provide new people to spend approximately £520,000 locally per annum.
122. As part of the development 52 houses are proposed. The houses proposed include a mix of detached, semi-detached and terraced properties. Ten affordable houses are proposed as part of the development.
123. The main reason for refusal is archaeology: in-situ preservation of below ground archaeology and impact on the setting of the scheduled ancient monument.
124. Durham Archaeological Services carried out a full trial trenching exercise across the site and found nothing worthy of in-situ preservation. The remains in situ have been degraded by ploughing and the presence of a high pressure water main running across the site. The soil is also acidic, therefore any remains will not have been well preserved. Better technology will also exist in the future to evaluate these remains, therefore greater public benefit could be gained by leaving them in-situ for now.
125. In terms of setting the site has no above ground features. The Scheduled Ancient Monument already covers a huge area and the site is not critical to the appreciation of the Fort. Historic England's National Heritage List shows Lanchester Fort as a Scheduled Ancient Monument. The designated area extends up to but does not include the application site. A request was submitted by a third party to Historic England to schedule the below ground remains on the site. Historic England refused the application on 14 August 2015. Historic England described the trenching results as 'slight and fragmentary', and found that the below ground evidence was insufficient to merit scheduling.
126. We would urge the Council to consider the benefits of the proposal in making their decision. The development will create 42 much needed market houses, £14m investment in the area, 10 affordable homes and a well-designed scheme. Creation of a natural habitat for wildlife along Alderdene Burn, council tax receipts of £78,000 per annum and new homes bonus for the Council of £468,000 per annum. BDW are also planning to improve the footpath to Cadger Bank and offer new interpretations boards to enhance the public information about the Fort.

*The above is not intended to list every point made and 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**

---

127. 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 presumption in favour of sustainable development as described in paragraph 14 of the NPPF, and the effects of the tests set out for assessing the harm on heritage assets set out in part 12 of the same.

*The Development Plan*

128. 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 Derwentside District Local Plan (DDLDP) 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. NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. However, notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired. Furthermore NPPF paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development and 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.

*The National Planning Policy Framework*

129. Paragraph 14 of the NPPF states that there is a 'presumption in favour of sustainable development', which should be seen as a golden thread running through both plan making and decision taking. For decision-taking this means:

- 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 the Framework indicate development should be restricted.

130. Whilst the application should be considered as to whether it represents sustainable development, the weight of the heritage issues in particular must be carefully considered. Paragraph 14 indicates that where a decision is made in the context of development plan policies which are out-of-date, permission for sustainable development should be granted unless specific policies elsewhere in the Framework indicate development should be restricted. Those policies include policies relating to designated heritage assets. Where such policies apply, the presumption in favour of granting permission is therefore disapplied. Elsewhere in the Framework, paragraph 133 states that; 'local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...'

131. The application site is located outside of the residential framework of Lanchester, where the development plan Policy HO7 seeks to control the built extent of the settlement. The plan contains no up-to-date saved housing policies relevant to consideration of the application. Given the age of the Plan and housing supply figures that informed it when it was adopted in 1997, the

housing, supply policies therein do not reflect an up-to-date objective assessment of need. Other policies that may be considered relevant to the housing land supply assessment in light of the recent caselaw may be attributed weight i.e. EN1 and EN2.

132. The NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) and that housing applications should be considered in the context of a presumption in favour of sustainable development. If the Council cannot demonstrate a five year housing land supply, housing policies in a Local Plan cannot be considered up to date. The housing trajectory associated with the withdrawn CDP is no longer relevant and similarly the CDP Objectively Assessed Need (OAN – for housing) figure no longer exists. This raises the issue of what is the requirement against which the supply is to be measured in order to calculate whether or not 5 year housing land supply exists.
133. In the period until a new Local Plan OAN figure can be established, the Council has sought to accord with advice in the Planning Practice Guidance regarding OAN: 'Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government should be used as the starting point, but the weight given to these should take account of the fact that they have not been tested (which could evidence a different housing requirement to the projection, for example because past events that affect the projection are unlikely to occur again or because of market signals) or moderated against relevant constraints (for example environmental or infrastructure).'
134. In undertaking this assessment the Council fully recognises that the DCLG requirement figure cannot be regarded as representing the OAN as it does not take into account market signals, and nor has it been publicly tested. However, it is considered that this serves as a 'proxy', providing a context to quantify the supply position and that the Council can demonstrate a robust and deliverable supply of housing in the pipeline. The Council also has a healthy housing land supply measured against the emerging evidence base in support of the options for the forthcoming County Durham Plan.

#### Strategic Locational Sustainability

135. Setting aside the heritage asset issues, the site is considered by Planning Officers to be in a sustainable location in terms of accessibility to the goods, services and facilities demanded by the occupants of modern residential developments, proportionate to the size of the urban settlement – a conclusion that derives from comparison with a balance of the three strands of sustainability; economic, social and environmental.
136. Whilst the planning system has historically considered sustainability – it may not always have been called that – the detailed interpretations of such against in particular the current policy context in Durham are critical. A conclusion that the location is sustainable in terms of accessibility is consistent with the conclusions reached in another housing proposal in the same settlement included on the agenda for this Committee Meeting at The Paddock. In strategic terms the

village of Lanchester, identified as a 'local service centre' has a good range of commercial and social services – reflected in a strong local pride and sense of identity – that serves the residents of the village itself, along with those of surrounding smaller settlements, detached dwellings and a rural community. The village also sits midway within a hierarchy of larger settlements, providing more extensive commercial, leisure, social and employment opportunities – these including the towns of Annfield Plain and Stanley, and Durham City with its edge of town large retail parks and major transport arteries. This is material to the assessment of sustainability – the village cannot be assessed in isolation. Indeed Lanchester could be argued to have historically provided the role as a focal point and service centre to the surrounding area.

#### Local Locational Sustainability

137. The locational sustainability must also be assessed on the village level on the same basis as the above. The site is around 660m (by path) from the village centre, via the steep slopes of Cadger Bank and a footway of varying quality and width. The latter point has been subject to discussions between the applicant and Durham County Highways Engineers during the course of the application, with a scheme of improvements agreed for the single footway on Cadger Bank to bring it to a standard considered safe in highways terms (with one sticking point – the presence of a protected tree in the footpath outside Alderdene House, preferred removed for pedestrian highway safety by Engineers, retained by Planning Officers). Agreement on improvements has been reached. The site is over the standard 500m distance from the village centre considered a test of reasonable pedestrian sustainability, but it is argued that as a rural village the expectations of convenience and immediate access – both for distance and elevation – are different, accepted as one of the consequences of not living in a larger, urbanised and more convenient environment. There are comparable distances to existing housing developments on the edges of the village that are accepted by the residents living there, with the topography a feature of the Village, bringing both character and compromises to convenience. This measure of sustainability / accessibility is therefore considered acceptable.
138. The topography as a discouragement to potential cyclists in the scheme is also raised as an objection by residents. Cadger Bank is steep – and would present a challenge to the casual cyclist, however the close proximity of the Lanchester Valley Walkway on the old railway branch line is a likely attraction to potential cycle users within the development, both for leisure purposes, and giving off-road cycle access to Consett and Durham City.
139. Therefore, whilst the comments of colleagues in the Sustainability Team are acknowledged, their strict interpretation and assessment of this topic must be developed into a wider assessment of the implications of the development site and its context on its own merits and the advice and policies in the NPPF as a whole. On this basis the locational sustainability of the site as regards its physical relationship to the village centre and wider area is considered acceptable. However, for the avoidance of doubt, it is essential to note that whilst this conclusion of the sustainability of the site in terms of accessibility of goods service and facilities is positive, paragraph 14 sets out that there is a presumption in favour of sustainable development – except where specific policies in the Framework advise otherwise. Considered against both the specific advice in the NPPF at paragraph 133 and the proportionate weight given to Policy EN19 the proposals are considered unacceptable, and the site therefore – in overall terms – not sustainable, as detailed below.

140. The village is a focal point for the wider area, in addition to serving the demands of the village itself. The well organised public objection to the proposals present the facilities of the settlement as at 'breaking point'.
141. The Council's Education Team assess the capacity of local schools, and have the option of requesting financial contribution to meet any perceived current or future short-fall through a s.106 agreement attached to any planning approval. They have assessed the implications of the scheme in its own right, and in the context of other current proposals – concluding that no contribution is required in this instance.
142. Additional economic activity in the village centre will derive from the scheme to the benefit of local businesses, and if, as will be the case at present with existing residents, there are economic benefits to the wider commercial environment, this is not a negative. It is difficult to accept the argument that the additional economic activity that will derive from the development will economically undermine the village centre, as contended by some. Assertions are made that the medical and dental facilities in the village are over-subscribed, although this is not quantified. Now subject to market forces, provision of these types of facilities is a business reflection of demand compared to a requirement of health service provision. Increased demand may bring additional provision.
143. Concluding this point, Lanchester is considered a well-served village with a range of facilities proportionate to its size and place within an established wider hierarchy of settlements. The size of the development is not considered such that it would have a disproportionate negative effect on existing facilities, and the site's location to those services within the village and beyond is comparable to existing residential development within the village and proportionate to the expectations of such in this type of settlement. The application site is therefore considered to be locationally sustainable.

#### The paragraph 14 Presumption in Favour of Sustainable Development

144. The comments of the Council's Spatial Policy Team are summarised above. The arguments are a complex interpretation of the evolving Policy context against which the current application must be assessed, in the absence of an up-to-date development plan where the saved policies have varying weights compared to their compatibility with the NPPF, the proxy position for an Objectively Assessed Need derived housing land supply, assessing the evolving weights of the saved policies in the Derwentside District Local Plan 1997 against the detailed policies and overall intent of the NPPF and the planning imperative of providing for new housing development.
145. The proposals must be considered against the policies in the NPPF considered as a whole and the three strands – economic, social and environmental – of sustainable development, and take into account all the potential benefits of the development – summarised in the Applicant's Statement as, creation of, '42 much needed market houses, £14m investment in the area, 10 affordable homes and a well-designed scheme. Creation of a natural habitat for wildlife along Alderdene Burn, council tax receipts of £78,000 per annum and new homes bonus for the Council of £468,000 per annum. BDW are also planning to improve the footpath to Cadger Bank and offer new interpretations boards to enhance the public information about the Fort'.
146. The above series of benefits from the scheme support the economic role of sustainability, this requiring the right type of land is available in the right places.

For the social role and as noted by supporters of the scheme, the development has the potential to help meet the current and future needs of present and future generations by adding to housing supply – meeting the social role of sustainable development. The environmental role of the site includes both the appropriateness of the development in the landscape on the urban fringe, and the effect on the heritage interests in the area. Many of the issues involved overlap the three elements of sustainability. The positive outlined by the applicants have been weighed as required against the ‘adverse impacts’, then the ‘higher’ test in paragraph 133 of ‘substantial public benefits’. It is concluded that whilst the scheme brings the usual expected benefits of new housing development, it does not demonstrate ‘substantial public benefits’ that would outweigh the substantial harm to the heritage assets.

147. In bringing the application forward, the applicant points to the initial identification of the site within the SHLAA process, which when updated 2013, was subsequently changed to ‘unsuitable’ for development. The applicants do not consider this change sound. However, their arguments relate to the deliverability of allocations within that process and the benefits this scheme could make a contribution to meeting housing needs in the County and maintaining a 5-year housing land supply. Officers consider the principle of this argument sound, but point out the NPPF at paragraph 14 leads to a significant caveat – ‘...granting permission unless: 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 specific policies in this Framework indicate development should be restricted’. For this application those specific policies are considered by Officers to be those relating to designated heritage assets.
148. At paragraph 17, explaining the Core Principles of the NPPF, Local planning authorities are advised to, ‘conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations’. Later, at part 12 of the NPPF, ‘Conserving and enhancing the historic environment’, paragraph 132 explains the importance of ‘significance’ in weight of the planning assessment. Paragraph 133, explaining ‘harm’, states that; where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Therefore the key planning balance assessment to be made in the context of Paragraph 133 is whether the ‘substantial harm or loss’ is necessary to achieve ‘substantial public benefits’ which outweigh that harm or loss, which as noted by Historic England, is a ‘high test’. Paragraph 134 requires that any harm, albeit less than substantial, to a designated asset should be weighed against the proposal’s public benefits. Paragraph 135 explains the approach to be taken on a non-designated heritage asset.
149. An exchange of professional views between the Council’s and the applicant’s Archaeologists, led to the latter’s acknowledgement that ‘the proposed development will cause harm to the archaeological interest of the buried archaeological remains at the site’, although it was qualified that ‘these remains are likely to be of relatively limited heritage significance’. Both the Council’s Archaeologist and Heritage England disagree on this point, the Council’s response to the applicant’s ‘rebuttal’ stating, ‘it is an undeniable fact that the archaeological features on this site are an integral part of the heritage asset as a whole, the majority of which is designated as a scheduled monument of national importance, and all parts of the complex are equally significant albeit potentially in differing ways’.

150. With paragraph 17 of the NPPF stating that planning should 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations', The proposal to build houses on the Cadger Bank site are considered likely to not only destroy the archaeological remains of part of the Roman fort and vicus complex but would also harm the significance of the entire site by the associated adverse effects upon its setting', compromising the significance of both designated assets of the highest significance and non-designated assets that have the potential for higher designation, and the loss of significance of designated assets. The Roman Fort at Lanchester is identified by the County Archaeologist as of, 'unique significance within the group of six such sites in Co. Durham (in that it) is that it is the one that has been least affected by development in modern times and is totally free of modern buildings'.
151. On the basis that there is substantial harm to a designated heritage asset, Officers' assessment as above concludes that the scheme fails the test set out in paragraph 133 and there must be an in principle policy objection to this planning application if the Council as Local Planning Authority considers that the public benefits of the scheme do not weigh sufficiently favourably in the outcome of the relevant planning balance assessment (set out in Section 12, Paragraphs 132, 133 and 135 of NPPF) to counteract the substantial harm that would occur to the significance of the assets designated and undesignated. That harm is the effect of the development on the setting of the designated Heritage Assets of the Roman Fort and the wider Scheduled Ancient Monument, and the additional archaeological remains that extend beyond the designated area.
152. The NPPF sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including, notably scheduled monuments should be wholly exceptional. Further, at paragraph 135, it is advised, 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
153. Appropriate weight should also be given to the policies in the development plan, with Policy EN19 of the 1997 Derwentside Plan seeking to protect nationally important – i.e. scheduled – archaeological remains and to protect remains of more local significance from damage. This policy confirms a presumption in favour of retaining heritage assets in situ. Given the previously undeveloped status of this site and its association with known significant archaeological assets saved Policy EN19 is considered relevant to the consideration of this application. Assessed for compliance with the NPPF, it is acknowledged that the policy was designed to be applied in the context of the now expired PPG 16 (Archaeology and Planning) which provided further guidance on the approach to be taken in respect to this issue, but this policy is not inconsistent with the 10th Core Planning Principle set out in Paragraph 17 of NPPF or with Paragraph 128

and can be afforded weight, and used with the more up-to-date advice in the Framework.

154. It is noted that, as referred to in the 1989 decision and in line with Policy TO1 of the development plan, the Roman fort and its setting have a value as a tourist attraction.
155. The relation to the other potential impacts identified relating including landscape, ecology and highways, are assessed below. In conclusion on the paragraph 133 tests:
  - (i) For the reasons set out above, it is considered that substantial harm will accrue to a designated heritage asset of great significance if the proposals are permitted;
  - (ii) The benefits put forward by the developer of a contribution to the housing supply, the provision of affordable housing, local economic benefits, new homes bonus contributions, a new wildlife habitat, council tax receipts, footpath improvements and new interpretation boards do not amount to 'substantial public benefits';
  - (iii) In any event the benefits of the development cannot only be achieved by causing the harm to the heritage asset. Paragraph 133 counsels a refusal of permission except where it is demonstrated that the harm to the asset is necessary to achieve substantial public benefits. This is not the case. Many of the claimed benefits would arise irrespective of where the development was located; and harm to the significance of the asset is not necessary to achieve them.

## Other Considerations

### The Conservation Area

156. The Conservation Area in Lanchester covers the central historic built core of the village, extends to the north-east to cover an extended area of countryside at Paste Egg Bank as 'setting', and extends up the traditional east and west approaches to the village at Peth Bank and Cadger Bank. On Cadger Bank the designation includes the large older dwellings of West Grange and Pelham House and their respective curtilages. The lower part of the site faces onto the end of the Conservation Area. Historic England's assessment of the effect of the development on this specific area, which 'acts as visual prelude to the Conservation Area whose boundary along Cadger Bank marks the gradual transition between the rural and urban' – reflected in residents' comments in its previous role as glebe land to the nearby manse to the vicarage concludes that 'care should be taken to analyse the visual connection with the Conservation Area and the possibility for landscape design to mitigate or harmonise any effect'.
157. Any harm can therefore potentially be mitigated by good design and careful landscaping through condition, ensuring, 'special attention' is 'paid to the desirability of preserving or enhancing the character or appearance of that area'. The retention of the existing front boundary wall and the setback of built development inside the site, separated from the front boundary by the proposed new communal stepped footpath are considered to help achieve the required visual entry into the village, as a transition between the rural and urban landscapes on the entrance to the Conservation Area. This is further assisted by the landform, including the gradient of the highway verge, and the existing and proposed planting at the approach to the village, where the development will not

be immediately apparent on the approach from the west. The development plan contains no policies relevant to the topic of the Conservation Area, assessment being led by the requirements and tests set out in s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraph 134 of the NPPF. That the effect on the setting of the designated Conservation Area can be potentially mitigated is reflected in the comments of Heritage England, and on this basis Officers conclude that the harm to the heritage asset would be less than substantial, weighed against the public benefits of the proposal.

#### Physical Extension of the Village and Landscape Impact

158. The application involves the encroachment of the settlement into the area surrounding the settlement. The land involved is not subject to landscape designation, contrary to the land to the south of the B6292 which is defined as Area of High Landscape Value in the development plan in policy EN6. With two sides of the land bordering the existing settlement, and with the proposal working within the context of the historic field pattern, the development could be seen as continuing a natural process of extension, particularly in line with the late 20th Century expansion of the village on the west slopes of the valley.
159. The village has successfully assimilated extensive modern developments in this area and there is no reason in principle why a development of the scale proposed here should not be assimilated likewise. Below the crest of the hill to the east, views of the development when approaching from Hollinside would be restricted on the western approach to the village, and when viewed from longer views from the west – for example at the head of Peth Lane at Burnhope.
160. The site sits below the raised promontory of land upon which the Roman fort was set to give its commanding views over the Browney Valley and the river crossing of Dere Street. The land falls below the fort towards the village, with the modern western extent of the existing settlement close to, but visually screened by the landform on this approach. The visual impact of the proposed development would benefit from the same arrangement. It is noted that this visual screening works in terms of the landscape assessment, but undermines the relationship with the Roman Fort and the SAM – the Fort designed to sit in watchful isolation in a prominent position – the interpretation of which would be unacceptably eroded if the modern settlement intruded too far into the isolated setting of such.
161. For many years the extent of the village was protected by the settlement boundary defined in Policy HO7 of the Derwentside Plan and the Village Design Statement. The Spatial Policy comments make it clear that both as a tool to prevent built development, not as one to protect the countryside, the settlement boundary is not defensible as a viable planning restraint. Acknowledging that objectors have cited this issue in reference to a previous refusal on the site, Officers would contend that the different conclusion reached for this application reflects the significantly changed current Planning Policy context. It is noted that Landscape Officers' comments acknowledge the views of the site on the approaches to the village are restricted by the landform. These could be further mitigated by conditioning a landscaping scheme that likewise benefits the relation to the Conservation Area as discussed elsewhere in this report. In principle the extension of the village in the countryside in this location is considered acceptable in landscape terms, notwithstanding the heritage asset implications.

162. Whilst proposed layout has some deficiencies in terms of its lack of connection to the existing adjacent residential estates, in overall terms, particularly following a redesign of levels on the site frontage, the application is considered to display strong design credentials, with genuine attempts being made to reflect the local vernacular in a range of quality homes that reflect some good practice in terms of the advice set out for good design in the NPPF, the National Planning Practice notes and BfL12. The developer has struggled with the site levels – resulting in a significant amount of design work for levels during the planning application process. The levels have been dictated and distorted by the presence of the service easement across the western side of the site, with a no-build easement either side of it – effectively this feature, rather than the natural slope, has set the datum level for design of the site levels.
163. The initial application had minimal information in this respect, with significant implications for potentially positive elements of the scheme – such as the retention of the mature tree belt that stretches across the middle of the site, and for the effects on residential amenity on site boundaries shared with existing dwellings. This information has now been provided, and the unnecessarily dramatic change in levels between dwellings on the main road fronting elevation reduced. The detailed site levels have been accompanied by additional information on the effects of the change of levels on the trees on the site to address the concerns raised by County Tree Officers above, bringing the scheme into compliance with policies EN9 and EN11 of the development plan – these policies having a high degree of resonance with the NPPF.
164. Parts of the main estate road within the scheme have only one footway – bringing the dwellings closer together, the developer contending this gives a ‘village feel’ within that part of the site. The materials and design of the dwellings in the scheme are accepted as having a high quality appearance, giving the development a ‘character’ of its own, and ensuring detailing is appropriate to the locale. Making a virtue of some of the site constraints such as passing through the tree belt into areas of different character and using the ‘no-build’ zone for public open space, the development proposes different character areas within it, and extensive areas of open space – although the latter are compromised by the stepped access to areas of them restricting use by some members of the community. The extent of open space proposed is considered to meet the requirements for such set out in policy HO22 of the plan, although in the event of an approval provision of recreation equipment would be needed to be secured – this could be achieved through condition or legal agreement – and could take the form of either children’s play equipment or adult’s exercise equipment spaced along the footpaths. Whilst some issues of neighbour amenity have been raised in relation to proposed levels and facing distances between the proposals and existing dwellings, none of the relationships are considered such that a refusal could be sustained. In overall terms however, following the additional design work carried out in process, the development is considered a well thought out, high quality response to the site constraints, following the advice in the NPPF and NPPG and meeting the requirements of proportionate weight attributed to policy GDP1 of the development plan.

### Highway Safety

165. This is a significant topic for objectors, both in terms of the access and egress proposed for the development and the additional volume of traffic required accommodated by the local road network and in the village centre, accessing local businesses and joining the A691 Durham / Consett main road. The main highways issues, as noted in part above, have been resolved to a degree where

there is no objection to the technical arrangements and capacities proposed, although Highways Engineers have noted some concerns as to locational site sustainability in terms of its distance from the village centre and lack of connections to the existing residential estates. The developer has redesigned the proposed layout to achieve a vehicular layout capable of adoption by relocating a unit to achieve required gradients at the northern end of the site. Both the specification and location of the site access / egress in relation to the village entrance, surrounding speed restrictions and the topography – i.e. the slope and the ‘crest’ of the hill to the west are considered acceptable as is the volume of traffic that the scheme will generate in relation to the capacity of the existing road network.

166. The scheme is criticised for the lack of permeability and integration into the existing urban form, and it is noted, consistent the Sustainability Officer’s and residents’ criticisms that bus availability is lacking, being over 600m from the site. Residents’ concerns regarding parking in the village centre have been outlined above.
167. Furthermore, whilst the highways redesign has overcome the technical problems allowing for adoption of the vehicular highways, this has brought unintended consequences for the pedestrian environment, introducing steps to access the northern end of the walkway proposed for above the drainage easement. With steps also proposed along the footway that runs along the inside of the site frontage, this means that significant elements of the proposed leisure footpath routes within the site would be of restricted access for pushchairs and less able members of the public, significantly reducing their value. These areas of footpaths would not be adopted by the Council and would have to be maintained by a private management company.
168. With the technical highways requirements of the scheme met, the other highways issues are not considered such that they would constitute a viable refusal reason, or an ‘adverse impact’ that would ‘significantly and demonstrably outweigh the benefits’. On this basis the proposals and the applicant’s intention to improve the footpaths on Cadger Bank between the site and the main village are concluded to bring the scheme to the required level of compliance with Policy TR2 of the adopted Local Plan.

## Drainage

169. Drainage and flooding are key aspects of concern in Lanchester where repeated flooding in the village centre has been a dramatic and distressing feature of the village centre. Northumbrian Water is the statutory undertaker for foul drainage issues, with Durham County Council now the Strategic Flood Risk Authority.
170. Both consultees have responded to the detailed information submitted with the application – Northumbrian Water confirming they have no issues with the application, providing it is carried out in strict accordance with the applicants submitted Drainage Plan, requesting adherence to the specifications this document be conditioned in the event of an approval.
171. The Council’s Drainage Engineers write that according to the EA and Durham County Council SFRA data there does not appear to be a risk of flooding to the development site. They raise no objection to the proposals providing that the greenfield run off rate is to be restricted to 3.5l/s/ha in other works that the run-off rate from the scheme is less than that at present, to reduce the risk of

flooding downstream as agreed pre-submission and full drainage details are submitted and agreed by the County Council.

172. A particular issue has been raised as to the appearance of the outfall proposed for the north of the site on Alderdene Burn. Officers are confident that an acceptable design and finish of this feature could be achieved through imposition of a condition.

#### Ecology

173. Ecology provision has been significantly improved to the point where it is a positive element in the balance of determining the application. The application was submitted with the gardens of the dwellings in the northern part of the site extending down the slope, including the northern tree belt, terminating at Alderdene Burn. Following discussions with the County Ecologist, the northern area of the site, including the tree belt is now proposed as an ecology area, separate from the estate. Further detail and agreements by condition will be needed to secure the identified mitigation measures for bats and barn owls, along with detailed management plans and monitoring schedules for the wayleave grasslands and retained and enhanced grasslands associated with the remaining trees and provision to prevent public access. With the views of the County Ecologist key in ensuring appropriate mitigation is incorporated within this scheme so as to accord with 'Saved' Policy GPD 1 and Paragraph 118 of NPPF and in gauging the weight which should be attributed to any harm or benefits when undertaking the planning balance assessment to determine the acceptability of this scheme, the revised scheme as presented to date is considered both policy compliant and a positive in the proposals.

#### Contaminated Land and Coal Mining Legacy

174. Environmental Protection (Land Contamination) have assessed the submitted documentation and concur with the risk assessment and recommendations. On the basis the land is proposed changed to a more sensitive receptor, a pre-commencement condition requiring a Site Investigation and Risk Assessment, with further investigation and mitigation as required, is requested attached to any approval.
175. The Coal Authority noted the need for a condition in the event of an approval to undertake additional investigation works before development works commence that includes a requirement for implementation of any mitigation identified.

#### Affordable Housing

176. If the application were to be agreed provision to ensure the delivery of the affordable housing through a s.106 legal agreement should be made. Such a legal agreement would meet the tests required for such as set out in the Community Infrastructure Levy Regulations 2010 and described in the National Planning Practice Guidance notes, as being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

#### Embedded Sustainability

177. With the submission considered to lack some of the detail required to fully address expectations for the inclusion and installation of embedded

sustainability, a condition would need to be attached to any approval to secure a scheme of embedded sustainability as requested by Sustainability Officers.

## The Construction Period

178. A number of issues have been raised in relation to the construction period if the application is approved. In the first instance, despite the views of objectors, the employment opportunities that would be created during the construction process are a positive, material benefit of the scheme that must be taken into account in the determination process, likewise the potential for the scheme to benefit the local supply chain.
179. Adjacent residents in particular, but also those on the likely approach routes raise concerns as to the effects of site traffic and building works on the site. Whilst there would undoubtedly be an effect from these issues, Members will be aware that the ability of the Council to affect these issues through the planning process is through conditions relating to working hours, and siting of compounds and construction routes within the site. The wider Council and the Police have powers through Highway legislation and the Environmental Protection Acts to protect against damage to and obstruction of the public highway, and statutory nuisance. Such conditions could be applied in the event of an approval, justified against policy GDP1(h) of the development plan.

---

## **CONCLUSION**

---

180. Planning Officers consider the site to be in a largely sustainable location in terms of accessibility, and accept that the development can demonstrate a number of benefits both to the local area and to wider issues, in particular of housing land supply. This latter issue is of importance in the absence of the Council being able to formally demonstrate a formal five year housing land supply, with due weight being given to the current 'proxy' position in relation to establishing an 'Objectively Assessed Need' for the supply of housing land summarised from Spatial Policy Officer's comments, above. The conclusion of that analysis is effectively whilst the Council cannot formally demonstrate a five year housing land supply, Spatial Policy Officers are confident that such a supply exists, and shows that the Council does not have such a shortage of housing land that it needs to approve all housing proposals however damaging to interests of acknowledged importance.
181. The NPPF sets out a presumption in favour of sustainable development at paragraph 14, but with two critical caveats, one of which requires development to be tested against other requirements in the NPPF where it is indicated development should be restricted.
182. In relation to these, the proposal to build houses on the Cadger Bank site are considered likely to not only destroy the archaeological remains of part of the Roman fort and vicus complex but would also harm the significance of the entire site by the associated adverse effects upon its setting', with the fort sitting in clear isolation from the modern built settlement, compromising the significance of both designated assets of the highest significance and non-designated assets. The 'higher' test set out in paragraph 133 of the Framework requires that decision makers considering substantial harm to or loss of significance of heritage assets of the highest significance should refuse consent unless it can

be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm.

183. This conclusion is reached from the advice received from Historic England and the County Archaeologist. The development will result in the loss of physical archaeology and will compromise the setting of the scheduled ancient monument. There is consensus with the applicants that, 'the proposed development will cause harm to the archaeological interest of the buried archaeological remains at the site', with the Council contending the proposals result in Substantial harm to an asset of the greatest significance. The extent of the 'vicus', and the separation of it as part of the heritage asset from the modern settlement – i.e. both the physical implications of the scheme and the implications to the setting of the archaeology both inside and outside the designated monument, is a critical part of the protection and understanding of the archaeology. To quote the County Archaeologist, 'it is an undeniable fact that the archaeological features on this site are an integral part of the heritage asset as a whole, the majority of which is designated as a scheduled monument of national importance, and all parts of the complex are equally significant albeit potentially in differing ways'. Refusal on the basis of the advice set out in Part 12 of the NPPF and Policy EN19 of the local plan are therefore proposed.
184. Whilst a wide range of concerns have been raised by the local community in response to the consultation exercise, Officers consider that these have been properly assessed and weighted through the consideration of the application and are not considered to demonstrably and significantly outweigh the benefits when assessed against the NPPF as a whole.
185. The application's public benefits and suggested direct mitigation are not considered to outweigh the harm that will result to the Scheduled Ancient Monument, its setting, part formed by the site and the archaeological interest on the proposed development site itself.
186. It is the advice of specialist advisors that the development will cause the substantial harm described in paragraph 133. It is the conclusion of Officers that 'substantial public benefits' necessitating the harm have not been set out that would overcome the 'substantial harm' and 'significant and demonstrable adverse impacts' that would result from the development. It is therefore recommended refused.

---

## **RECOMMENDATION**

---

187. That the application be **REFUSED** for the following reason:
1. The local planning authority considers that substantial harm will be caused to the significance of a designated heritage asset of the highest significance, namely the Scheduled Monument of Longovicium Roman Fort by reason of adverse impacts upon its setting including the destruction of archaeological remains of the extended vicus complex that are themselves non-designated heritage assets. The proposal fails to demonstrate that substantial public benefits would arise, or that the harm to the designated asset is necessary in order to achieve any such benefits. The proposal does not constitute sustainable development and is contrary to policy EN19 of the Derwentside

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

188. The Local Planning Authority in arriving at the recommendation to refuse the application has been consistent in advice with regards the application and has considered the possibility of a positive outcome in accordance with the NPPF, working to agree all those issues capable of resolution but it has not been possible in this instance to overcome the principle objection of the effect on the archaeology of the site. (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).

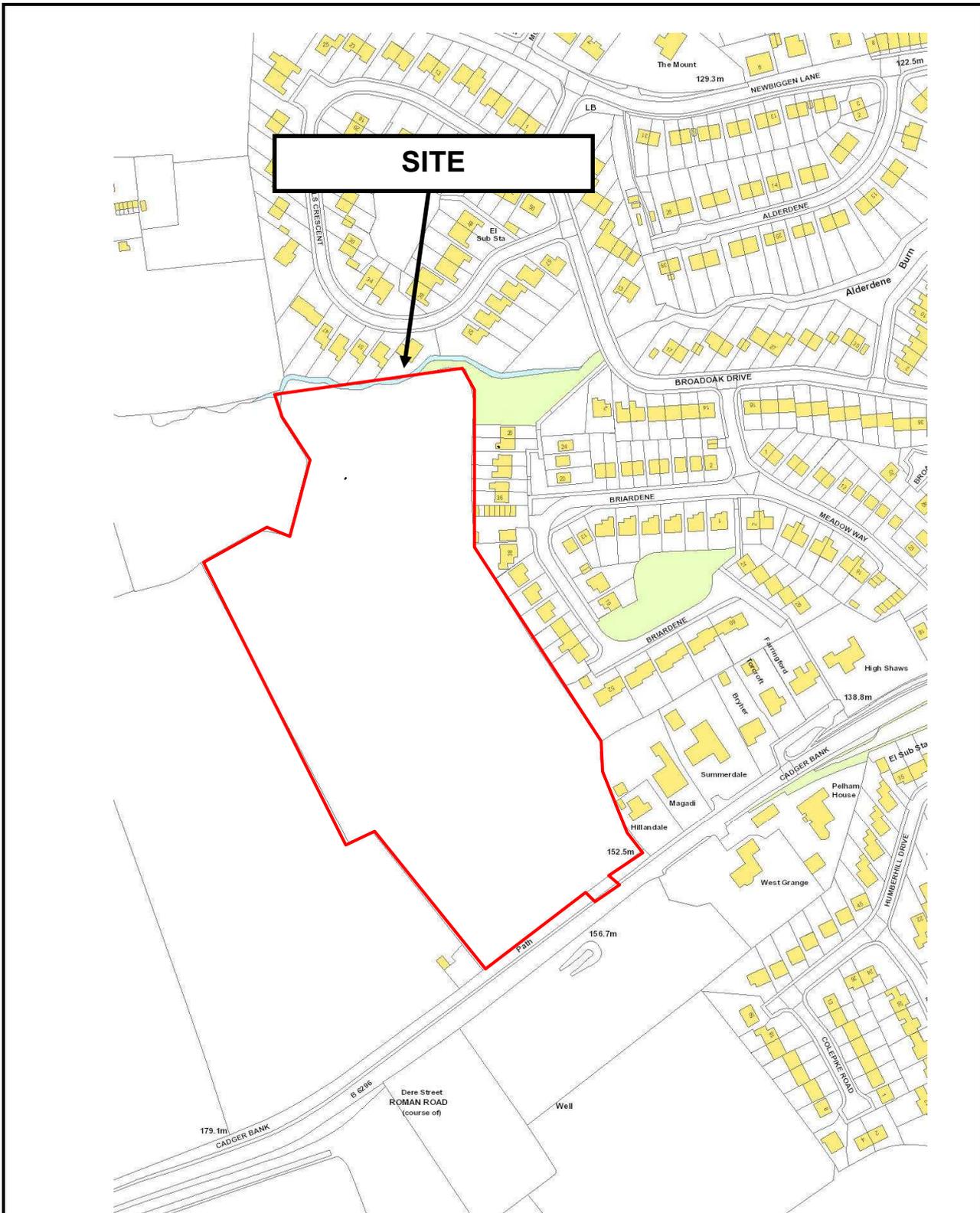
National Planning Practice Guidance Notes.

Derwentside District Local Plan 1997, saved policies .

The County Durham Strategic Housing Land Assessment.

County Durham Settlement Study 2012.

Statutory, internal and public consultation responses.



**Planning Services**

Land To The West Of Briardene. Cadger Bank, Lanchester

Application Number DM/15/03222/FPA

is map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

**Comments**

**Date** 30<sup>th</sup> June 2016

**Scale** 1:2500

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/16/00871/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline planning permission for residential development (C3) of up to 14 dwellings with all matters reserved except access, including demolition of no. 7 The Paddock
<b>NAME OF APPLICANT:</b>	Beavertail Ltd
<b>ADDRESS:</b>	Land To The South Of And Including No. 7 The Paddock Lanchester Durham DH7 0HW
<b>ELECTORAL DIVISION:</b>	Lanchester Steve France
<b>CASE OFFICER:</b>	Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. Lanchester is a large village that sits on the A691 midway between Durham City and Consett. To the north are the larger mining originated settlements of Annfield Plain and Stanley, whilst south of the village is a network of small rural and mining related settlements including Cornsay, Quebec and Esh. The settlement is identified within the Durham Settlement Study 2012 as a 'local service centre'.
2. Based around a central historic core designated as a Conservation area, the village was extensively extended in the late 20th Century by primarily Local Authority built housing on the east A691 access to the settlement, and latterly large estates of private residential development on the west side, where Newbiggin Lane, the B6296 at Cadger Bank, and the B6301 a Ford Road enter the village. Lanchester sits astride Smallhope Burn, with the modern estates sited on the sometimes steep valley sides. This watercourse, although small, has a history of flooding the village centre. The surrounding countryside is a mix of arable and grazing agricultural land, with the countryside to the north, east and south of the village subject to an Area of High Landscape Value (AHLV) designation in the Derwentside District Local Plan, including the application site.
3. The proposed application site consists of a sloping agricultural field, just over a hectare in size at the south west corner of the village of Lanchester. The west and south boundaries of the site, defined by agricultural fencing, hedging and occasional trees follows the traditional field pattern, evident on the 1860 Ordnance Survey plan, with the east and north boundaries shared with modern housing development dating from the

1960s/1970s. Access to the land at present is via a narrow passage and field gate between the dwellings on Ford Road, to the east.

4. The field is proposed accessed by demolishing a dwelling in the adjacent residential cul-de-sac to overcome the previous landlocked nature of the site for development purposes, the area of this land being 0.13ha. There are no features on the land, it being maintained as semi-improved grassland. The cul-de-sac, named The Paddock, is a 1970s development of large detached bungalows set in matured landscaping, strongly reflecting the vernacular of the time, constructed of pale brickwork, with shallow roofs and large or horizontally proportioned openings. Those dwellings accommodate the comparable slope by being 'built-up' at their lower end, rather than through land-forming. Much of the boundary planting around The Paddock, including that separating that street from the site, is protected by Tree Preservation Order, as are individual trees within the curtilage of the dwelling – number 7 - proposed demolished. The site is within the Area of High Landscape Value, and out-with the development limit as defined in the Derwentside District Local Plan, 1997.
5. The edge of settlement site is visible for a short distance from the B6301, Ford Road, as it approaches the village and in more distant views from the single track road connecting Bargate Bank to Ragpathside as it passes Greenwell Farm, on the facing side of the River Browney Valley. There are no designated public footpaths in the area that give a view of the site.

#### The Proposal

6. This application is for 'outline' development - seeking approval for the principle of residential development of up to 14 self-build units, with all matters except the site access and the demolition of the existing dwelling reserved for future determination. Whilst the applicant presents the application – and presented their presubmission consultation with the local community – as a scheme of self-build units, either individual or in small groups, any approval would be on the basis of 'outline' consent, allowing the scheme to be built as a whole or by individual plots.
7. The application is reported to Committee as a 'Major' scheme.

---

## **PLANNING HISTORY**

---

8. The site has no recent planning history.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

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

10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
11. 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.
12. The following elements of the NPPF are considered relevant to this proposal;
13. *NPPF Part 4 – Promoting Sustainable Transport.* Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
14. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Housing applications should be considered in the context of a 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. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
15. *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.
16. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. 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.
17. *NPPF Part 10 - Meeting the challenge of climate change, flooding and coastal change.* Applicants for energy development need not demonstrate the overall need for renewable or low-carbon energy. Small scale projects provide a valuable contribution to cutting green-house gas emissions. Applications should be approved if the impacts are considered acceptable.
18. *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.

**NATIONAL PLANNING PRACTICE GUIDANCE:**

19. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in

a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.

20. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.
21. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
22. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
23. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.

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

24. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
25. *Policy GDP1 – General Development Principles* – is an overarching policy which aims to ensure that all developments incorporate a high standard of design, conserve energy and are energy efficient, protect the existing landscape and natural and historic features, protect and manage the ecology of the area, protect valuable open land, provide adequate landscaping, incorporate crime prevention measures and improve personal safety, protect amenity, provide adequate drainage, protect flood risk areas and protect the water resource from pollution.
26. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
27. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.
28. *Policy EN6 - Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.

29. *Policy EN9 – Works to trees covered by preservation orders* – Only allows the cutting down, loping, pruning, topping or uprooting of protected trees if the work is necessary because of good arboricultural reasons or the survival or growth prospect of other protected trees is threatened, or if the tree is causing structural damage and no other remedial action is possible, or the tree is a danger to life or limb.
30. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible.
31. *Policy HO7 – Development Limit for Lanchester and Burnhope*, states that no new housing development in Lanchester will be approved outside of the Development Limit.
32. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

#### **OTHER MATERIAL DOCUMENTS:**

33. *The Lanchester Village Design Statement May 2004* – outlines guidance to conserve the valued aspects of the village and the land around it and seeks to enable appropriate development based on guidance and aspirations

#### **RELEVANT EMERGING POLICY:**

34. Paragraph 216 of the NPPF says that decision-takers should 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 and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the withdrawn CDP can no longer carry any weight. As a new plan progresses through the stages of preparation it will begin to accrue weight in due course.

*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:**

35. *Highways* – County Highways Engineers have no objections to the proposal noting access will be taken direct from The Paddock and would require removal of a single property. The carriageway and footways are adequate to support additional residential development. The internal access road should be designed as a 4.8m wide carriageway. The highway network in The Paddock is able to accommodate this new development.
36. *Northumbrian Water* raise no issues provided the application is approved and carried out within strict accordance with the submitted document entitled “Segment 002 of The Paddock Lanchester- FRA Drainage Strategy- Planning”. A condition is requested to

ensure adherence to the flow rates and detailed connections proposed in this document. They caveat their comments, noting they are not commenting on the quality of the flood risk assessment as a whole or the developers approach to the hierarchy of preference. The Council, as the Lead Local Flood Authority, needs to be satisfied that the hierarchy has been fully explored.

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

37. *Spatial Policy* - The scope of the Policy assessment covered; whether this development is acceptable in this location, and whether there are any constraints upon the site which could affect development. With a presumption in favour of sustainable development where relevant policies in a Development plan are 'out-of-date', the NPPF sets out a clear driver to ensure economic growth and provision of sustainable new housing and development.
38. In terms of the current housing land supply position, the Council accepts that it is unable to demonstrate a five year supply of deliverable sites in the absence of a sufficiently advanced and publically tested up to date the Objectively Assessed Need of the area (OAN), in accordance with paragraph 47 of the NPPF. Consequently, paragraph 49 indicates that the housing supply policies are to be regarded as 'not up to date'. In the light of the recent Court of Appeal judgment in the Richborough case, policies which restrict the locations where new housing may be developed in the widest sense are to be regarded as policies for the supply of housing for the purposes of paragraph 49 of the NPPF.
39. In the absence of a OAN the Council has calculated the housing supply position on the basis of currently available housing need data to ascertain a 'proxy' measurement and thus housing land position, acknowledging that the data relied upon cannot be regarded as representing the OAN as it does not take into account market signals, and nor has it been publically tested. The findings do not suggest a significant deficit in supply exists. Rather this suggests that significant weight should not be placed upon the site's contribution to boosting the supply of housing where there are significant adverse impacts as there is no pressing need to support unsustainable housing proposals.
40. This is considered to be a material consideration when undertaking the relevant planning balance assessment in accordance with Paragraph 14 of NPPF. Although the proposed development will provide some benefit to the supply of housing, the weight to be given to that benefit should be reduced on the basis that an adequate supply has been established without requiring the development of this site. Indeed weight should be given to the countervailing consideration, namely the fact that a five year's supply has been demonstrated as measured against the proxy OAN figure.
41. Policy H07 in the Development Plan sets down a development limit which is drawn to the north of the site. Policies EN1 and EN2 of the LP therefore apply, which seek to contain development within existing built up areas to prevent sprawl into the open countryside. The land is also regarded as an area of high landscape value - under Policy EN6 – which places an emphasis on high quality development to prevent harm to the landscape. As set out above, housing supply policies within the Derwentside Development Plan, including Policy H07, are not based on an up-to-date OAN. Therefore settlement boundaries are considered out of date, in accordance with para 49 of the NPPF and should be afforded only limited weight regardless of the 5 year housing land position.
42. The LP environmental policies (EN1, EN2 and EN6) are considered to fit into this category insofar as while they impact on housing supply through their role in reinforcing settlement limits. So for EN1 and EN2, while they could limit housing supply they are

not numerically based on outdated evidence. They do however have a wider remit of protecting the countryside from development that will be harmful to it so in that context are broadly consistent with the NPPF (para. 55). The implication of this is that some limited weight should be attributed to the environmental policies. It is noted that the site is relatively well contained and related to existing development to at least two sides. As such, it is considered that the scheme would offer some alignment with Policies EN1 and EN2.

43. The lower half of the site has been assessed through the Strategic Housing Land Availability Assessment process and rated as amber (unsuitable). The main reason for the unsuitable assessment is based on technical constraint whereby a suitable access could not be achieved. This has been resolved by the revised access point in the planning application. Some adverse landscape impacts were noted however in mitigation the site was deemed to be relatively well-contained and developable subject to adequate landscape mitigation.
44. In conclusion, the starting point for considering this proposal is DDLP as this is the development plan. Relevant policies in the DDLP are considered out of date as they relate, to varying extents, to housing land supply. Therefore, in accordance with the NPPF a paragraph 14 balance should be performed to determine the acceptability of the proposal. Permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole taking into account the two limbs of paragraph 14.
45. Very limited weight can be ascribed to the settlement boundary and the site is relatively well-related to the built up area in relation to policy EN2 which resists urban sprawl. It is also understood that landscape impacts can be mitigated. On the balance of these factors, the Spatial Policy Team would raise no objection to the proposal.
46. It is further noted, a Neighbourhood Plan is being prepared for Lanchester Parish by the Parish Council. The NP has been progressed through two rounds of informal consultation however at this stage there are no draft policies in place. In accordance with Planning Policy Guidance no weight can be afforded to the plan at this stage. Further, given the scale of the proposal it is considered a 'prematurity argument' would carry no weight in the balance.
47. *Drainage* – State that according to the Environment Agency and Durham County Council Strategic Flood Risk Assessment (SFRA) data there does not appear to be a risk of flooding to the development site. In accordance with The Flood and Water Management Act 2010, Durham County Council (DCC) is designated as a Lead Local Flood Authority responsible for flood risk management for its area.
48. *Landscape* – consider that the loss of the field and part of the conifer belt to form the access would be a negative result of the development, with further potential effects on the longevity of the trees around the site entrance. The development would be 'slightly damaging' to the setting of the Roman Fort, and affect the 'tranquility and particular character' of The Paddock'.
49. *Tree Officers* – the extent of tree removal and then location of the protected trees is discussed in the tree officers' response, noting the need for detailed levels information and specifications of new planting is requested. There is no formal objection to the scheme.
50. *Sustainability Officers* – in terms of locational sustainability, this consultee does not consider the site within short walking distance of some services and access to buses

and their frequency to be below minimum requirements – ‘the site is over 500m away from the town centre and main bus stop, and whilst the town centre provides a good range of local services, the town is still only a local service centre and bus services to other major centres, Consett, Stanley and Durham can be infrequent’. The site is remote from train stations and regional and national retail and employment opportunities.. For embedded sustainability a standard condition is proposed. Whilst the key issues impacting upon the presumption in favour of sustainable development include landscape impact and low accessibility score, especially for employment opportunities, it is concluded that if there are no issues from landscape, heritage or ecology colleagues, Sustainability Officers do not object to the application in principle.

51. *Archaeology Officers* – having reviewed the geophysics report, conclude it is apparent that the site does not appear likely to hold an archaeological resource extensive or significant enough as to affect the decision in principle of whether to grant planning permission. However, as the results of geophysics should be routinely tested through a programme of trenching especially where features that may have been missed, such as burials, might be encountered, it is recommend that conditions be applied to require this.
52. *Ecology* – were not satisfied with the ecology surveys and mitigation originally accompanying the application, but following direct liaison with the applicant’s ecologists during the application process, are satisfied that subject to a condition to ensure provision of agreed mitigation, ecology requirements have been appropriately met.

#### **PUBLIC RESPONSES:**

53. Neighbours have been consulted, a site notice was posted on Front Street, and a press notice was published in The Northern Echo. 18 Letters were sent out, with objections from 14 properties and Lanchester Parish Council received.
54. *Lanchester Parish Council* objects to the proposals. They note the site was considered unacceptable in the SHLAA exercise as having a negative landscape impact, was not within walking distance of some services, was visible from the countryside and had the potential to affect biodiversity and protected species. A list of 25 bullet pointed objections is also included, reflecting residents’ concerns, including; outside the settlement limit in open, designated, countryside, scale and density compared to existing dwellings, visible in long views, loss of existing dwelling, extending a cul-de-sac, volume of traffic, drainage issues, lack of services, proximity to the fort, loss and protection of trees, loss of views, and self-build development implications.
55. *Residents* contend the development of two storey dwellings is proposed outside the settlement boundary and out of character with the strong ‘traditional bungalow’ vernacular of The Paddock. Pre-submission discussions between residents and the applicants included issues of affordable housing. Residents provide calculations to show the value of land and property in Lanchester is such that the land and houses will not be affordable to most people.
56. The village of Lanchester is contended as ‘suffering from over-development in recent years’, with ‘several building projects being undertaken’ and a ‘significant amount of houses for sale’, with infrastructure and facilities struggling to cope. Existing businesses will suffer from additional development as new residents will shop elsewhere. The development will bring no social benefits to the village, either financial or through direct provision.

57. Neighbours state that the site was surveyed after a period of heavy rain, with the site providing natural soak-away as it should. This would be lost if the development goes ahead. The development of the site is stated to have drainage implications for the wider village.
58. Loss of light for a development sited to the south of dwellings in The Paddock is offered as an objection, in addition to loss of privacy from facing dwellings. The applicant's traffic projections are queried, with reference made to existing parking problems with existing residents and the potential for 'significant disturbance' from vehicles passing through what is currently a cul-de-sac. Winter traffic movements are contended especially difficult.
59. Concern for the effect of the new access on the root plates of the individual trees in the garden of the property proposed demolished is raised, as is objection to the protected trees proposed removed from the belt on the site boundary to allow the access into the site. The responsibility for landscaping at the entrance to the estate is undefined, and likely to deteriorate and become an attraction to youths and anti-social behaviour.
60. Disruption from the build process of a self-build development site is a significant concern for local residents, both in terms of noise and disturbance affecting existing residents, and the on-going nature of the build attracting the likelihood of criminality.
61. Pedestrian and cycle access to the village centre is considered highly unlikely from the scheme. It is contended the Council will make a financial return on the footpath needed built over to access the site.
62. The green-field site has an abundance of wildlife, including hedgehogs, bats and bird life – all of which would be detrimentally affected by the development.
63. There is a strong likelihood that archaeological remains will be lost if the development proceeds.

**APPLICANTS STATEMENT:**

64. 'Throughout the application process, the applicant has undertaken consultation with stakeholders and the local community whilst working closely with Officers to evolve the design response.
65. The development has been designed in such a way to respond and mitigate for any constraints such as views into the site, ecology and archaeology. The landscape mitigation has been designed in a similar vein to the existing "Paddock" and has been accepted as alleviating any landscape harm that may result. Equally impacts on ecology have been easily mitigated through designed in mitigation, whilst archaeology was not considered a significant constraint on the site. The site is also considered to be well integrated into the existing pattern of development, being bordered on two sides by existing residential dwellings and will read as a logical part of the wider village as a result.
66. It is therefore considered, that this relatively low density scheme represents an acceptable extension to the existing village. It will not result in any harmful impacts and has embedded mitigation into the design solution. In the context of Lanchester being considered a sustainable location and the presumption in favour of sustainable development applying in this case, development of the site is considered acceptable and in accordance with the development plan'.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

67. 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 whether the site, on the edge of the settlement of Lanchester, constitutes a sustainable location for housing development and if it does whether the proposal accords with the three dimensions of sustainability, economic, social and environmental set out in the NPPF. Various issues are discussed within these topic headings, below, however it is noted that most issues overlap the three strands having multiple implications.

### Strategic Locational Sustainability

68. Members will be aware of the phrase that 'each proposal is assessed on its own merits', and this is relevant here. Planning Inspectors' decisions make it clear that there are different expectations for access to facilities depending on the nature of the setting – urban areas will expect immediate and short distance access to goods and services, new developments in the countryside or in smaller settlements, where 'clusters' of small villages may be mutually supporting through shared facilities show that interpretation of reasonable access is required, rather than adherence to a strict set distance criteria. To this end the distance from the site to the village centre, and the wider facilities in the village are not considered an unreasonable distance for pedestrian travel to services a large rural village that is defined in the County Durham Settlement Study as a 'service centre' – the village centre being around a third of a mile distant. Neither the steepness of the topography nor the width of the pavements are unusual for the village or the surrounding district which appear a characteristic of the extensive modern estates on the west side of Lanchester, indeed large areas of the post-war residential developments of Lanchester are a comparable distance from the village centre.

69. The Village centre has a good range of social and commercial facilities, reflected in the 'service centre' designation, the village sitting within a sustainable hierarchy of settlements, serving as a focus for smaller settlements, and feeding different facilities in adjacent and larger settlements – the supermarket in Annfield Plain is 2.5 miles away, the edge of town retail park at the Arnison Centre in Durham is 6.75 miles away.

70. The village of Lanchester is considered a sustainable location for residential development and the site is well positioned to secure access to services by a range of modes therefore the proposal is considered appropriate/ acceptable from a locational perspective.

### The Social strand of Sustainability

71. This element is defined in the Government document as 'supporting strong and vibrant communities, by providing the supply of housing required to meet the needs of present and future generations: and by creating a high quality built environment, with accessible local services that reflect the community's needs..'. Many of the concerns of local residents relate to the 'social' strand of sustainability.

72. To meet the 'decision taking' tests set out in paragraph 14 of NPPF the scheme must not be considered to have any adverse impacts which would significantly and

demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole or conflict with specific policies in the NPPF that indicate that development should be restricted. A principal consideration therefore is the complex issue of Housing Land Supply in the effective policy vacuum caused by the absence of an up-to-date local plan following the withdrawal of the County Plan. The exercise to quantify the actual housing land supply that currently exists against a 'proxy' housing need position in the absence of an OAN at this point in time is set out in the Spatial Policy team's consultation response and seeks to quantify the level of weight that should be attributed to the schemes contribution to boosting the supply of housing as a benefit. The resulting proxy position suggests that whilst the contribution the site would have to boosting the future housing land supply is a benefit, significant weight should not necessarily be placed upon this when undertaking the planning balance assessment required of paragraph 14.

73. The negative assessment from the former SHLAA process is quantified in the Spatial Policy comments – it being pointed out that the main reason for the 'unsuitable' rating was based on technical constraints whereby a suitable access could not be achieved. 'This has been resolved by the revised access point in the planning application' Landscape mitigation was deemed achievable. The Spatial Policy comments clearly set out the reduced weighting for the remaining policy context, including the saved Countryside and Settlement Boundary DDLP policies, the Village Design Statement and the emerging Neighbourhood Plan. The Spatial Policy comments conclude with no objection to the proposals, with the presumption in favour of sustainable development, if the site is not found to have significant and demonstrable adverse impacts'. The SHLAA is a device to inform housing land supply, but in assessing the environmental attributes of the site also has equal relevance to the environmental strand of sustainability.

#### The Environmental strand of Sustainability

74. This requires consideration of archaeology and ecology. Whilst residents raise concerns on both of these issues, both of the relevant Council consultees have assessed the implications of the development and concluded effects can be appropriately mitigated through precautionary conditions. For archaeology this assessment included both the potential for actual below ground remains, as well as consideration of the effect of the development on the setting of the scheduled ancient monument of Longovicvm Roman Fort. The development site is 340m from the Roman Fort and 82m from the edge of the extent of the extended protected setting. Ecologists have required additional information during the course of the application and are now satisfied that potential effects of the development can be mitigated through additional managed planting secured by condition. Whilst Landscape officers have indicated a potential for harm to the setting of the Roman Fort, this was not reflected in the advice received from the Council's Archaeologists, and on this basis Officers consider there to be less than substantial harm to the heritage asset.
75. The development will require access through a belt of protected trees, in the same manner that The Paddock required the same when it was built. The remaining tree belt will ensure the character of The Paddock will be retained, forming a strong boundary to the bungalow development. The landscaped area and remaining trees at the new entrance to the development are proposed maintained by a management company, who will also maintain the new planting proposed on the boundaries of the new development.
76. The policies used to assess the housing issues also of course have a function in protecting the countryside. The site as outside the settlement boundary was included within the AHLV in the Derwentside District Local Plan. The NPPF gives little direction on countryside protection, the relevant section, 'Supporting a prosperous rural

economy', relating only to plan-making rather than decision taking. EN6, the AHLV policy, is considered 'partially consistent with the NPPF, requiring, development in AHLV only where it pays particular attention to the landscape qualities of the area in siting and design of buildings and landscaping. Taking this, and Landscape Officer's views into account, it is noted that the site extent reflects the traditional field pattern evident on maps back to 1860, in the same way that all the modern post-war extensions of the west side of the village have. Views of the site are possible long distance from the little used single track road serving Greenwell Farm 0.75 miles to the south on the far side of the River Browney Valley, and for a short stretch of Ford Road, the B6301, as it approaches the village from the south. The extended curtilage of a large detached dwelling at the entrance to the village, named West Park screens a large element of the site from this aspect, with further screening possible by landscaping condition on the remainder of the site's southern boundary. In addition to this boundary of the site half shared with existing residential curtilage, two of the site's boundaries are already shared with the existing settlement, at Ford Road and The Paddock. With the application submitted in 'outline' form, the scale, massing and appearance of the proposed development is for determination at the 'reserved matters' stage – the Council having full control over these issues, with formal consultation with the local community a mandatory requirement of this process. In using the landform, the historic field layout, existing landscape features, and proposing landscaping, the proposals are considered acceptable in terms of this element of the NPPF and the proportionate weight given to the remaining local policy context. The site reflects a further logical extension the post-war expansion of Lanchester, at an appropriate proposed density of development. There are no adverse impacts that cannot be mitigated therefore these matters do not weigh against the proposal.

#### The Economic Strand of Sustainability

77. In relation to the last of the three strands of sustainability outlined in the NPPF to 'contributing to a strong, responsive and competitive economy', in providing both new housing and employment and demand in the building supply chain, whilst the economic benefits of the scheme are not – and indeed cannot due to the nature of the proposals – be set out in detail, that they constitute a material consideration in support of the proposals. The development will also bring additional trade to the commercial elements of the village and the hierarchy of settlements surrounding as described above. Whilst these would be limited due to the small number of dwellings proposed, expenditure both in the shops and cafes in the village centre, and in retail outlets in surrounding settlements – whether the supermarket and the extended services in Annfield Plain, or the edge of settlement retail park to the North of Durham City would be of benefit. This benefit should be factored into the planning balance and weighs in favour of the proposal.

#### Impact upon the Surrounding Area

78. The application is presented in 'outline form, with the reserved matters application(s) that would follow an approval required to set out and justify the scale and character of the new dwellings, and their appropriateness to the local vernacular. Whilst The Paddock has a strong individual design character of 1960s/1970s bungalow development set in well-maintained, well established flora, significant elements of the western side of Lanchester are made up of modern housing estates, of modern construction, layout, materials and appearance. Whether new buildings follow the now slightly dated appearance of the existing estates, or give a modern interpretation of family dwellings, providing it is done in such a way that the design, massing and materials used are appropriate to the location, the character of the area should not be undermined. It is noted in this respect that part of the character of The Paddock is achieved by the surrounding tree belt – this will be maintained as a visual separation

from the site, and may allow the new site to achieve the same. In this respect the scheme does not present any adverse impacts that would weigh against the proposal.

### Neighbouring Amenity

79. The residential amenity distances on the indicative layout far exceed standard guidelines which demonstrates that the site can be developed in a manner that will protect the privacy of existing residents – these guidelines seeking to protect privacy from facing windows, and amenity from the respective massings of built development. That the existing dwellings have enjoyed an uninterrupted view over the private field to date, does not give them any right to such. The planning system is arranged to assess reasonable expectations of residential privacy and amenity – there is no right to a view, and the requests to enforce residential ‘tranquillity’ go beyond reasonable expectations. Given the separation distances between existing development and that proposed, and loss of light to the dwellings in The Paddock – especially with the intervening tree belt – or to the adjacent properties in Ford Road, with their long rear gardens, and despite these properties being set at a lower level will not be to a degree that could be considered unreasonable. In these regards the proposals are therefore considered consistent with the requirements of Policy GDP1(h). To further ensure that the site levels will not result in this becoming an issue, a condition requiring a full existing and proposed levels survey for the whole site is suggested attached to any approval.
80. Likewise if Highways Engineers consider the proposed access arrangements capable of adoption, and the capacity of the roads and footpaths capable of accommodating the additional volume of traffic proposed, a refusal would be difficult to sustain either on the physical effect of the new traffic, or it’s effect on the character of the existing cul-de-sac in this respect. There will be an effect on residential amenity and the character of the existing development in highways terms – but not to a degree the planning system would consider unreasonable.
81. The application seeks outline permission presented as self-build housing, the applicant’s intention is to market the site so that rather than being carried out by one developer individuals would be able to purchase a plot of land and construct their own bespoke dwelling. Whether the development is carried out by one or a series of developers is not within the control of the Local planning authority. Informed by the applicant’s intent, existing residents complain of a potential for extended build periods and disruption extending over many years, as different developers work to different timescales, and use their own contractors. Whilst this is acknowledged as a valid concern and a potential issue, it is not one that can be given significant weight in the determination process other than attempting to mitigate it through a working hours condition. The Chancellor has set out a plan to double the number of self-build properties to help address the national housing shortage, with Councils required to keep a register of land available for such. There is a potential shortage of such in County Durham. The intended self-build nature of the proposals is therefore not one that would count against the scheme. In this respect the scheme does not present any adverse impacts that would weigh against the proposal.

### Drainage

82. Neighbours are concerned that the site was surveyed after a period of heavy rain. The natural soak-away provided by the open agricultural land is contended lost if the development goes ahead. Council Drainage Engineers – the Council being the Strategic Flood Risk Authority have examined the drainage proposals submitted by the applicant concluding that the proposed post-development site run-off rates, as less than natural drainage, are acceptable, with this capable of being ensured by condition. This has obvious implications to wider concerns about drainage, in a village that has a

recent history of suffering badly from such. The details of the drainage scheme are under the control of the Council through conditions and Northumbrian Water through the agreements needed to connect to the sewage network, and if the development effectively reduces surface run-off rates, the proposals can be considered to meet the requirements of Policy GDP1(i) in this respect and the scheme does not present any adverse impacts that would weigh against the proposal.

#### Highway Safety

83. The specification of the roads leading to the site, the capacity of the roads within the estate and the entrance onto Ford Road are all considered acceptable to the Highway Engineers. The implications to the amenity of existing residents from through traffic on what up until now has been a cul-de-sac is a planning judgement as described above. There is nothing unusual in the topography of the site in terms of implications for winter driving conditions. The development is considered to meet the requirements of Policy TR2 of the Development Plan. In this respect the scheme does not present any adverse impacts that would weigh against the proposal.

#### Other considerations

84. The effect of development on the root systems of the trees affected by the access are raised as of concern by residents, with the County Tree Officer also raising this as an issue. It is noted that the trees have co-existed with the existing dwelling to date, and that the applicants have submitted a realigned access to mitigate the route of the access as far as possible. Conditions to protect the trees during construction works in line with the British Standards for such, and ensure their longevity are proposed.
85. The loss of a section of trees from the protected belt at the rear of the property to be demolished is an objection. This tree-belt first shows on the 1951-1959 historic maps, with the incursion proposed directly comparable to the effect on the trees when The Paddock development was built. Whilst the proposal will result in the loss of protected trees, the tree belt as a feature around The Paddock will still be clearly legible, and subject to a detailed scheme that shows both a minimum of removal and requires the erection of protective fencing to the current British Standard during the construction process to protect these off-site specimens, the proposals are considered acceptable in the wider planning 'balance' required by the NPPF, and in line with the requirements of Policy EN11. In this respect the scheme does not present any adverse impacts that would weigh against the proposal.
86. Communal landscaping areas at the entrance to the estate will be the responsibility of a management company. Whilst it is unlikely that such areas would be a specific attraction to anti-social behaviour, such actions would be capable of control by the Police.
87. As a development of more than 10 units provision must be made for open space and play provision either on or near to the site. If this is not proposed on-site, monies in lieu of such must be provided by the developer at a standard rate of £1000 per unit then ring-fenced by the Council for provision of such in the immediate Ward to the benefit of residents of the scheme and the surrounding area. This is proposed addressed through legal agreement tied to any approval. This requirement is considered to meet the tests required for such as set out in the Community Infrastructure Levy Regulations 2010 and described in the National Planning Practice Guidance notes, as being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

88. Objectors suggest that the Council will receive a financial 'return' from the sale of the footpath to make the new access Council as Local Highway Authority. This is not the case.
89. Residents have written with issues of 'affordable' housing following discussions over such with the developer's representatives pre-submission, however as a scheme of up to 14 units, no affordable provision is required or proposed in the scheme.

---

## **CONCLUSION**

---

90. The DDLP remains the starting point for the consideration of this planning application and it should be determined in accordance with this unless material considerations suggest otherwise. NPPF is one such key material consideration. In the absence of relevant up-to-date development plan policies the NPPF directs the decision taker to consider the scheme against the requirements of paragraph 14 of NPPF, which includes a series of tests to apply the application. Furthermore, recent case law confirms that material considerations which include relevant saved DDLP policies should be factored into the resulting planning balance exercise albeit some of these policies are receding in weight.
91. A key consideration is that of the current housing land supply position as this impacts upon how the application should be considered, that is to say that the proposal should be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole or specific policies in the NPPF indicate development should be restricted. The contribution which the site will have to boosting the supply of housing has been set out earlier in this report and it is considered that it is a benefit which must carry some weight in favour of the proposal. Considered against the three strands of sustainability set out in the NPPF, the site is considered to be in a sustainable location, and no adverse impacts have been identified that significantly and demonstrably outweigh the contribution to housing supply and other benefits that would accrue from the scheme. Furthermore, there are no specific policies in the NPPF that indicate that the proposal should be restricted.
92. Having assessed the scheme against the NPPF as a whole in the context of paragraph 14 and considered the weight that should now be attributed to the development plan's saved policies, the loss of protected trees is the only adverse impact that weighs against the proposal and this is not considered a determining factor. Implications to residential amenity, highway safety, ecology and archaeology are either acceptable and/or can be mitigated by condition and therefore cannot weigh against the proposal when undertaking the necessary planning balance. In terms of the physical extension of the village on the character of the existing settlement, and the intrusion into green-field countryside, the mitigated proposals are considered acceptable and therefore cannot weigh against the proposal when undertaking the necessary planning balance.
93. On this basis the planning application is recommended favourably.

---

## **RECOMMENDATION**

---

94. That the application be **APPROVED** subject to s.106 agreement to secure provision for Public Open Space and the following conditions/reasons:

1. Application for approval of reserved matters of any plot 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: Location Plan.

*Reason:* To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1, EN1, EN2, EN6, EN9, EN11 and TR2 of the Derwentside District Local Plan, 1997 (saved Policies 2009) and in line with the advice set out in the NPPF.

4. Before any part of the development hereby approved is commenced, an existing site levels survey for the whole site and a proposed highways levels plan for all communal vehicular and pedestrian highways, and shared drives must be submitted to and approved in writing by the Local planning authority. Before each individual plot commences development an existing levels plan, a proposed ground levels plan to cover the whole plot and show all formed slopes and retaining structures, existing and proposed boundary markers, and elevations showing finished floor, eaves and ridge levels must be submitted to and approved in writing by the Local planning authority, with the development carried out in full accordance with said approval.

*Reason:* Required to in the interests of scale and character, residential amenity, highway safety and tree protection in accordance with Policies GDP1, EN9, EN11 and TR2 of the Derwentside District Local Plan, 1997 (saved Policies 2009) and in line with the advice set out in the NPPF.

5. A detailed scheme for surface water drainage in line with that set out in the submitted FPA for the whole site must be submitted to, and be approved in writing by the Local planning authority before development commences, being thereafter adhered to and implemented in full by all individual developers. This must ensure the green-field run off rate is to be restricted to 3.5l/s/ha to reduce the risk of flooding downstream. Watercourse consent must also be obtained prior to any works on the proposed outfall into Alderdene Burn.

*Reason:* To prevent the increased risk of flooding from any sources in accordance with Policy GDP1 of the Derwentside District Local Plan, 1997 (saved Policies 2009) with the NPPF.

6. For foul drainage, the development hereby approved shall be implemented in line with the drainage scheme contained within the submitted document entitled

“Segment 002 of The Paddock Lanchester- FRA Drainage Strategy- Planning”. The drainage scheme shall ensure that foul flows discharge to the combined sewer at manhole 5901, and ensure that surface water discharges to the existing watercourse.

*Reason:* To prevent the increased risk of flooding from any sources in accordance with Policy GDP1 of the Derwentside District Local Plan, 1997 (saved Policies 2009) with the NPPF.

7. A Landscape and ecological management plan must be submitted and agreed in writing by the Local planning authority prior to the commencement of development to ensure the long-term maintenance of the South and West structure planting as well as the amenity land either side of the access road on the site of the former bungalow (no.7 The Paddock) and to meet the needs of protected species in the area. Communal landscaping must be maintained by a management company specified in that document. The agreed landscaping and communal ecological mitigation must be implemented prior to the commencement of development of any individual plot hereby approved, with mitigation proposed incorporated into the fabric of any individual building complete before that building is occupied as a dwelling. Protective fencing must be maintained to the specification set out in BS 5837:2012 in the position shown on submitted Plan TPP (All About Trees 11/03/2016) on each plot and the site entrance during the full term of its development.

*Reason:* In order to ensure a satisfactory form of development and protect the interests of species protected by law that may be affected by the development site as required by Policy GDP1 of the Derwentside District Local Plan, 1997 (saved Policies 2009), the advice in the NPPF and NPPG and the national and European protected species legislation.

8. In order to protect existing trees on and adjacent the site boundaries protective fencing must be maintained to the specification set out in BS 5837:2012 in the position shown on submitted Plan TPP (All About Trees 11/03/2016) on each plot during the full term of its development and at the site entrance during the full term of its development (excluding wearing course). There must be no works or storage of materials, plant or vehicles within the tree protection area during construction works.

*Reason:* To protect trees on and adjacent the site during the construction period in line with Policies EN9 and EN11 of the Derwentside District Local Plan, 1997 (saved Policies 2009).

9. Before development of any individual plot full constructional details of the proposed road, to be of a standard capable of adoption, including levels, kerbs, drainage, footways, footway crossings and shared drives shall be submitted to and approved in writing by the Local planning authority. A schedule for construction of the road and triggers for implementation must be included in said document. The works must be carried out in full accordance with the written agreement.

*Reason:* In order to protect the amenities of residents in and adjacent the development site and to ensure a safe and satisfactory highways layout in line with Policies GDP1 and TR2 of the Derwentside District Local Plan, 1997 (saved Policies 2009).

10. Before development is commenced a management scheme of road cleaning must be submitted to and approved in writing by the Local planning authority, being thereafter adhered to at all times.

*Reason:* In order to protect the amenities of residents in and adjacent the development site and to ensure a safe and satisfactory highways layout in line with Policies GDP1 and TR2 of the Derwentside District Local Plan, 1997 (saved Policies 2009).

11. To address requirements for embedded sustainability, prior to the commencement of the development a scheme to embed sustainability and minimise Carbon from construction and in-use emissions shall be submitted to and approved in writing by the Local Planning Authority before development of each individual plot. Thereafter the development shall be carried out in complete accordance with the approved scheme and retained while the building is in existence.

*Reason:* To sustainability is embedded within the built development in line with the requirements of the NPPF.

12. To address archaeological implications on the site, No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:
  - i. Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
  - ii. Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
  - iii. Post-fieldwork methodologies for assessment and analyses.
  - iv. Report content and arrangements for dissemination, and publication proposals.
  - v. Archive preparation and deposition with recognised repositories.
  - vi. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
  - vii. Monitoring arrangements, including the notification in writing to the Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
  - viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

*Reason:* To comply with Saved Policy EN19 of the former Derwentside District Local Plan and any archaeological interest that may exist on the site.

13. To ensure any identified archaeological interests identified are properly recorded, A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record within six months of the date of completion of the development hereby approved by this permission.

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

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

*Reason:* In order to protect the amenities of residents in and adjacent the development site as a requirement of Policy GDP1 of the Derwentside District Local Plan, 1997 (saved Policies 2009).

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

95. The Local Planning Authority in arriving at the decision to approve the application has actively engaged with the applicant to secure a positive outcome in accordance with the Local Plan and the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

---

## **BACKGROUND PAPERS**

---

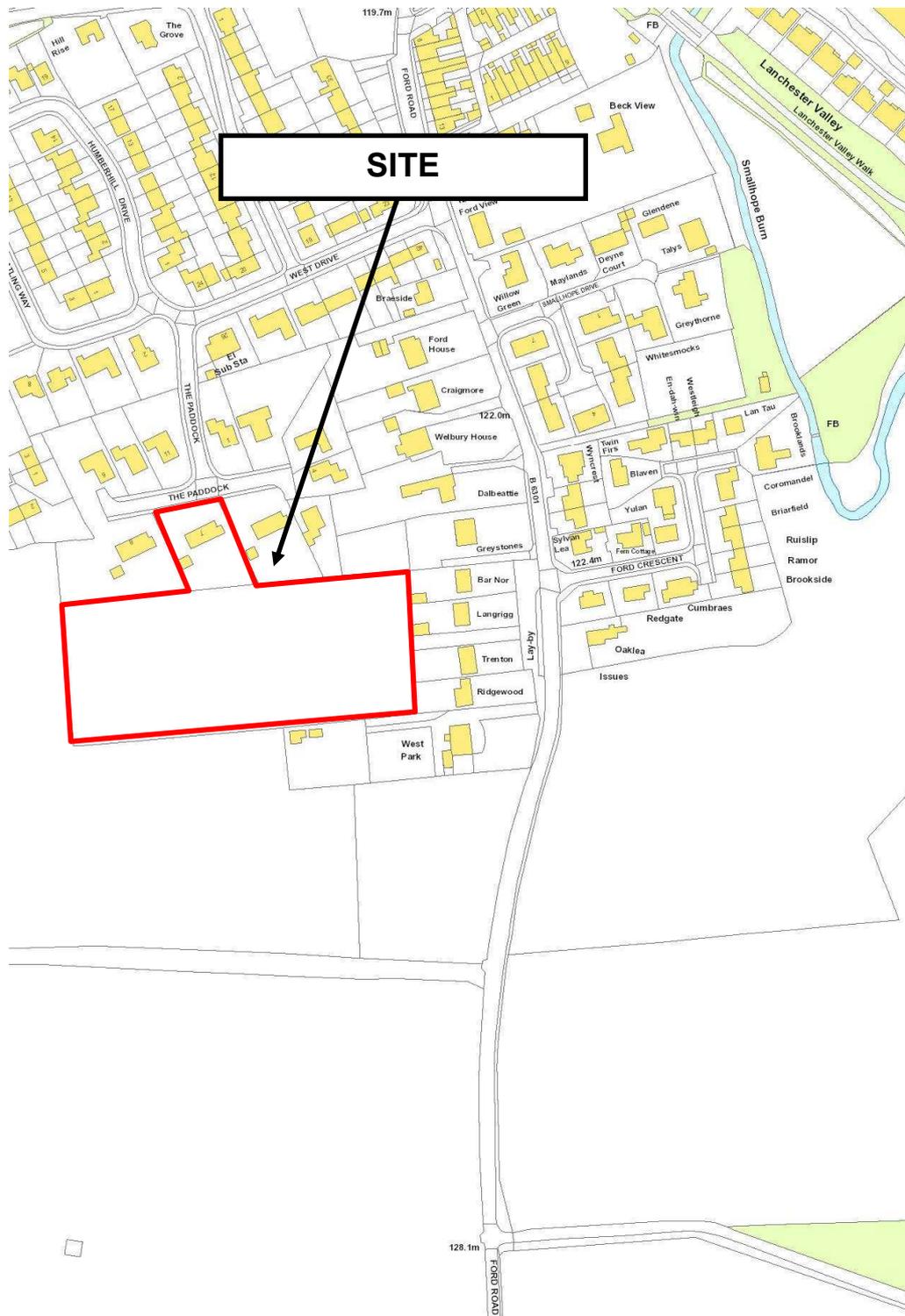
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Derwentside District Local Plan (saved policies 2009)

Statutory, internal and public consultation responses



**Planning Services**

Land To The South Of And Including No. 7  
The Paddock, Lanchester, Durham, DH7  
0HW

Application Number DM/16/00871/OUT

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

**Comments**

**Date** 30<sup>th</sup> June 2016

**Scale** 1:2500

Committee Report with Instructions - Version 4 – Effective 25.6.2013

This page is intentionally left blank

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/16/00905/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Conversion of former care home to 14 residential 1 bed flats, 3 training rooms, 15 office suites and cafe
<b>NAME OF APPLICANT:</b>	Apeks Property Services Stanfield House
<b>ADDRESS:</b>	Joicey Square Stanley DH9 0PG
<b>ELECTORAL DIVISION:</b>	Tanfield Steve France
<b>CASE OFFICER:</b>	Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site consists of Stanfield House, the former residential Care Home at Joicey Square, a large one and two storey brick built building of institutional appearance. The vacant building is set within small grounds, with vehicular service access from the rear. Although vacant, the building has been subject to ongoing refurbishment works, internal and external for over a year to facilitate a change of use, without the benefit of planning consent, and therefore is partially retrospective.
2. The site is demarked on three sides by low level walls and open mesh fencing, with the side of a small commercial garage on the fourth. The front elevation of the building faces across roadways and open grass verges to Joicey Gardens, the site being clearly visible from one of the two large roundabouts that take the A693 in dual carriageway form through Stanley. Joicey Gardens is a development of semi-detached and mid-linked older persons bungalows which wrap around three sides of the former nursing home, the different forms of development originally designed to offer a range of complimentary accommodation and a community of older residents. The remainder of the boundaries are shared by a small commercial garage, and a vehicular service yard serving that business and the Cooperative Funeral Services building that fronts the roundabout.
3. The site is adjacent the centre of the settlement, well served by, and with easy access to goods, services and sustainable transport opportunities.

## The Proposal

4. The current version of the application proposes the conversion of former care home to 14 residential single bed flats, 3 training rooms, 15 office suites and café. The residential accommodation is proposed centred on the first floor of the building, this element of the project having been constructed and finished, but not brought into use. The offices and training rooms occupy the ground floor, with a proposed café, open to the public, in the conservatory element of the former use. Extended car parking, taking access from both the front of the site and through the existing rear access provides for 29 on-site spaces in total. The minor elevational changes proposed through the application are now retrospective.
  
5. The application is presented to Committee at the request of the local Member.

---

## **PLANNING HISTORY**

---

6. In 2013 an application for the conversion of the redundant nursing home to 14 residential apartments was approved by Committee. The current applicant has recently sought to 'discharge' the written elements of the conditions attached to that approval, keeping that consent live, and giving them a 'fall-back' position.
  
7. Over the last year attempts to formalise the on-going works in the building have resulted in withdrawn and returned applications and negotiations with the applicant regarding the details of the proposal.

---

## **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. 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. 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;

10. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – 'significant weight' is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively

encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.

11. *NPPF Part 4 – Promoting Sustainable Transport*. Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
12. *NPPF Part 6 – Delivering a wide choice of high quality homes*. Housing applications should be considered in the context of a 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. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
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 is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. 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.

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

15. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
16. *Design* - The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

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

17. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
18. *Policy GDP1 – General Development Principles* – is an overarching policy which aims to ensure that all developments incorporate a high standard of design, conserve energy and are energy efficient, protect the existing landscape and natural and historic features, protect and manage the ecology of the area, protect valuable

open land, provide adequate landscaping, incorporate crime prevention measures and improve personal safety, protect amenity, provide adequate drainage, protect flood risk areas and protect the water resource from pollution.

19. *Policy CO12 – Hot food take-away shops and cafes* – permission will only be granted for uses within town centres if premises are not located close to concentrations of residential property, and not located close to parking restrictions or within mixed use areas or local shopping centres if there would be no harmful effect on living conditions of nearby residents from noise. Such uses can only be considered appropriate if satisfactory opening hours are proposed, satisfactory details of fume extraction including its siting have been agreed, and an approved scheme for the collection / disposal of litter can be effectively implemented. Hot food uses are considered unacceptable located amidst dwellings and isolated from other non-residential uses
20. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.
21. *Policy TR3 – Cycling* – Requires cyclists’ needs to be taken into account when considering proposals for new traffic management, road improvements and new developments. Permission will only be granted if safe and convenient access and cycle parking facilities such as racks or wall bars are provided.

#### **RELEVANT EMERGING POLICY:**

22. 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 and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

*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:**

23. *Highways* – County Highways Engineers considered the amount of parking originally proposed insufficient, calculating the on-site requirement to be 31 spaces, with the flexibility the applicants required from the different uses of the building creating potential overlap in demand between uses that could otherwise be calculated to co-exist between daytime and evening / night-time demand.

## **PUBLIC RESPONSES:**

24. Twenty seven neighbours were consulted by direct mail. Correspondence has been received from the Residents Association who have maintained direct contact with the developers following the withdrawal of the previous application. A pro-active group, they confirm extensive talks that have addressed the issues previously raised with the development and proposals. They are 'now fully in favour of what is being proposed for the building and are fully behind the developers', including the detailed issue of the proposed 29 car parking spaces.

## **APPLICANTS STATEMENT:**

25. Through the planning application it has been demonstrated that the proposals are acceptable in principle and will not give rise to any undue amenity impacts. Indeed the development proposals will bring back into use a vacant building, which has been constantly vandalised whilst standing empty, in a prominent location adjacent to Stanley Town Centre for a range of uses that will significantly benefit the community.

26. The development proposals will also support the provision of jobs in Stanley by providing office accommodation for individual and small business. NPPF requires that great weight is applied to proposals that support economic growth. The proposed café (open to local residents) and training rooms will be of significant community benefit.

27. The local residents group has formed a joint residents group with the people who operate the building to ensure open communication. The local residents are fully supportive of the development.

28. The development proposals accord with the aims and aspirations of the NPPF and the Local Plan representing sustainable development and as such planning permission should be granted without delay

*The above is not intended to list every point made and 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**

---

29. 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 principles of the different uses proposed from development, and their potential impact upon the surroundings, primarily relating to issues of residential amenity and parking.

### Principle of the Development

30. The NPPF sets out the three dimensions of sustainability, economic, social and environmental and the application must be assessed against each of these dimensions.

31. The site is well located just north of the main retail area of Stanley that also includes a bus station, schools, churches and a sports centre. Pedestrian crossings connect the area around the site to these facilities across the dual carriageways of the

A6076. Permission is sought for suitable edge of town centre use which would be complementary to other uses within the vicinity. In locational terms, for all the proposed uses the site is considered to have a high level of locational sustainability.

### Economic Sustainability

32. It should be noted that the proposed 'training rooms' are not proposed directly related to the residential flats, although residents may avail themselves of the facility if they wish. The training rooms are proposed operated by First Point Training who provide specialist courses related to occupational studies, return to work and personal development, although a planning permission would not restrict the use to this operator.

33. The proposed offices are contended to deliver 'significant economic benefits' by providing office space for individuals and small businesses to support the local economy. Whilst this is not quantified, either in showing a demand or projected financial benefits, the provision is capable in principle of achieving this, in line with the 'economic' sustainability thread of the NPPF, and the Council's own 'Altogether Wealthier' corporate aims.

### 34. Social Sustainability

The café is primarily designed to serve the needs of the other elements of the development, and the local community, although there would be no restriction on this. This facility would offer a place for residents of the development and the wider community to gather therefore it is considered that this will offer social benefits in compliance with the aims of the NPPF. In addition the training facilities would provide a social benefit for the benefit of not only the occupiers of the development but also the larger area.

35. Each of the 'commercial' elements of the scheme have implications if operated differently from the way detailed in the applicant's Design and Access Statement, and as set out on the forms. The planning judgement must consider how the consent could operate in unexpected ways if left unrestricted. The commercial operations set out are considered potentially acceptable sustainable development, if restricted to the operations and uses either described in the forms, or implied in the Access Statement. For example requiring the café is restricted to the A3 Use Class ensures that potential litter, public order, residential amenity and traffic problems sometimes associated with A4 and A5 uses are within the control of the Council. The offices are set out in the forms as within Use Class B1(a) (general offices, not including professional and financial services) which would appropriately restricts their use. The meeting rooms are described as D1 (non-residential institutions) – a Class that includes non-residential education and training centres as proposed, but also crèches, day nurseries, clinics and medical centres. These latter uses have different implications to residential amenity and traffic movements, and are therefore considered to justify an extra level of control in respect of controlling these potential issues.

36. The commercial elements of the proposals are therefore considered acceptable in principle if restricted by condition to Use Classes A3 for the café, B1(a) for the offices, and for non-residential education and training centre purposes, and no other use within Class D1, and if restricted to hours of operation. The condition detailed at the end of this report sets out Officer's recommendations for a balanced scheme of commercial operation and protection of residential amenity, taking into account of the potential for the nature of the uses to change in the future. In response to sight of the conditions, the applicant has suggested revisions to make the commercial spaces more attractive to potential customers and give flexibility on working hours – 8 am

until 8pm Monday to Friday is requested. The applicant also asks that the hours relating to the café be extended to enable it to operate on a Sundays 11 am until 5 pm – it being claimed local residents would like to use the facilities at this time. The use could not be restricted to local residents and Officers suggest caution on the implications of these extended hours.

37. The nature of the proposed residential accommodation has raised some concern during the extended course of the building works preceding the submission of this application. The applicant has latterly put some effort into engagement with the local community who are now satisfied with the proposals. Again, clear definition of the type of accommodation proposed within the use classes is considered necessary to address previous concerns that the accommodation may have an institutional or care element to it. To this end restricting the proposed 14 individual flats, presented as available for rent on the open market, to Use Class C3 will give surrounding residents some surety as to the nature of the residential accommodation, and the Council an appropriate degree of control and the ability to accept this element of the proposals as acceptable in principle, in line with NPPF requirements to, 'to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities' whilst meeting Policy GDP1(h)'s requirement to protect residential amenity.

38. In terms of the cafe Policy CO12 of the Derwentside Local Plan is relevant. Whilst this policy pre-dates changes to the Use Classes Order that sub-divided the Use Class into cafes (A3) / drinking establishments (A4) / and hot food take-aways (A5), the Policy has 'partial' weight for current decision making, in terms of considering pollution and amenity implications of developments. Policy CO12 seeks to protect residential amenity from the by-products of food related enterprises. To protect the residential amenities of both existing residents and the new residents within the scheme a standard condition to require details of odour extraction and bin storage / removal from that café element is proposed.

#### 39. Environmental Sustainability

Having established that in locational terms the proposal is highly sustainable it is important to then address the following environmental constraints. The site sits within a mature urban area, with the natural environment restricted to occasional feature tree planting and the protected trees around the nearby Church, which with the Church Institute building, currently subject to a conversion to residential apartments, represents the historic environment. With minimal effect on these features which are protected within the core principles of the Framework, it is considered that that on the whole the proposal meets the environmental role set out in the NPPF.

#### Impact upon the Character of the Surrounding Area

40. The minor works carried out externally on the building to date have improved its visual appearance in an area of existing well maintained residential dwellings and are therefore considered to be acceptable.

#### Neighbouring Amenity

41. No new windows have been implemented as part of the building's conversion and therefore there are no new relationships in terms of residential privacy and amenity interrelationships with existing dwellings. With the former nursing home a high density residential occupation, the proposed level of residential occupation of the building is considered comparable and therefore acceptable.

42. There will be an effect on the amenity of those bungalows in Joicey Gardens that face the proposed parking / vehicle manoeuvring areas, and whilst the applicants have made it clear that their preference is for maximum flexibility for the commercial elements of the scheme they have also submitted the following suggested operating hours during the course of the application: Office Suites 8am until 6pm, Café 8am until 8pm, and Training Rooms 8am until 6pm for training purposes and 6pm until 10pm for community uses (stated by the agent as having been requested by local residents through the applicant's community consultation process). The restriction to these hours and uses is considered reasonable and proportionate in order to ensure the protection of residential amenity required by Policy GDP1(h) of the Development Plan. The separation of the different user groups accessing the facilities at different times of the day requires definition to be enforceable and the condition set out below is designed to achieve this. Those using the facilities on an evening should be non-commercial community based uses that will generate little in the way of car parking demand.
43. Local residents have indicated that through direct contact with the applicants that they have no objection to the proposals. The extended parking scheme does not directly affect the existing residents. With the application a conversion of an existing structure, and with no new relationships introduced the scheme is considered acceptable in this regard.

#### Highway Safety

44. There has been extended debate regarding the requirements for on-site parking during the course of the application. Difficulties have revolved around the applicant's requirements for maximum flexibility from the various uses, and estimating parking requirements from daytime and evening / night-time users of the development that may overlap rather than dovetail. Highways Engineers have reached a calculation of 31 on-site spaces as the requirement. The applicant has both argued for flexibility taking into account the sustainable nature of the location, and stated that there are significant physical impediments in terms of ground levels to the provision of parking spaces at the front of the site. However, it should be noted that the same applicant has submitted a 'discharge of conditions' application parallel with the application in hand to keep the existing consent 'alive' for apartments that includes parking spaces at the front of the site. Officers have however investigated the potential for a scheme of cycle parking as a condition of an approval to both mitigate the shortfall and demonstrate a flexible and sustainable approach to transport issues on the site, and this appears acceptable to all parties, and reflects recent Committee Member requests for such. Noting that local residents have specifically indicated they have no objection to the level of parking proposed, the scheme is accepted as compliant with Policies TR2 and TR3 of the Development Plan, subject to a condition requiring a cycle parking scheme be implemented before occupation of any of the residential dwellings.

#### Other considerations

45. The proposed development falls under the threshold for the provision of affordable housing.
46. The applicants have indicated they wish to set up an 'advisory group' to keep communication open with the existing surrounding community, with those existing residents involved in activities within the development. Whilst this voluntary offer from the developer is welcomed, it cannot be a condition of any approval as such a condition would not meet the relevant tests for Planning conditions and is not

something which any weight can be afforded to in the consideration of this application.

---

## **CONCLUSION**

---

47. The application site is set in a highly sustainable location. The application proposes a number of uses each of which as presented have economic and social benefits that align both with national planning guidance, and with the corporate aspirations of the County Council.
48. It is the role of the planning system however to guard against 'unintended consequences' from approvals that may move within use classes to operations that may have unacceptable effects on residential privacy and amenity and highway safety. To this end the application is supported as presented, but subject to a number of restrictive conditions designed to protect against future uses and users that might bring unacceptable effects.

---

## **RECOMMENDATION**

---

49. That the application be **APPROVED** subject to the following conditions/reasons:

1. The non-residential use of the building is restricted to: Use Classes A3 for the café and no other use falling within the Town and Country Planning (Use Classes) Order 1987, B1(a) for the 15 offices and no other use falling within the Town and Country Planning (Use Classes) Order 1987, and for the three meeting rooms defined on approved plan STAN-010(PL).non-residential education and training centre purposes, and no other use falling within Class D1 or any other class in the Town and Country Planning (Use Classes) Order 1987

Reason: To define the consent and ensure the continued residential privacy and amenity of existing residents in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

2. The non-residential uses of the building must be not be operated outside the hours of Monday through to Saturday: Office Suites 8am until 6pm, Café 8am until 8pm, and Training Rooms 8am until 6pm for commercial training purposes and 6pm until 10pm for community uses

Reason: To define the consent and ensure the continued residential privacy and amenity of existing residents in accordance with Policies GDP1 and CO12 of the Derwentside District Local Plan 1996 (saved 2009).

3. Before any part of the building is brought into use, the approved parking layout must be completed in full as shown on plan STAN-LP B, providing 29 spaces. In addition, a scheme of on-site cycle parking provision must be submitted to, approved in writing by the Local Planning Authority and implemented in full before any part of the building is brought into use and thereafter retained in perpetuity.

Reason: To ensure sustainable highway requirements and highway safety are incorporated into the scheme and available for all site users in accordance with Policies TR2 and TR3 of the Derwentside District Local Plan 1996 (saved 2009).

4. The café shall not be brought into operation until details of fume extraction, which accord with current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems, are submitted to, and approved in writing by, the Local Planning Authority and implemented in full, being thereafter operated at all times when cooking is being carried out on the premises.

Reason: In the interests of preserving the amenity of residents in accordance with Policies GDP1 and CO12 of the Derwentside District Local Plan.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

50. The Local Planning Authority in arriving at the decision to approve the application has actively engaged with the applicant to secure a positive outcome in accordance with the Local Plan and the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

---

## **BACKGROUND PAPERS**

---

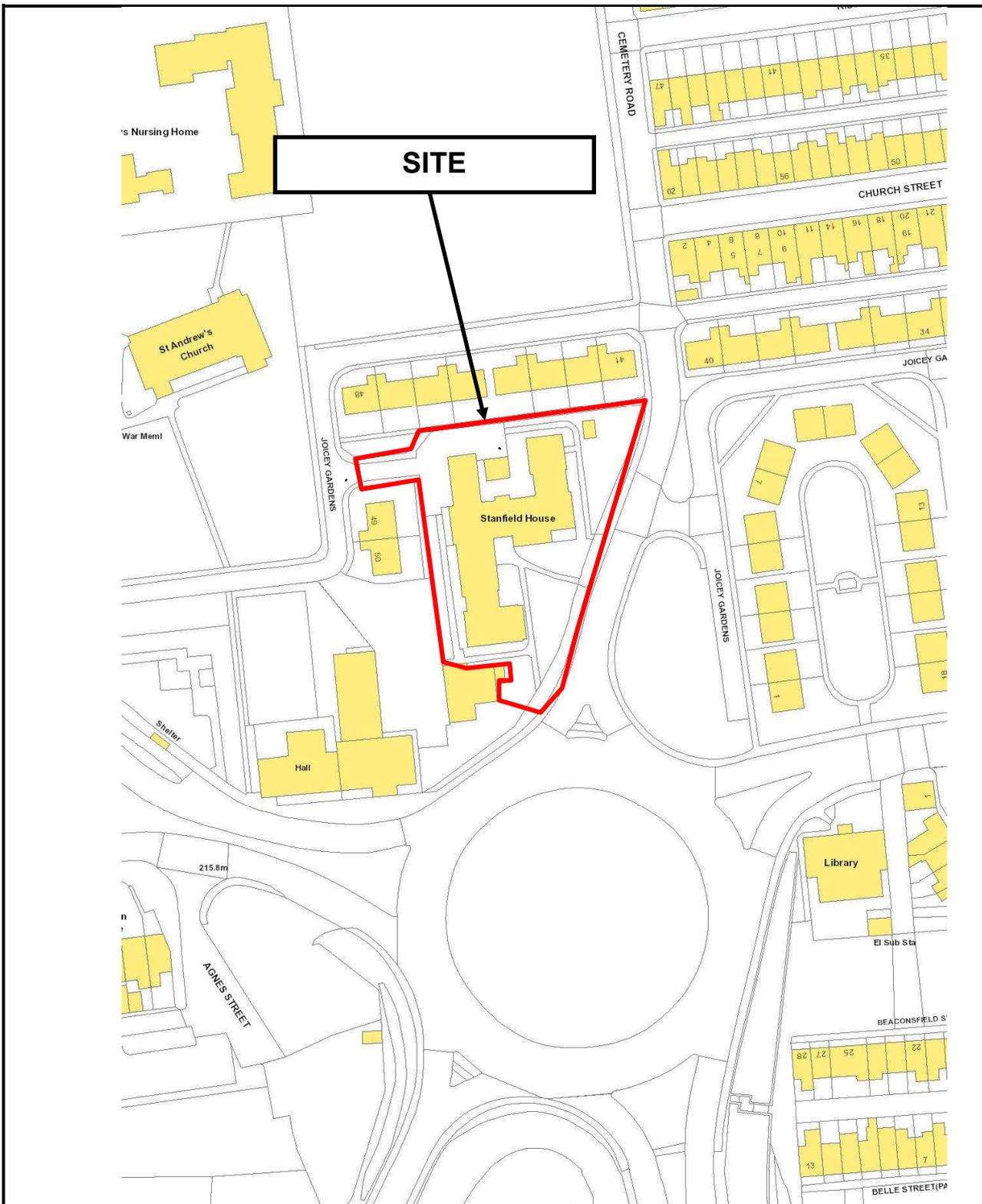
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Derwentside District Local Plan 1997 (saved policies 2009)

Statutory and public consultation responses



**Planning Services**

Stanfield House, Joicey Square, Stanley, DH9 0PG

Application Number DM/16/00905/FPA

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

**Comments**

This page is intentionally left blank



## Planning Services

# COMMITTEE REPORT

### AGENDA ITEM NUMBER:

---

#### APPEAL UPDATE REPORT

#### APPEALS DETERMINED

#### **Appeal against the refusal of planning permission for change of use from A1 (retail) to A5 (hot food takeaway) (DM/15/01794/FPA) at 20 Gill Crescent South, Fencehouses, Houghton-le-Spring.**

An appeal against the refusal of planning permission for the above development was received on 6<sup>th</sup> October 2015. The application was refused under delegated powers for the following reasons:

*“The proposed hot food takeaway would be considered to have an adverse impact upon the amenity of nearby residential properties through disturbance brought by odour, smells and hours of operation. The proposal is therefore contrary to Policy R19 of the saved Chester-le-Street Local Plan and paragraph 123 of the NPPF”.*

The appeal was dealt with by way of written representations and an unaccompanied site visit held.

The Inspector sympathised with the concerns of local residents in relation to the late opening hours of the proposed use as the only one in the vicinity open late into the evening as exacerbating existing problems of anti-social behaviour, whereby noise and disturbance would detract from the living conditions of nearby residents, contrary to Policy R19.

In addition, the limited parking available in the vicinity was cited by the Inspector as being an additional source of noise and disturbance to residents. A lack of detail in regard to internal noise leakage to the adjoining neighbouring property was also noted as a concern by the Inspector.

The Inspector concluded that while much needed investment was requiring the unit and could create jobs, the additional activity generated by a takeaway use in a densely populated, non-commercial location would have unacceptable adverse effect on the living conditions of neighbouring properties, contrary to Policy R19.

The Inspector dismissed the appeal.

**Appeal against the refusal of outline planning permission for the erection of a single dwelling (DM/15/01445/FPA) at Stobbilee Farm, Langley Park, Durham.**

An appeal against the refusal of planning permission for the above development was received on 24<sup>th</sup> February 2016. The application was refused under delegated powers for the following reasons:

*“The proposed development is considered to be unsustainable development contrary to the aims of the NPPF. In addition the proposal is contrary to Paragraph 55 of the NPPF and Policy EN1 of the Derwentside District Local Plan by virtue of the site's location in the countryside outside of the village of Langley Park, with no special circumstances for the proposal demonstrated. Additionally, it is not considered that such a proposal would benefit the rural economy or would be well related to existing settlement patterns.”*

The appeal was dealt with by way of written representations and an unaccompanied site visit held.

The Inspector assessed the Council's view that the site lay within the open countryside, and following a site visit agreed that this was the case. They concluded that the settlement of Langley Park was constraint by the River Browney to its northern edge and that the site, being beyond the river was outside of the settlement.

The site, the Inspector concluded, was also isolated from the settlement, both in terms of physical separation and views of the site and adjacent pair of dwellings as standing alone amongst the open fields that surround them.

The Inspector noted that while the appellant argued that the new dwelling would be on the site of the former Stobbilee Farmhouse, it did not involve the re-use of a redundant or discussed building. In doing so they also assessed there were no special circumstances for the erection of new dwelling, making the development contrary to paragraph 55 of the NPPF (Isolated homes in the countryside).

In assessing access to services the Inspector attributed significant weight to the appearance and unlit nature of the public footpath and road to the village centre over the exact distances that were stated by both Council and Appellant, concluding that this would deter walking into the village on anything other than a pleasant day.

In conclusion, the Inspector noted that despite the presence of the adjacent pair of dwellings immediately to the south, the appeal site would appear more closely related to the open countryside than to any settlement in terms of Policy EN1. They also found that the proposal had not been satisfactorily demonstrated as to how the proposal would benefit the rural economy, having regard to the location of, and access to, the site and its relationship with the settlement of Langley Park.

The issue of previously developed land was addressed by the Inspector in their summing up, whereby the appellant had argued that the site had previous construction and foundations and other items were still in evidence on the ground. They concluded that while some evidence was witnessed on site, in this case the overriding character and appearance of the site is one where any remains have blended into the landscape. The Inspector therefore afforded limited weight to this aspect.

The Inspector dismissed the appeal.

## **RECOMMENDATION**

That the report be noted.

Reports prepared by Graham Blakey (Senior Planning Officer).

This page is intentionally left blank