



Area Planning Committee (North)

Date Thursday 26 October 2017
Time 1.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 28 September 2017 (Pages 3 - 14)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/17/02799/FPA - Land to the south of Palmer Road, Dipton
(Pages 15 - 38)
Erection of 56 dwellings including landscaping and infrastructure –
Re-submission.
 - b) DM/17/02609/FPA - Land to the north east of 13 Dunelm Close,
Leadgate. (Pages 39 - 52)
Erection of Agricultural Barn.
 - c) DM/16/03715/FPA - Land to the South of 1 Boyd St, Delves Lane,
Consett (Pages 53 - 78)
Demolition of existing buildings and erection of a Lidl store (Use
Class A1) with associated car park and landscaping.
6. Such other business as, in the opinion of the Chairman of the meeting,
is of sufficient urgency to warrant consideration.

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
18 October 2017

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

Councillor I Jewell (Chairman)
Councillor S Wilson (Vice-Chairman)

Councillors H Bennett, O Milburn, J Robinson, A Shield, L Taylor,
K Thompson, S Zair, A Bainbridge, D Bell, L Boyd, A Hopgood,
M McKeon, J Shuttleworth and M McGaun

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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 28 September 2017 at 1.00 pm**

Present:

Councillor I Jewell (Chairman)

Members of the Committee:

Councillors H Bennett, O Milburn, J Robinson, A Shield, L Taylor, S Zair, A Bainbridge, D Bell, L Boyd, A Hopgood, M McKeon and M McGaun

Also Present:

Councillors J Brown and M Clarke

1 Apologies for Absence

Apologies for absence were received from S Wilson.

2 Substitute Members

No notification of Substitute Members had been received.

3 Minutes

The minutes of the meeting held 27 July 2017 were confirmed as a correct record by the Committee and signed by the Chairman.

4 Declarations of Interest

Councillor A Shield declared a personal, non-prejudicial interest in Item 5b, as a Local Member.

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

a DM/16/03715/FPA - Land to the South of 1 Boyd St, Delves Lane, Consett

The Senior Planning Officer, Colin Harding, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping and was recommended for approval, subject to conditions.

The Senior Planning Officer noted the history of the application site, having been part of Crookhall Colliery as the Latterday Saints Pit, and then the Victory Pit, ceasing operation in the 1960s, with the remains of the former cottage only having walls, backing on to Boyd Street. He added that the last use of the site was for a scrapyards, however, this was no longer in operation.

Members were referred to proposed elevations of the new store, comprising of a standard retail design and plans highlighted where the remaining colliery buildings were located, and the proposed car park, with the former mineshafts underneath. It was explained that the arch at the site was subject to much debate, and while the roof was original, there was evidence of work over the lifetime of the works, and indeed since the colliery ceased operations.

The Senior Planning Officer noted there were no objections from statutory consultees, subject to the conditions as set out in the report. It was noted that the Council's Conservation Officer had noted that retention of the arch as a non-designated heritage asset should be explored, however, had no objections to the application. Members were advised that further to comments from Environmental Health and Consumer Protection, a condition was added in terms of restriction of delivery times until adequate monitoring had taken place.

The Committee was advised that there had been several representations in respect of the application, from: the Local Member of Parliament, Laura Pidcock MP; Local Councillors, the Crookhall Foundation; the Mining Museum; and from 3 members of the public received since publication of the report. It was explained that all were not in objection to the application for a new Lidl store, however, all felt that the history of the site be retained and that the arch was a local heritage asset, with a suggestion to its retention by way of condition.

The Senior Planning Officer explained that the application was acceptable in planning terms, having passed the sequential planning test and the Spatial Policy Team had noted that in terms of these types of developments, "like affected like" and would not have an adverse impact on Consett town, with the Lidl store within the town to close in any event as the lease was coming to an end.

The Senior Planning Officer noted the main issue raised was in terms of the retention of the arch. He added that the arch and buildings were not designated heritage assets, they were not listed buildings, and were not within a Conservation Area. It was also noted that the building was not the best architectural example of the type within the County and required significant work in terms of structural integrity and would require further works if the arch were to be moved to a new location and these would not be guaranteed to be successful. The Senior Planning Officer noted that therefore he was not convinced that a condition was necessary or required. He added that the National Planning Policy Framework (NPPF) advises that the loss of non-designated heritage assets be balanced against the benefits of a development, in this case the social and economic benefits of a new supermarket and the offset against the potential jobs lost with the other Lidl store closing.

The Chairman noted Members of the Committee and the Local Member had some questions as regards the report.

Councillor J Brown noted that paragraph 82 of the report did not mention which technical report had been submitted in terms of a retention of the arch being unsuccessful. The Senior Planning Officer explained that as no technical report or proposed scheme had been submitted it was rather that any scheme may prove to be unsuccessful, or indeed it may prove to be successful, however without such a report it was unclear as regards how successful it could be. Councillor J Brown asked how many households had been contacted in relation to the application. The Senior Planning Officer said he would check and inform Members.

Councillor J Brown noted paragraph 83 stated it would be unreasonable to impose a condition to retain the arch and was “excessively onerous”, and asked what evidence this was based upon. The Senior Planning Officer noted that this was in relation to retaining the arch in-situ, with the implications in terms of access to the car park. He added that in terms of moving the arch this would be beyond what was normally imposed by condition, which would not normally require a redesign or change to the scheme and concluded that it would be unreasonable to seek this through a planning condition. Councillor J Brown noted that if the applicant had engaged with the local community a position may have been agreed. The Senior Planning Officer noted work with Lidl in terms of the arch, however, no condition was recommended, and Members should weigh the loss of the heritage assets against the benefits of the new store.

Councillor A Shield noted his father had worked at the colliery and noted there were two shafts and felt that heritage needed to be looked at. Councillor A Hopgood asked if discussions were still ongoing with Lidl in terms of the arch and why was it not possible to put in a condition pertaining to the arch at this stage. The Senior Planning Officer noted discussions were not ongoing, and that although the matter had been raised with the applicant, no progress had been made on incorporating the arch into the development, and the application as proposed was at Committee for determination.

Councillor L Boyd noted on the site visit that she liked the look of the arch. She noted that Cookhall Trust was in favour of retention. She considered it would be bad to lose Lidl and would be good to have the store on site. She felt that there was a dilemma and therefore proposed a deferment to allow the parties to look at the issues in retaining the arch.

The Chairman noted that the discussion was focusing on the arch but that the Committee had to determine the application in front of them and approve or not approve. He advised the Committee to listen to the speakers and then ask questions rather than focus on the archway which might influence the application or not.

Councillor J Brown noted she was not objecting to the application noting that the site has been in need of development for years, but was asking for a further planning condition and to say that cannot happen is not right. She reiterated that the new Lidl store would be welcomed and that all people wanted was for the arch to be retained. She added it would be disingenuous to suggest that the matter cannot be conditioned. Councillor J Brown added that she had attended a public consultation held by Lidl, at the village hall, where residents raised the issue of retention of the arch and were assured that Lidl was listening. She queried why a survey of likely in excess of £1,000 had been carried out, noting the arch was in good condition, then to have local concerns ignored and the application not looking to retain the arch, with no costings in terms of retaining the arch. Councillor J Brown added that while there was reference to arches elsewhere, the report was not factual and that it was an opinion without comprehension of the local community. She added that it was connected with the local area and was the last example in the area, and to dismiss this was to dismiss the proud mining heritage of our area. Councillor J Brown noted that paragraph 82 of the report noted a condition as regards an "interpretation board" and queried why Local Members hadn't been consulted on this condition, and added that herself and fellow Divisional Member, Councillor M Clarke would be willing to meet some of the cost of the relocation of the arch from their Neighbourhood Budgets.

The Senior Planning Officer noted he did have an appreciation of the mining heritage of the area, Consett and County Durham, and that the report represented a fair and balanced view. In terms of the interpretation area, it was not standard practice to consult Local Members on proposed planning conditions. In reference to a previous question in terms of the number of households that had been consulted regarding the application, the number was 30, together with the usual notification in the press and on site, in accordance with statutory requirements.

The Chairman asked Mr Lister, the landowner to speak in favour of the application.

Mr Lister thanked the Chairman and Committee and explained his father had bought the land and property in 1963/64 and had been there at the site all his life. He added that the business was no longer in operation and the site was in a sorry state, with the building and roof being held secure by an engine block on a rope and with bags of soil preventing the roof from blowing off in high winds. He stated that no one had been interested in the arch before now.

He added it was not possible to retain all pieces of history, relating to where everyone's father used to work, and he felt given the current state of the buildings, the sooner they were pulled down the better.

Mr D Murphy, Head of Property for Lidl noted he had nothing else to add, however would be available to answer any questions as required.

The Chairman asked the Committee for any more questions or comments.

Councillor A Shield noted no one could not be sympathetic to the views of the Local MP, Councillors and residents and felt therefore it would be necessary to condition the retention of the arch. He added however it was important to retain the 40 jobs with the closure of the Consett store and considered the development to be excellent for the local area. He noted that a single access point was mentioned, and if the arch was retained elsewhere on site, would the access be a protected right turn, adding issues with a similar access at a nearby supermarket which Members would be aware of.

The Senior Planning Officer noted it would be a protected right turn, imposed by condition and deemed acceptable by the Highways Section.

Councillor A Shield asked if this would be dual flow, one lane in, one lane out. The Senior Planning Officer noted this would be the case and that Highways would have suggested alterations should it not have been deemed safe or have a detrimental impact.

The Principal DM Engineer, David Smith noted the applicant had submitted a full transport assessment and that the access to the B&M store did not conflict and that the stacking and queuing would not be the same as that for residential traffic and therefore there would not be an impact on the roundabout. He added that trip analysis had shown that the proposals were acceptable.

Councillor A Hopgood asked to see the objections received since the agenda papers had been prepared. The Senior Planning Officer advised that a letter had been received from a local resident, the Crookhall Foundation and Durham Mining Museum and read out the objections. He noted that they did not raise new issues and mirrored previous comments in terms of retaining the arch, not objecting to the development of a new store, but to keep the memories of the area, noting removal of the last remnants of the steel industry in the area and not wanting to lose this mining history. Other comments included having the arch retained in some form at Beamish Museum if it could not be retained on site. He added the objections from the Crookhall Foundation were to the demolition of the arch and they promote the retention of mining heritage.

Other comments reference every effort being looked at to retain the arch in situ, perhaps as part of pedestrian access to the site, together with a plaque. Comparisons were made to how the Genesis site relating to the steel industry had artwork on the site a monument to those former workers. The Senior Planning Officer added that the Durham Mining Museum had noted County Durham had been “built upon coal” and their objective was to remember our heritage and suggested that a memorial and plaque be incorporated into the scheme.

Councillor A Hopgood noted the proposal from the Local Members in terms of contributions towards retention of the arch and asked if Lidl would object to a deferral of the application for a month to further explore options.

Mr D Murphy noted he would rather deal with the matter through a condition if possible but noted that Officers did not consider that this could be done.

The Senior Planning Officer noted that it was not reasonable for a condition to simply state “retain the arch” without knowing if it could be and that by deferring the application, a detailed scheme of how the arch could be retained could be investigated. He was happy to discuss the matter further and bring the report back to Committee.

Councillor L Boyd noted that in light of hearing new information, that the Ward Councillors were willing to assist in financing retention and Lidl were prepared to discuss the matter further, she proposed that the application be deferred. Councillor O Milburn seconded the proposal.

Councillor M McKeon noted she too supported deferral, adding that as Local Members had offered to help it was important to allow time for those options to be explored.

Councillor J Brown noted Local Members had not been asked as regards agreeing to meet, however, would wish to meet to discuss options in terms of the scheme.

The Solicitor - Planning and Development, Neil Carter noted for clarification that if Members were to vote to defer the application, this would not be conditional on any meetings outside of the Committee, and as such should not form part of any resolution.

The Senior Planning Officer noted that should the Committee wish to defer he could look to arrange such meetings with the applicant and Local Members. Mr C Murphy noted Lidl would be happy to meet to look for a successful outcome and to have the application back at Committee.

Councillor L Boyd moved that the application be deferred; she was seconded by Councillor O Milburn.

RESOLVED

That the application be **DEFERRED**.

b DM/17/02331/FPA - 13 Dunelm Close, Leadgate, Consett

The Planning Officer, Louisa Ollivere, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from open space to garden and was recommended for approval, subject to conditions.

The Planning Officer noted the application was part-retrospective and was included proposed 1.2m high close boarded fencing along the front and side, with 2m high fencing at the rear. Members were referred to the condition of the land in question.

It was explained that the Local Member, Councillor W Stelling had requested the application to be considered by Committee, with concerns in relation to potential for any fencing to create an alleyway which could lead to anti-social behaviour.

The Planning Officer noted that there had been 15 objections received from members of the public with the main objections relating to: the application being retrospective; loss of open space; the creation of an alleyway; and the effect on the public right of way.

The Committee were informed that the land was of limited use as open space, and saved policy GDP1 of the Derwentside Local Plan noted no need to retain such open space, and was consistent with the NPPF. The Planning Officer noted limited impact in terms of the fencing, with the applicant agreeing to a 1.2m fencing height along the footpath. Members were advised that fencing at a nearby property was under permitted development. The Planning Officer concluded by noting that the NPPF stated that applications should be approved where there were no reasons against, without delay.

The Chairman thanked the Planning Officer and asked Mrs S Mower to speak in objection to the application.

Mrs S Mower thanked the Chairman and Committee and noted she was speaking on behalf of residents in respect of this change of use application. She explained that the fencing along the public footpath was a concern, creating an alleyway and with fencing already in the vicinity at 2m in height. She noted her young daughter and other often used this footpath, as did dog walkers accessing the fields to the rear of Ridley Terrace. It was added that if the open aspect along the footpath was lost, then residents would not feel safe and there would be the opportunity for anti-social behaviour and crime, the footpath not being lit. Mrs S Mower noted the potential for increased dog fouling if the open aspect was lost. She added that the height was being proposed as being the same as No.13 and that residents felt that this would create an alleyway and a dumping ground.

Mrs S Mower explained that the applicant had place paving stones at the site and that if the 1.2m fence followed these stones, this would retain the open aspect along the footpath. Mrs S Mower concluded by noted that it was felt that a 0.60m fence would be acceptable, and while there were some 1.2m fences at some properties, there were no 2m fences.

The Planning Officer noted that at 1.2m, there would still be an ability to view over this height.

The Committee Services Officer noted that Councillor W Stelling had been in contact to say he was unable to attend the meeting of the Committee, however, he wished to support the comments of Mrs S Mower in relation to this application.

Councillor J Robinson entered the meeting at 1.57pm

The Chairman noted Councillor J Robinson would not take part in the debate or decision making on this application. He asked Members of the Committee for their questions and comments on the application.

Councillor A Shield asked whether the application was in respect of acquisition of land, asking if it was after a period of 12 years. The Planning Officer noted the land was in unknown ownership and the Solicitor - Planning and Development confirmed that the Member was correct about the timescale for adverse possession, however land ownership issues were not relevant in terms of planning matters.

Councillor A Shield noted the concerns raised by Councillor W Stelling and the residents and noted NPPF part 8 noted contribution to healthy communities and suggested that the Police be contacted as regards potential anti-social behaviour issues. He added that residents had suggested a height of 0.60m and asked why 1.2m was being set out. The Planning Officer noted that the 1.2m height was the same as that at the property, and that 0.60m fencing would not be in keeping with this. Councillor A Shield noted that the front had an open vista, with 1.2m being acceptable, however, the side would be enclosed and create an alleyway as noted by the concerns of residents.

The Solicitor - Planning and Development noted that permitted development rights would allow for a fence of up to 2m and the negotiated height of 1.2m was more acceptable that what the applicant could put in place under those permitted development rights.

Councillor A Hopgood noted that this was not the first or last application where estates build with deliberate open spaces were having areas fenced off. She added that the original designs were to promote community activities and to give a sense of openness and promote safety. Councillor A Hopgood added that she felt it was wrong that these areas of open space were being taken and people being made to feel unsafe. She added that she would dispute the description of the land as "derelict", and that the land should remain as public open space.

The Planning Officer noted that the application had been looked at in terms of the loss of open space and it had not been felt that the land offered value.

Councillor L Boyd noted visiting the site and that it was a tiny bit of scrubland and felt it would be better off enclosed. She added that she did note the concerns of the Local Member and residents in terms of keeping the height of the fence as low as possible. Councillor O Milburn asked for the images of the site to be displayed on the projector. She noted that while she would be happy with a lower fence, the 1.2m height proposed was not so high, and indeed she herself would be able to see over this height.

Councillor A Shield reiterated the comments as regards the height of 1.2m being reduced to a lower height and was concerned as regards the levels of common land being given away.

The Planning Team Leader (North), Andrew Farnie reiterated the comments of the Solicitor - Planning and Development in terms of the negotiated height of 1.2m and the option of the applicant to erect a fence up to 2m under permitted development. The Solicitor - Planning and Development confirmed that the applicant had a fall-back position in terms of those permitted development rights and that with no justification for a height lower than 1.2m, the proposal was for a height of 1.2m.

Councillor L Boyd noted that given the advice of the Officers, she would proposed that the application be approved.

Councillor L Boyd moved that the application be approved; she was seconded by Councillor M McKeon.

RESOLVED

That the application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee.

c DM/17/01667/FPA - 11 Park View, South Pelaw, Chester-le-Street

The Planning Team Leader (North) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site when the application had been considered previously at Committee and were familiar with the location and setting. The application was for the erection of porch to front and two storey rear extension and was recommended for refusal.

The Planning Team Leader (North) noted the application had been considered previously in July by Committee, when Members had visited the site, and there was a refusal recommendation put to the Committee at that time. Members recalled that they decided to defer the application to allow the opportunity to have a revised design to be submitted for consideration, with that proposal now being put to Members.

It was explained that the porch was the same as the previous application, with Officers not having any issues with this element of the design previously, or at this time. It was added that the rear elevation was the same, with the main change being the reduction of the depth of the proposed development from 2.7m to 1.5m which represented a significant change which aligned with the 45 degree code. It was noted that there were no objections to this application in its revised form.

The Planning Team Leader (North) noted, however, that there were still some concerns in terms of the bulk and scale of the rear extension, and also in terms of the previous refusal and comments from the Planning Inspectorate in 2016 and therefore the recommendation was for refusal. Members were reminded that they may wish to take into account personal grounds as set out by the applicant and that the decision was for the Committee.

The Chairman asked the Committee for their questions and comments on the application.

Councillor A Bainbridge asked if the applicants had received assistance and direction from the Council's Planning Department in terms of producing a more acceptable scheme. The Planning Team Leader (North) noted that Officers had visited the site and had offered advice to give the applicants the best possible outcome. It was however noted that reducing the width of the extension would have resulted in an unusable space that did not meet the needs of the applicant. That was why the width of the extension had not been altered. Councillor A Bainbridge asked if there were no other houses in the vicinity with such double extensions, adding he believed there were several in the next street. The Planning Team Leader (North) noted there were such extension, however, the recommendation was based upon the application as submitted, together with the Planning Inspectorate's determination as previously mentioned.

Councillor A Shield noted mention of "effect on the street scene" and asked for further explanation noting that at some time in the past a development of this type nearby must have been the first and asked why it was refused by the Planning Inspectorate, for not being in keeping with the area. The Planning Team Leader (North) noted that the Planning Inspectorate was primarily concerned about the impact of the development upon the street scene.

Councillor O Milburn noted that in perspective they were streets of colliery houses, there was nothing that could be done to prevent development at the rear of the properties and added she felt she would move to go against the Officer's recommendation. Councillor A Hopgood added that she had visited the site and felt the reduction from 2.7m to 1.5m was significant and on the basis of no objections she would propose that the application be approved. Councillor L Boyd seconded the proposal.

The Chairman asked for comments from Legal in terms of wishing to go against the Officer's recommendation and approve the application.

The Solicitor - Planning and Development asked for clarity in terms of the basis of the motion for approval, specifically were Members saying that the design was acceptable in terms of the host property and/or the wider street scene or were the Members saying there was some harm in that regard, however other considerations outweighed that harm.

Councillor A Hopgood noted that there were examples of similar developments nearby, 2 doors down, and did not feel the application would be detrimental. Councillor A Shield noted that Policy HP11 referred to residential extensions and that it could be said that the Committee felt that this application was in compliance with that policy. Councillor M McGaun added that given there were similar extensions in the area he could not understand why the application had a recommendation for refusal. The Chairman noted each application was looked at on its own merits, and this was the one for determination by Committee today.

Councillor O Milburn proposed that the application be approved, noting she felt it did not have an adverse impact in terms of scale, form or factor and was in keeping with policy HP11.

The Planning Team Leader (North) noted that should Members be minded to approve the application that a standard suite of conditions could be imposed, in consultation, in respect of issues such as plans, materials, start times and so on.

Councillor O Milburn moved that the application be approved; she was seconded by Councillor L Boyd.

RESOLVED

That the application be **APPROVED** subject to conditions being agreed by Officers in consultation with the Chairman and Vice-Chairman of the Committee.

6 Appeal Update

The Committee received an update from the Planning Team Leader (North) regarding 2 appeals having been received: one against refusal of planning permission for a partly retrospective general purpose agricultural building at 5 Front Street, Burnhope (DM/16/02733/FPA); the other against refusal of outline planning permission for a dwelling at Old County View, Hett Hills, Pelton Fell, Chester-le-Street (DM/16/04069/OUT).

Members noted 3 appeals had been determined, the first being in respect of a refusal of planning permission for the erection of a residential development of 52 dwellings with new access and associated works, on land to the west of Briardene, Cadger Bank, Lanchester.

It was explained the second appeal related to refusal of planning permission for the erection of a two storey detached agricultural workers dwelling with adjoining double car port and ancillary hard and soft landscaping features (DM/16/02077/FPA) at Dunleyford Farm, Humberhill Lane, Lanchester.

The Area Planning Team Leader noted the third related to refusal of planning permission for the erection of a detached two storey dwelling on land to rear of 3 Lintz Terrace (DM/16/03550/FPA).

The report confirmed that all three Appeals had been dismissed by the Planning Inspectorate.

Resolved:

That the content of the report be noted.

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/02799/FPA
FULL APPLICATION DESCRIPTION:	Erection of 56 dwellings including landscaping and infrastructure – Re-submission.
NAME OF APPLICANT:	Durham Villages Regeneration Company
ADDRESS:	Land to the south of Palmer Road, Dipton
ELECTORAL DIVISION:	Burnopfield and Dipton
CASE OFFICER:	Steve France, Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is over 2.4 hectares of land at Dipton, a village north-east of Consett, sited between the A692 Gateshead Road, and the B6168. The village is of linear form in that it follows the lines of those intersecting two roads, being infilled at the apex of the angled junction. Surrounded by a mix of house types, ages and styles that reflect the development of the settlement, on three sides, and Bone Lane (originally Boney Lane), the land is green-field, never having been developed. A tunnel serving Lily Colliery crossed the western part of the site, reflected by the current landform in the lower part of the site.
2. The site has been in two land uses, with the larger 1.51ha, eastern part of the site, as overlooked by Palmer Road and Plunkett Road, fenced and used as a paddock, without public access. This area is now unused and covered in occasional low scrub and grasses. The smaller, western part of the site includes a small football pitch with metal goalposts, and is part mown, part left as unimproved grassland. There are a number of pedestrian access points to this land, from Palmer Road, Meadow View and Bone Lane, these last two accesses being Public Rights of Way. The site slopes from east to west, Dipton being on the upper slopes of the Derwent Valley, with the site undulating across its area.
3. Landform aside, there are no features of note on the site, its two components being separated by a simple field boundary. Bone Lane is bounded by established hedging and a few mature trees. Informal access to the south of this footpath – also defined on Ordnance Survey Plans as an off-road cycle path which leads to further open land, used by the local community for informal recreation and as a wildlife area.
4. The site has no formal designation within the Derwentside District Local Plan.

5. The application seeks detailed planning permission for the development of 56 houses and is a resubmission of a scheme refused at the July Planning Committee as detailed in the 'History' section of this report, below.
6. The proposed dwellings are a mix of two, three and four bed-roomed units, in detached, semi-detached and mid-linked form. The main part of the site, being a cul-de-sac of 41 dwellings is accessed from Palmer Road. The 15 remaining dwellings are served from an extension of the end of Plunkett Road, six from the adopted highway, and nine from shared drives. The difference between the previously refused application and the current scheme is four of the 2 bed units are proposed handed over to Karbon Homes as a form of 'intermediate housing' under a Homes and Communities Agency (HCA) grant scheme designed to provide homes at an affordable rent through a Registered Social Landlord.
7. The western part of the site remains open, with the small football pitch retained but relocated, and the unimproved grassland developed to increase its wildlife potential. This area of the site is accessible from Palmer Road through the site retaining access to public right of way on Bone Lane and the Nature Reserve beyond.
8. The application is reported to Committee as a 'major' application.

PLANNING HISTORY

9. Planning application 1/2013/0173, 'Erection of 54 dwellings including landscaping and infrastructure', was first reported to Planning Committee in September 2013, being resolved as 'Minded to Approve', subject to the applicants entering into a legal agreement to secure funds to meet an identified need to add to local education capacity – i.e. the provision of a new classroom at a nearby school and also to ensure delivery of 8 affordable housing units within the layout. The legal agreement was not signed and the application was held unapproved by the Council until it was re-presented to Committee in July 2017, the proposal revised to 56 dwellings. At this time the identified need for the classroom had passed, and the applicants submitted a 'viability case' to show the scheme was not economically viable with the inclusion of the affordable housing. This viability case was accepted by Officers. A new legal agreement was however proposed to secure monies to ensure the scheme resulted in a net biodiversity gain in the area.
10. Recommended by Officers to be approved subject to this legal agreement, the application was refused by the Committee on the basis that the scheme no longer provided the required affordable housing. The application was refused on 27 July 2017 for the following reason:

'The Local Planning Authority considers that the lack of affordable housing provision is an unacceptable adverse impact of the scheme which significantly and demonstrably outweighs the benefits of the proposal contrary to paragraph 14, 47 and 50 of the NPPF'.

PLANNING POLICY

NATIONAL POLICY

11. 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.
12. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
13. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
14. The following elements of the NPPF are considered relevant to this proposal;
15. *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.
16. 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.
17. *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.
18. *NPPF Part 7 – Requiring Good Design* - the Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

19. *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.
20. *NPPF Part 10 - Meeting the challenge of climate change, flooding and coastal change* – Advises on managing flood-risk, taking into account the impacts of climate change through use of the sequential test, ensuring flood risk is not displaced and informing proposals through a site specific Flood Risk Assessment.
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.
23. *Plan making - Ensuring viability and deliverability.* Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

24. 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.
25. *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.

26. *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.
27. *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.
28. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.
29. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.
30. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.
31. *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.
32. *Viability and decision taking* - where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary. This should be informed by the particular circumstances of the site and proposed development in question. Assessing the viability of a particular site requires more detailed analysis than at plan level. A site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken.
33. There are different viability issues for different types of homes: Some privately rented homes can come from purpose built schemes held in single ownership which are intended for long term rental. The economics of such schemes differ from build to sale and should be determined on a case by case basis. To help ensure these schemes remain viable while improving the diversity of housing to meet local needs, local planning authorities should consider the appropriate level of planning obligations, including for affordable housing, and when these payments are required. So these homes remain available to rent only, local planning authorities may choose

to explore using planning obligations to secure these schemes for a minimum period of time.

34. In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.
35. This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered in line with the principles in this guidance.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

36. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
37. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
38. *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.
39. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible. Consideration will be given to the effect of development on any affected trees, taking into account; landscape diversity, the setting of existing or proposed buildings, wildlife habitat and visual amenity.
40. *Policy HO22 – Recreational Public Open Space within Housing Sites* – states planning permission for new housing developments will be granted if they include sufficient open space and play areas to meet the demands of the residents of the development
41. *Policy RE4 – Protection of public footpaths* – Development should facilitate the incorporation rather than the diversion of public rights of way and other recreational footpaths.
42. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

RELEVANT EMERGING POLICY:

43. 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:

44. **Highways** – County Highways Engineers write, ‘there would not appear to be any Highway Development Management reasons to object to these proposals which are therefore deemed to be acceptable from a highways point of view’.
45. **Northumbrian Water** – confirm they have no issues to raise subject to specified restricted surface water discharge rates, proposed secured by a suggested condition.
46. **The Coal Authority** – raise no objection subject to: A condition to require prior to the commencement of development:
- The submission of a scheme of remedial works for approval; and
 - Implementation of those remedial works measures.

INTERNAL CONSULTEE RESPONSES:

47. **Spatial Policy** – have provided a detailed policy assessment, noting the principle Local Plan policies retain weight in the decision making process. The Strategic Housing Land Availability Assessment (SHLAA) 2013 is noted as having assessed the site, within which, ‘overall, it has previously been deemed to be potentially ‘suitable’ in principle for housing development. Whilst this does not necessarily mean that a scheme should be approved, it does indicate whether there are any material issues that a planning proposal would need to address and overcome’.
48. The SHMA (2016) identifies a need for affordable housing provision across County Durham. This is a relevant material consideration in conjunction with paragraph 50 of NPPF.

Specific policy requirements that relate to the scheme

49. For affordable housing: The NPPF is supportive of delivering affordable housing as a component of ensuring sustainable development. However the need for affordable units ought to be assessed in relation to the relevant housing market area using up to date evidence. Paragraphs 158 and 159 require plans to be based on an up to

date Strategic Housing Market Assessment which defines the type, tenure and quantity of housing required. The 2016 SHMA County Durham identifies an annual need for approximately 378 additional affordable units across the County. Evidence suggests that a requirement of 15% can reasonably be expected on sites of 15 dwellings/0.5 hectares. A recent application for 56 units has recently been refused on this site owing to a lack of affordable provision. This application seeks to modify the tenure mix of the scheme to include four affordable units, which will be delivered by way of a HCA grant and land ownership agreement, as a standard S106 agreement with the proposer would not be viable. Whilst this provision would be under what would normally be expected, it nevertheless addresses a proportion of the requirement and can be regarded as a benefit in the balance, albeit at to a lesser degree than if full provision were provided.

50. For play space and recreation provision: there is a requirement through Policy HO22 to seek open space provision or contributions through development proposals. This broadly aligns with the approach set out in paragraph 73 of NPPF. The formula set out in the OSNA should be used to calculate the requirement and in the event the developer wishes to provide a commuted sum in lieu, the cost. This proposal will partially fall on an area of amenity open space which includes an informal kick about area. While there is a surplus of this type of open space in the ward area, the proposal will mitigate for this loss by upgrading the facility to improve access, facilities and biodiversity.

51. For educational provision: Paragraph 72 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to seek this. This is a material consideration as opposed to a specific policy requirement. The Education Team will be able to advise on school places capacity within the area and any mitigation which would be required to support this proposal.

52. As regards other community services and facilities: Paragraph 70 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal.

Consideration as to whether the test set out in paragraph 14 of NPPF is engaged and whether there are any policy-related benefits or disbenefits that should be considered.

53. Whether the 2 limbed test is engaged and the implication for the decision taker: While the local plan is not 'absent' or 'silent,' and there are uncertainties in respect to the level of housing supply in respect of paragraph 49 of NPPF (see commentary on five year supply below).

54. Regardless of whether the Council can demonstrate a five year housing supply, however, it is considered that the housing policy framework in the LP is out of date. Consequently, Paragraph 14 of the NPPF is engaged, albeit within the context of a robust housing supply which diminishes the benefit given boosting supply.

55. In regards of paragraph 14, it is first necessary to consider whether there are specific policies in the Framework which indicate the development should be restricted.

56. The first 'limb' of the test requires a planning balance assessment which weighs up any identified 'adverse impacts' and 'benefits' of the scheme. Notwithstanding this test, case law has confirmed that the 'saved' local plan policies can be considered as

part of this planning balance assessment where they relate to any identified harm and benefits. It is for the decision taker to determine the level of weight that should be afforded to them in accordance with their status. Many of the 'saved' policies remain relevant when considering those aspects of the scheme.

Potential Policy related benefits and adverse harm

57. Broadening housing choice: In carry out the required planning balance, NPPF core planning principles (paragraph 17) include the requirement to meet housing need for the area and expand the range and choice of housing in the area. The scheme proposes four affordable units which can be regarded as helping to satisfy local housing need, albeit to a lesser extent than if full provision were provided.
58. Contribution to the local economy: Paragraph 7 of the framework considers the three dimensions of sustainability and in this application, the development of the site would contribute to the economy through the delivery of houses, both during their construction but also via new residents supporting local services. This may be considered as a benefit.
59. Supporting sustainable patterns of growth: Core planning principle 11 (NPPF) seeks to ensure patterns of growth are managed to ensure the fullest use of sustainable modes of transport. The location of this site is such that it provides opportunities for residents to travel by modes other than the private car thereby contributing positively to the locational sustainability of the scheme. This can be considered as a benefit.
60. Potential adverse impacts: Consultation with relevant specialist teams will identify whether there are any additional concerns to consider under the second limb of the NPPF Paragraph 14 test (for example highway or landscape issues). Furthermore, any adverse impacts and benefits relating to points of finer detail not included within this response, which are identified by the case officer and other consultees, should also be factored into the planning balance required of paragraph 14 of NPPF.
61. **Drainage and Coastal Protection** – The Senior Area Drainage Engineer confirms the developer has liaised with the Council from an early date to ensure provision of a drainage scheme based on sustainable drainage principles. He writes, 'It is possible through good design to reduce existing greenfield surface water flows from a site, which in turn would go towards reducing flood risk downstream, in Durham we restrict major developments to what is known as the Qbar rate which is the calculated mean average flood-flow from a rural catchment, this can be a reduction on runoff by up to 90% in large storm events. Designs must demonstrate that no property or neighbouring land is at risk of flooding from the site in all storms up to 1 in 100 year events plus a climate change allowance'. The submitted scheme, subject to confirmation of additional detail that can be secured by condition, 'greatly reduces' any threat of flooding from the site and represents a best practice sustainable drainage scheme in line with national and local guidance.
62. **Ecology** – The ecological implications of the proposals have been of particular concern, the proposals being adjacent to a local nature reserve that includes newt supporting ponds. County Ecologists have agreed site specific mitigation consisting species-rich wildflower planning around the public open space / playing field, and a sum of £8,500 to be spent on upgrading existing wildlife areas within influencing distance of the site in other words walking distance (therefore, within the electoral ward).

63. **Education** – Education Officers have confirmed that the previous shortfall in Education provision has now been met, and there is no requirement from the current proposals: ‘Based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 56 dwellings would produce 17 pupils of primary school age and 7 pupils of Secondary age.

- In relation to primary school pupils: The development is located within the Stanley local school place planning area, of which the following schools could serve the development based on a 2 mile safe walking distance: Collierley Primary School
- In relation to secondary schools: The development is located within the North Durham local school place planning area. The nearest school(s) to the proposed the development is North Durham Academy

64. Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

65. **County Archaeologists** – For previous application on this site, DCCAS advised that conditions should be applied to secure archaeological works, based on the results of the geophysical survey of the site. This advice still applies.

66. **Landscape** – are ‘happy with the proposed layout’.

67. **Pollution Control (Noise)** –confirm they have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 concluding the development is unlikely to cause a statutory nuisance.

68. **Pollution Control (Contamination)** – Subject to confirmation that there have been no significant changes to the land in the last 4 years that would have caused contamination – Officers agree that agree with the submitted report and the conclusions that no remediation works are required.

PUBLIC RESPONSES

69. Neighbours and correspondents who made representations on the previous application have been again re-consulted, site notices were posted on Palmer Road and Plunkett Road at the proposed site entrances, and a press notice was published in The Northern Echo on 31st August 2017. 179 direct mail letters were sent.

70. When the original application was first reported to Committee in 2013 there was a strong and well-coordinated public campaign of objection to that proposal. This consisted of objection from the Dipton Community Partnership, 206 individual letters of objection from 128 households, and a petition of 283 names. Many correspondents wrote individual letters and sent in a standard pro-forma objection letter which was widely circulated. The petition did not set out reasons for objection.

71. Issues raised, and considered by Councillors in coming to their decision at that time included: a lack of need for new housing, loss of valued green space, poor highways access and existing on-street parking issues, compromising the amenities of dog-walkers and children playing in the street, poor design, loss of view, influx of 'unpredictable tenants' and change of the social make-up of the area. Reduction of property values, the commercial motivations of the Council, the Greenfield nature of the site, covenants and effect of the build process were all offered among objections considered by Members when the proposals were considered by Committee in 2013.
72. In response to the re-consultation exercise carried out when the last application was re-presented to Committee, 12 objections were received, with the majority of concerns previously raised referred to again.
73. The current application's consultation exercise has resulted in 59 objections from 40 addresses, with 32 of those objections in the form of a standard pro forma.
74. This standard letter notes the site as green-field, questions its value as a regeneration area, and regrets the lack of pre-application community consultation by the Council. The field is valued by the community, with any housing proposal out of character with the neighbourhood, destroying the quiet life enjoyed by neighbours. Access is poor and new traffic would pose a danger to existing residents.
75. In the detailed responses received, historical flooding issues previously raised appear less of a concern than previously, with the additional drainage information submitted during the last application appearing to have resolved issues for property directly affected: i.e. below the slope of the site.
76. Other concerns raised remain generally consistent. Highways concerns refer both to the capacity and design of the roads leading to the site, along with safety concerns for children playing in the street, and worries that construction access would be dangerous and compromise amenity. The influx of strangers into the area is contented likely to result in anti-social behaviour, with the omission of affordable units of detriment to the local community for other correspondents. The need for the units is questioned, with the loss of public open space of detriment to existing local amenity. Pressure on the wildlife area adjacent the site is an objection as is the effect on garden wildlife in surrounding properties. Pressure on local shops and services is a worry for correspondents, with lack of improvements for cross-site access a missed opportunity. The design of the development is considered poor, particularly in including three storey units, with concerns raised as to the potential quality of the applicants' developments. The Council's methodology for predicting schools places is questioned, with a suggestion that the sale of the land could be renegotiated. The scheme is considered contrary to the NPPF.
77. Reference is made to a restrictive covenant affecting the land, with the Council considered compromised for decision making, as landowner.
78. There is a specific relationship between new dwellings at plots 14/15 and the existing dwelling at 14 Plunkett Road, where loss of view, overshadowing, loss of sunlight and devaluation of property are concerns for the resident.

APPLICANT'S STATEMENT:

79. Durham Villages Regeneration Company (DVRC) was disappointed to receive a planning refusal for its previous application for the Plunkett Road, Dipton site. The Central Government Planning Policy Guidance Note issued on the 19th May last year relating to the use of planning obligations specifically states that "Where

affordable housing contributions are being sought, planning obligations should not prevent the development from going forward”.

80. The refusal of the planning application has prevented the development from progressing, and given that the lack of affordable housing was the sole reason for refusal, DVRC is very confident that the decision would be overturned at appeal.

81. It is worth noting that the Committee heard that there were also other benefits that would stem from the scheme, notably an improved kick around area for local children and, fundamental in respect of national planning guidance on flood alleviation, that the current surface water run-off from the site, that has in the past caused significant damage to the properties immediately below the site, would fall from 23.3 litres per second to 4.4 litres per second at the 1 in 100 year flood event if the development is progressed. The fact that there are very clear positive planning benefits stemming from the DVRC proposals in addition to the supply of new homes would further enhance the chances of success at appeal.

82. That said DVRC fully recognise the reasons why the Planning Committee are so passionate about the supply of affordable homes across the County. DVRC has been a very active deliverer of affordable homes across Durham in recent years. Since the joint venture company was set up, it has delivered over 1,300 new homes across Durham County of which over 420 (over 30% of the total) have been affordable homes built for local housing associations or the Council. The following projects are recent examples:-

- Sherburn Hill – a current mixed tenure scheme that includes 5 affordable rented homes being delivered via Karbon Homes
- Bowburn – a recently completed development that included 6 affordable rented bungalows and houses in partnership with Isos Housing/Cestria as well as other discounted market housing for sale to first time buyers.
- College View, Esh Winning – a mixed tenure development that included 22 affordable rented houses and bungalows for Isos Housing and Durham Aged Mineworkers Homes Association
- Pinewood, Esh Winning – a development of 10 family homes all for affordable rent via Isos Housing
- Valley View, Ushaw Moor – 29 affordable rented house and bungalows for Isos Housing and Durham Aged Mineworkers Homes Association
- Doric Road, New Brancepeth – 26 affordable rented house and bungalows for Three Rivers Housing (4 Housing Group)
- In addition several years ago DVRC delivered a series of Council housing schemes that delivered 28 affordable rented homes in Bearpark, High Pittington, Croxdale and Bowburn

83. The viability of the Dipton project prevents the delivery of affordable homes procured under a Section 106 planning agreement – such as those at Sherburn Hill and Bowburn – as Registered Providers typically pay only £64,000 to £69,000 for a two bedroom house for affordable rent. This is a significant reduction (approaching 50%) on the open market value forecast for Dipton – hence any Section 106 affordable housing requirement makes an already borderline scheme undeliverable.

84. If however there is no planning obligation to provide affordable homes, it is possible to attract Homes and Communities (HCA) Affordable Homes grant to the scheme. In recent years the level of grant offered for affordable rented homes by the HCA fell dramatically under a Conservative government which prioritised home ownership. Very recently however higher levels of grant are now on offer due to the fact that Theresa May has placed emphasis back on the provision of affordable homes rather

than just the provision of Starter Homes which was the thrust of the David Cameron affordable homes policy.

85. Karbon Homes have in the last few weeks been able to secure an allocation of grant to provide 4 two bed affordable rented homes at Dipton. Whilst their enhanced financial offer to DVRC for these dwellings resulting from this grant is still short of the open market value of the proposed homes, DVRC is willing to present a revised proposal that includes 4 affordable rented homes to be delivered via Karbon Homes as a means to address the Planning Committee's aspirations utilising monies that would otherwise be spent pursuing a planning appeal.

86. Variations to the land purchase contract between the Council and DVRC have been agreed so that the 4 houses can be legally secured as affordable homes long term by the Council in the same way that they would have been secured under a Section 106 Planning Agreement.

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 <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OV19BRGDH3X00>

PLANNING CONSIDERATIONS AND ASSESSMENT

87. 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, provision of affordable housing, drainage, highway safety, wildlife impacts and residential amenity.

88. Importantly however, this application has been submitted shortly after a directly comparable scheme – excepting the offer of affordable housing – has been considered by this Committee. It is important to note that this application represents the applicants attempt to address the previous grounds of refusal that the proposal failed to make provision for affordable housing. The proposal in all other respects remains exactly the same. Applicants have a reasonable expectation that if they address the refusal reasons from an unsuccessful application, that they should receive an approval.

89. The application that is reported here to Committee is the same scheme as that reported on July 27th 2017, once again subject to a s.106 legal agreement to secure monies for off-site bio-diversity works. The scheme now proposes 4 'intermediate' dwellings, to be secured through a registered social landlord, which can be ensured secured through the land transfer.

Principle of the Development

The Development Plan

90. 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 (DDL P) remains the statutory 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.

91. The DDLP was adopted in 1997 and was intended to cover the period to 2006. However, 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. 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 depending on the circumstances.

The NPPF

92. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii) specific policies in this Framework indicate development should be restricted.
93. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.
94. Paragraph 49 of the NPPF 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. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 14 of the NPPF is engaged, and an application is to be assessed in this context.
95. However, Paragraph 14 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the DLP are out-of-date where outlined below.

Five Year Housing Land Supply

96. The NPPF states that housing applications should be considered in the context of a presumption in favour of sustainable development and that if the Council cannot demonstrate a five year housing land supply, then housing policies in a Local Plan cannot be considered up to date.
97. In June 2016 consultation was carried out on the County Durham Plan Issues and Options, which presented three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the proposed plan period), these being:
- 1,533 dwellings per annum (29,127 houses by 2033)
 - 1,629 dwellings per annum (30,951 houses by 2033)
 - 1,717 dwellings per annum (32,623 houses by 2033)

98. As of April 2017 the Council considered that it had a deliverable supply of 10,234 (net) new dwellings for the next 5-year period. Set against the lowest need figure the Council took the position that it could demonstrate a supply of 4.91 years of deliverable housing land, against the middle figure around 4.51 years' worth supply and against the highest figure, 4.20 years of supply.
99. Whilst none of the three scenarios within the Issues and Options were publicly tested, they served to demonstrate that set against varying potential figures, the Council had a relatively substantial supply of housing at that time.
100. However, on 14 September 2017, the Government published a consultation document entitled "Planning for the Right Homes in the Right Places". That consultation introduced a standard methodology for calculating housing need. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum. On that basis, the Council would therefore be able to establish a supply of housing land in excess of 5 years.
101. Case law indicates that the boost to housing supply is a material planning consideration which should be factored into the planning balance test under Paragraph 14.
102. Given that the most up to date OAN methodology is contained within a consultation draft only and the very recent publication of that document, the Council is yet to formalise its position on the issue of 5 year land supply. In the interim period until it does so, it is considered that the three scenarios identified in the Issues and Options stage can no longer be relied upon and accordingly, the weight to be given to any benefits a housing proposal might have in terms of the boost to housing supply ought to be less than if the Council were to continue to rely upon the Issues and Options scenarios where a 5 year supply could not be demonstrated.
103. There are no relevant saved Housing policies in the Local Plan and therefore the Development Plan is seen as being 'silent' in respect of housing policy and determination must revert to paragraph 14 of the NPPF. Paragraph 14 sets out a presumption in favour of sustainable development and for decision making means: granting permission unless:
- i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii) specific policies in this Framework indicate development should be restricted.
- If there are no specific policies which indicate that development should be restricted and the proposal therefore needs to be considered against the first bullet point of paragraph 14.
104. There are no specific policies that indicate development should be restricted in this location.
105. The application site is 'greenfield' land. Whilst the NPPF asks Local Authorities to direct developers in the first instance to 'brown-field', this does not preclude the development of sites not previously developed.
106. Officers' conclusion on the principle of development will therefore depend upon an assessment of the benefits and disbenefits of the scheme.

Five Year Housing Land Supply

107. The up-to-date position of the Council's housing land supply is set out in detail in the Spatial Policy response, above. Case law indicates that the boost to housing supply

is a positive material planning consideration which should be factored into the planning balance test under Paragraph 14 whether the Council has the required supply of housing identified, or a shortfall, albeit a shortfall would add to the positive weight.

108. Therefore, whilst the Council's updated position on the issue of housing supply is that, whilst untested, the required housing supply exists, in potentially adding to the supply of new dwellings this element of the proposals should be given positive weight in the planning balance.

Impact upon the Surrounding Area

109. Of the previous two main areas of contention to local residents i.e. drainage issues and highways issues, detailed concern on the first matter appears to have receded with the applicants revised drainage proposals – evidenced by the lack of objection from the properties directly affected. This objection was withdrawn from the last application when the proposed drainage scheme was enhanced.
110. Advice and Policy on flooding and drainage is set out in the Framework, the NPPG and within Policy GDP1 (i) and (j). The details of the proposals submitted are considered both by the 'statutory undertaker', Northumbrian Water, and the Council's Drainage and Coastal Protection Team, the Council having the role as Strategic Flood Risk Authority (SFRA). Northumbrian Water have indicated no issues with the proposals subject to a condition controlling the detailed flows into its formal drainage system, in accordance with the submitted documents (with some additional details required).
111. Council Drainage Engineers have worked to achieve a detailed scheme with the applicants using the best principles of sustainable drainage – effectively using natural techniques to slow, capture and percolate water before it reaches the piped network. To this end the proposals now include for a SuDS basin and a swale across the lower part of the built development, designed to control and greatly reduce potential for overland flows to below what would occur naturally on the site now. Council Engineers confirm the proposals are in line with National and Local Advice, and the proposals are concluded to meet the requirements of Policy GDP1.
112. Whilst residents maintain concern on highways grounds, in terms of the capacity of the surrounding road network and highway safety, highways Engineers have discussed the requirements for an adoptable standard internal site layout, and the implications for the wider vehicular and pedestrian highway network beyond the site and concluded the proposals are acceptable. Policy TR2 of the development plan is considered satisfied, with it noted for the planning balance that the NPPF advises that, *'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*. The conclusion of Highways Engineers precludes this conclusion for Officers and it is advised that a refusal that meets this test could not be sustained on highways grounds.

Affordable Housing

113. The difference between the current proposal and the scheme refused by Members in July is the offer of 4 'intermediate housing' units. The refused application was accompanied by a detailed financial appraisal that sought to justify the omission of the affordable units as originally proposed in 2013. Whilst Officers accepted the viability case, Members concluded at the Committee Meeting in July that this omission 'significantly and demonstrably' lessened the benefits that could be

attributed to the proposal in the planning balance to the point where a refusal was justified.

114. Assessment of the viability figures submitted to justify the lack of provision was carried out with regard to probity – the Council being the landowner and, as Local Planning Authority the arbiter of the proposals. This apparent conflict of interests has been raised as an issue by objectors, but is not an unusual circumstance, with the procedures of the Council as Local Planning Authority, and the Professional conduct of Planning Officers following strict guidelines and procedures. Following a detailed assessment of the financial appraisal by the Council's Viability Officer in the Spatial Policy Team, the conclusion had been that the provision of affordable housing would render the scheme unviable, to the standard expectations of profit margins developers may expect. This aspect of the resubmitted proposals has not changed, and that the developer has offered more benefits should be seen as a positive of the resubmitted proposals in response to Members' stated concern as reflected in the refusal reason. The Government advice on viability as set out in the NPPF and NPPG and summarised above indicates to decision makers that the scale of burdens on development (i.e. the provision of affordable housing should not prevent the development being deliverable.
115. In order to satisfy the 15% affordable housing threshold identified through the Council's 2016 SHMA the scheme would require provision of 8 affordable dwellings. The scheme proposes 4 'intermediate dwellings', a form of housing that the Council has consistently accepted as meeting the intent – if not the specific definition – of the NPPF's requirement for Local Planning Authorities 'to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities...' (paragraph 50).
116. The crux of the current application is that Members must decide whether in now offering 50% of the expected provision, the proposals are such that the scheme's benefits are not, 'significantly and demonstrably' outweighed by this under provision.
117. It is noted that the specialist housing provision, if approved, would not be secured through s.106 legal agreement, the Council having appropriate control of this issue as landowner.

Education Provision

118. The previous scheme had originally been recommended approved subject to the signing of a s.106 agreement to ensure a financial provision to deliver an additional classroom in the immediate locale to address a need identified at that time. With the passage of time circumstances had changed with the County Education Department confirming that this provision has been secured from elsewhere. As a consequence, a financial contribution is no longer required from this development, with the County Education Department advising of future capacity in the system able to accommodate the educational needs of the children the development is likely to generate.
119. As the identified 'need' no longer exists, Officers advise that any request for monies through a legal agreement for further education provision would fail the tests in the Community Infrastructure Levy 2010, NPPF and NPPG of being, 'necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind'. No 'need' has been formally identified, quantified or justified. With no refusal reason on the previous approval, this issue has effectively been recently accepted by Members.

Neighbouring Amenity

120. A specific residential amenity concern has been identified between plots 14/15 and the existing dwelling at 14 Plunkett Road, where loss of view, overshadowing, loss of sunlight and devaluation of property are concerns for the resident. 25 metres separates the existing dwelling, not including its 3m conservatory, from the proposed gable end of the new, with the latter set lower on the slope of the hill. With the suggested guideline for such a relationship 12.5 metres, the separation is wholly compliant with Policy GDP1 (h) of the Development Plan, and not one that could form the basis of any sustainable refusal reason. That resident's further concerns on loss of view and potential devaluation of property are no of material weight in the planning process. Residents in Palmer Road who complaint at the proposed relationship are separated from the proposals by over 30m.
121. Construction traffic will cause disruption during the build process as a fact of life. The balance between protecting existing residents' reasonable expectations for such and allowing the development to progress efficiently can be controlled through a standard working hours condition and an agreed construction management plan.

Other considerations

122. That the development will contribute to the local economy with jobs and investment in the supply chain through the development process, and further from expenditure from residents once the development is complete is of positive material weight in the planning decision. Also relevant is that fact that encouraging economic regeneration is one of the core objectives of Durham County Council – in the 'Altogether Betters'.
123. Archaeological issues can be dealt with to the satisfaction of the County Archaeologist by way of a standard condition.
124. The Coal Authority's requirements can be addressed through an appropriate condition.
125. The County Ecologist has negotiated with the developers to ensure in the first instance that an on-site scheme of bio-diversity mitigation be provided in the form of planting around the open space. Further it is proposed that a sum of £8,500 be ensured through legal agreement to mitigate the direct effect of the development on the adjacent and nearby ecology areas maintained by the Council. This requirement is considered to meet the 'tests' for imposition of legal agreements, in: 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 (as required by the Community Infrastructure Levy 2010 and as tests set out in the NPPF and NPPG).
126. The comments of the Council's Landscape Team raises no issues, but makes suggestions for the landscape layout.
127. The development will incur a loss of some Amenity Open Space, with the Open Space Needs Assessment (OSNA) having identified a shortfall of parks and gardens, outdoor sports space and play space within the wider ward. That the remaining open space is to be improved mitigates this matter by degree. Overall however this is a shortfall from the development that must be considered in the planning balance.
128. The SHLAA assessment has concluded that while the site is not considered to be close to a broad range of services and facilities, this is not considered to be problematic as it is well provided for in terms of bus services and links to other main

settlements. The site is well contained within the built up area. Paragraph 35 of the NPPF advises that developments should be located and designed, where practical, to give priority to pedestrian and cycle movements, and to have access to high quality public transport facilities. The site scores reasonably well in relation to this.

129. The response from the Council's Environmental Protection (Noise) Officers raised no concern at the proposals – a standard working hours condition is suggested to mitigate the residential impacts of development.
130. Environmental Protection (Contamination) Officers have suggested a condition to control the effects of development in their field.
131. Whilst the previous application required submission of a detailed 'Sustainability Statement' these issues are now addressed through the Building Regulation process.

The Planning Balance

132. The proposals are therefore considered through a 'tilted' planning balance – 'tilted' because of the 'presumption in favour'.

Benefits

133. The site will provide a contribution to housing supply, which is material in the planning balance. The proposed development will provide some benefit to the supply of housing, with the weight to be given to that benefit limited on the basis that, on the basis of the Council's own, albeit untested assessment, a significant under-supply does not exist.
134. In terms of broadening housing choice in the planning balance, NPPF core planning principles (paragraph 17) include the requirement to meet housing need for the area and expand the range and choice of housing in the area. With the scheme now proposing some affordable provision there are benefits over the scheme previously refused, changing the planning weight of this element favourably, noting however it still falls short of the full Planning requirement.
135. Setting the weight to be attached to the scheme's contribution to the local economy, paragraph 7 of the framework considers the three dimensions of sustainability and in this application - the development of the site would contribute to the economy through the delivery of houses, both during their construction but also via new residents supporting local services. This is also in line with the Council's, 'Altogether Wealthier' corporate aspiration. This element of the proposals may be considered as a benefit.
136. Supporting sustainable patterns of growth, core planning principle 11 (NPPF) seeks to ensure patterns of growth are managed to ensure the fullest use of sustainable modes of transport. The location of this site is such that it provides opportunities for residents to travel by modes other than the private car thereby contributing positively to the locational sustainability of the scheme. This can be considered as a benefit.
137. The adverse impacts of the development attributed by the local community have been examined in detail by the specialist consultees who advise on those areas. Of principal concern, issues of drainage and highways have been redesigned to meet national and local guidance and policies, where, subject to being ensured in detail through conditions, have been found acceptable.

138. Likewise, the implications from development for biodiversity and archaeology are considered capable of mitigation to an acceptable degree, through legal obligation and the imposition of appropriate conditions.

Adverse Impacts

139. That the scheme results in the loss of some publically accessible open space (0.28ha of the current 0.92ha) and the scheme does not make provision for the full expectations of replacement open space and play provision is considered in the balance to count against it. This is in part mitigated by the improvements proposed to the remainder of the facility and therefore the magnitude of harm is limited. The applicant's justification for this lies in their expectations for viability from the development, and with no change to this part of the proposals from the scheme as previously considered, this issue has been recently accepted by Members.
140. Officer's assessment of the planning balance is that the development benefits from the presumption in favour of such, that there are no issues identified that, 'significantly and demonstrably' outweigh the benefits and accordingly, planning permission should be granted.

CONCLUSION

141. The Northern Area Planning Committee in 2013 resolved the proposals were acceptable, subject to a legal agreement to secure identified and quantified needs relating to Education and Affordable Housing provision. This latest report has considered the proposals as a whole and identified issues that have been revised following the Committee refusal of the last scheme as presented without affordable housing in July 2017. The implications of both the revisions and the consistent areas of the proposals are set out.
142. Application of the 'tilted' planning balance has concluded that there are no adverse impacts that significantly and demonstrably outweigh the benefits. In particular it is Officers' advice that the shortfall in affordable housing provision is not such that it would, 'significantly and demonstrably' outweigh the benefits discussed above.
143. With no formal identified need for education provision, the formerly identified shortfall having been met, there is no basis to ask for a sum towards education.
144. On this basis Officers conclude that the scheme, revised to include an amount of 'intermediate housing' is acceptable.

RECOMMENDATION

145. That the application be APPROVED subject to the developer entering into a legal agreement to secure a financial contribution of £8,500 to mitigate the effects on the natural environment from development works and ensure the proposals result in a net bio-diversity gain, and subject to the following conditions:

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

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

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

External Materials: Dipton QDL 000 XX DR D 744-300-01

Enclosures: Dipton QDL 000 XX DR A 744-300-02

Garage Plans and elevations QDL 000 XX DR D 744-399-01

Planning Drawing QDL 000 XX A 744-1054-01 – 1054HT

Planning Drawing QDL 000 XX A 744-1178-01 – 1178HT

Planning Drawing QDL 000 XX A 744-651-01 – 651HT

Planning Drawing QDL 000 XX A 744-851-01 – 851HT

Planning Drawing QDL 000 XX A 744-867-01 – 867HT

Planning Drawing QDL 000 XX A 744-955-01 – 955HT

Planning Drawing QDL 000 XX A 744-1054-01 – 1054HT

Planning Drawing QDL 000 XX A 744-1178-01 – 1178HT

Updated Site layout QDL 000 XX DR D 744-311-01-E (incl. Affordable)

Detailed Landscape Proposals c-966-02 rev.b + c-966-03 rev.a

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

3. The development must be completed in full and detailed compliance with the following plans and documents:

- Queensbury Design Ltd.SUDS MANAGEMENT PLAN, 11 October 2017
- External Works QD744-04-01 rev.P
- Engineering Layout QD744-03-01 rev.S

and the recommendations, specifications and mitigations contained in the 'Flood Risk Assessment and Drainage Strategy QD744, Feb 2013, submitted in support of the application, including in particular the stated restricted foul and surface discharge rates into the existing formal drainage network. Prior to the commencement of development specific written confirmation that the restricted surface water discharge of 10l/sec will be achieved at the connection to the surface water sewer at manhole 8108 must be submitted to, and approved in writing by the Local planning authority, thereafter implemented in full accordance with said approval.

Reason: In order that the drainage implications of the development are properly addressed, in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

4. Before development is commenced an appropriate programme of further intrusive site investigation works must be undertaken to confirm coal mining conditions at the application site prior to the commencement of development. This document must ensure that in the event that the site investigation works confirm the need for the treatment of any areas of shallow mine workings and/or

the mine entry for stability purposes, and/or any other mitigation measures (e.g. foundation precautions, gas protection measures etc.) to ensure the safety and stability of the proposed development, these works are undertaken prior to commencement of development. The document must include details and timings for these additional identified works, and an assessment of the effect of the works on site drainage. The site must be developed wholly in accordance with said document with confirmation of its completion in full being provided at the completion of the development.

Reason: To protect the development against potential Coal Mining legacy issues that may affect the site.

5. In addition to the basic landscape information shown on approved plans Landscape Proposals c-966-02 rev.b + c-966-03 rev.a the areas of the site surrounding the playing pitch, the developer must provide a detailed specification of planting, management and maintenance for the creation of high quality biodiversity areas that complement and enhance the adjacent Local Wildlife Site. This document must be submitted to, and approved in writing by the Local Planning Authority before the commencement of development. Said specification must include details of planting species and specification and timing. Planting must be carried out in the first available identified period following the commencement of the development.

Reason: In the interests of the amenity of the area in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009) and part 11 of the NPPF

6. For the full course of development works on the site, site works, deliveries and the operation of materials, plant and machinery (including generators) must be carried out only during the following hours: Monday - Friday 08:00 to 18:00 hours inclusive, Saturday 09:00 to 14:00 hours inclusive, with no works on Sundays and Bank Holidays

Reason: In the interests of the amenity of the area in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

7. 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 County Durham 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 para 135 & 141 of the NPPF because the site is of archaeological interest.

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

Reason: To comply with para. 141 of the NPPF which ensures information gathered becomes publicly accessible.

9. Prior to the commencement of development the developer must submit in writing to the Local planning authority a scheme of remedial works to treat areas of shallow coal mine workings to ensure the safety and stability of the site, for written approval; and a schedule for implementation of those remedial works measures. The development must be carried out wholly in accordance with said written approval.

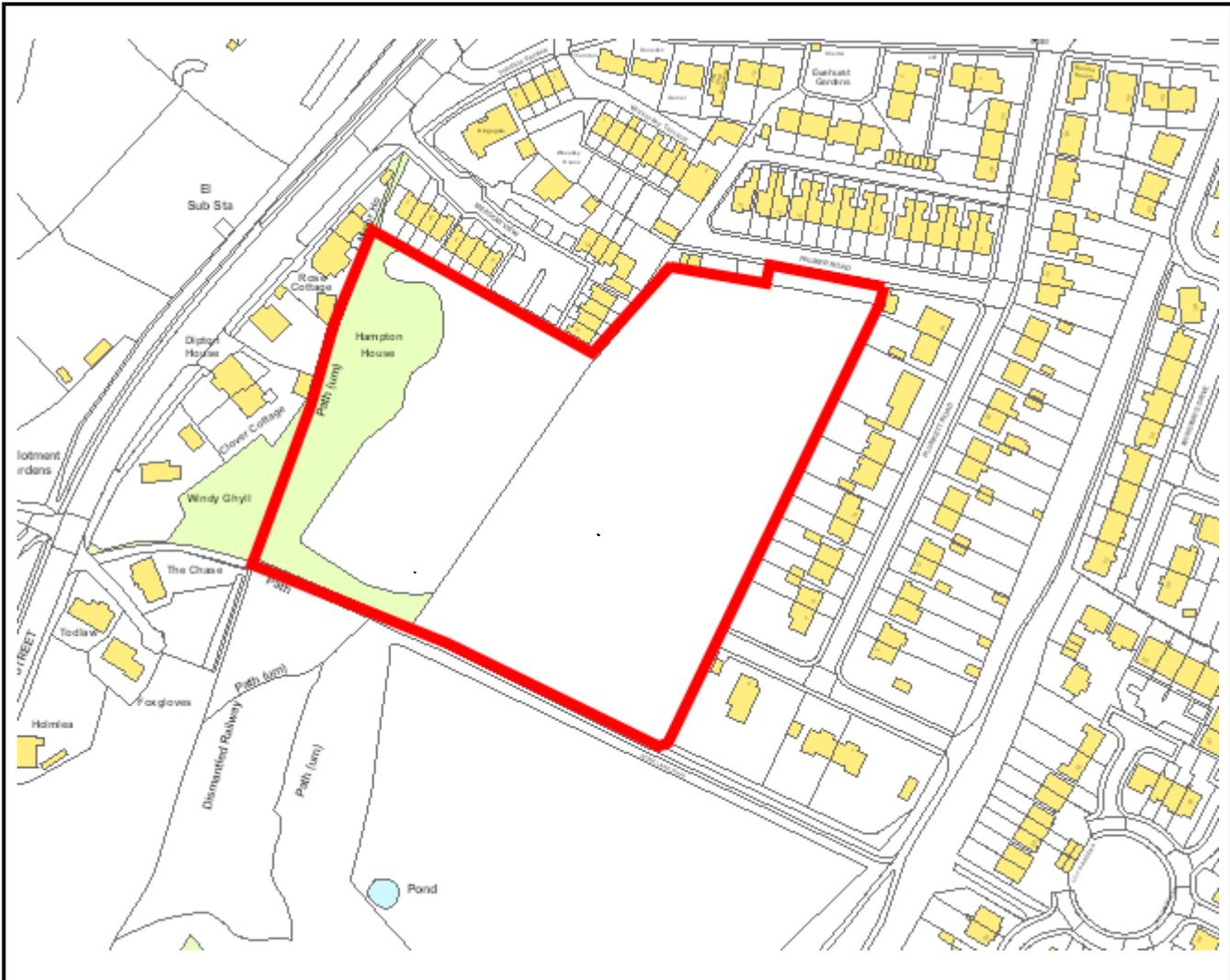
Reason: Coal mining legacy poses a risk to the proposed development and that remedial works to treat areas of shallow coal mine workings to ensure the safety and stability will be required to be undertaken prior to commencement of the development.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Derwentside District Local Plan 1997 (saved Policies 2009)
- The County Durham Strategic Housing Land Assessment
- The County Durham Strategic Housing Market Assessment
- Statutory, internal and public consultation responses



Planning Services

Erection of 56 dwellings including landscaping and infrastructure – Re-submission

Application Number DM/17/02799/FPA

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Comments

Date 26 October 2017

Scale NTS

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/02609/FPA
FULL APPLICATION DESCRIPTION:	Erection of Agricultural Barn
NAME OF APPLICANT:	Mr J Berry
ADDRESS:	Land to the north east of 13 Dunelm Close, DH8 7QR
ELECTORAL DIVISION:	Leadgate and Medomsley
CASE OFFICER:	Louisa Ollivere Planning Officer Telephone:03000 264 878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site measures 0.1 hectares in area and has until very recently been maintained by the Council. The site and the adjacent grazing site were recently sold by the Council to the applicant and this site was enclosed with 2m high close boarded timber fencing. The site lies adjacent to and to the north east of 13 Dunelm Close which is an end property on this residential cul-de-sac. To the north of the site is a detached dwelling (9 Ridley Terrace). To the south is grazing land owned by the applicant and to the east is pastureland. The site currently has no formal dropped kerb access from the cul-de-sac hammerhead. This site falls within a High Risk Area in terms of Coal Mining legacy.

The Proposal

2. In April this year planning permission was refused for an agricultural barn measuring 18m by 9m and for the retention of the 2 temporary storage containers and existing fencing on this site on the grounds that the proposal would be detrimental to visual amenity, would be harmful to residential amenity and highway safety and that these adverse impacts would not outweigh any benefits. Following several pre-application submissions the proposed building was reduced in size and height and this application originally sought planning permission for the erection of an agricultural storage building to measure 9.1m by 9m which would have a pitched roof to a height of 4.7m. Following ongoing discussions with the applicant the building has been further reduced in size to 6m by 6m. The building would be located along the eastern boundary of the site. The purpose of the building is to store plant, machinery and vehicles required to cultivate the land and for the storage of water and feedstuffs for the purposes of a hobby farm which keeps livestock such as goats and chickens and one horse. The building would be constructed in box profile steel sheeting with steel sheeting also for the roof. It is proposed create a new tarmac access road to the site from the hammerhead and this will lead to an area of hardstanding in front of the proposed building. The existing 2m high fencing adjacent to the hammerhead would

be replaced with a hedge with lower post and rail fencing adjacent the rest of the hammerhead and along the south and east boundaries and to section off the building from the land to the north.

3. The application is reported to Committee as a local Councillor, Councillor Watts Stelling has requested that this be determined at this level given concerns in relation to the appearance and suitability of the fencing and access and egress to and from the site.

PLANNING HISTORY

4. In April 2017 an application for the erection of a larger 18m x 9m agricultural barn for general agricultural storage and retention of 2 temporary storage containers and fencing adjacent to the highway was refused on the grounds that the proposal would be detrimental to the visual amenity, would be harmful to residential amenity and highway safety and that these adverse impacts would not outweigh any benefits (DM/17/00318/FPA).
5. EN/16/01345 an Enforcement Notice has been served on the landowner in relation to the siting of two large containers on the land and this requires the permanent removal of the containers and their contents by 20th October 2017.

PLANNING POLICY

NATIONAL POLICY:

NATIONAL PLANNING POLICY FRAMEWORK

6. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, the most relevant of these in this instance being:
7. *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.
8. *NPPF Part 7 – Requiring Good Design* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and

sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

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

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

NATIONAL PLANNING PRACTICE GUIDANCE:

11. The 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.
12. *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.
13. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.
14. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

15. The following section details the saved policies in the Derwentside District Local Plan thought most relevant to the consideration of this application:
16. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet. – outlines the requirements that new development proposals should meet, requiring high standards of design, protection

of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account 'designing out crime' and consideration of drainage.

17. *Policy AG3 – Agricultural Development* – permission will be granted providing it meets operational needs and is designed for the purposes of agriculture; is sited /designed to be in scale with/be unobtrusive in the landscape; does not result in loss of amenity to surrounding occupiers; incorporates adequate landscaping where appropriate.
18. *Policy EN26 – Control of Development Causing Pollution* – permission will only be granted for development which is not likely to have an adverse impact on the environment having regard to likely levels of air, noise, soil or water pollution.
19. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

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

EMERGING POLICY:

20. 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. In the light of this, policies of the CDP can no longer carry any weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

21. *Highways Officer*: Notes that the applicant has provided a site layout plan where a vehicle can pull off the public highway in a safe manner, can park, turn in curtilage and proceed onto the public highway in a forward gear and see other road users from the point of access. Whilst the Officer still has concerns over agricultural vehicles using this estate road he considered that these proposals have been revised to the extent that he can no longer make an objection to these proposals on highway grounds. It is advised that the new vehicular access crossing must be constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980.
22. *Coal Authority*: Objects to this planning application, as the required Coal Mining Risk Assessment Report, or equivalent, has not been submitted as part of the application.

INTERNAL CONSULTEE RESPONSES:

23. *Landscape Officers:* Advise that despite the skyline location and locally uncharacteristic height and nature of the proposed building that it would be seen from a distance in the context of adjacent housing. It is advised that a large shed would be an uncharacteristic feature in the context of the domestic townscape and that any such building should be attended by native species hedging to mitigate in part for the reduction in visual amenity value. It is advised that details of rabbit and stock proof fencing would be required. The Officer points out that the submitted drawing does not illustrate how the slope of the site would be reconciled with a finished floor or plinth level and advises that a cut exercise might help reduce the perceived height of the building. It is recommended that there is no excavation within the critical rooting area of the mature sycamore near the north site boundary and that there be adequate space for hedging to grow. To conclude the Officer advises that in his opinion the proposal would have some local adverse landscape and visual effects.
24. *Environmental Health Officers:* Advise that whilst the application relates to a noise/odour generating development and as such falls into the scope of the TANS the proposed development is such that it cannot be considered against the thresholds or other relevant guidance/standards contained within the TANS. Therefore it is advised that the planning officer should consider the following supporting detail to inform their decision in relation to the possible impact of the development.
25. It is noted that the intent appears to be to create a 'hobby farm' on the site. Therefore the Officer assumes the building will allow for the storing of machinery and feed for the purpose of keeping of animals. In terms of the building itself, due to its specific stated use for storage, it is advised that there is limited noise/odour issues associated with activities within the building. However the Officer does have concerns that the building will allow for an increased intensity of use in terms of keeping of animals in the immediate area in close proximity to residential properties which has the potential to lead to noise and odour impacts.
26. With regard to statutory nuisance, the Officer has some concerns regarding the establishment of a 'hobby farm' in this locale, should this be the intent, due to the proximity of sensitive receptors. It is likely that the addition of a building will allow for intensification of any use. However as the application only relates to the use of the building for the purpose of storage, based on the information submitted with the application, the Officer does not object based on statutory nuisance.

OTHER CONSULTEE RESPONSES:

27. *The Police Authority:* Have not responded to date.
28. *The Fire Authority:* Have no objections subject to the premises being constructed and the access provided in line with the requirements of approved document B (Technical Guidance Building Regulations).

PUBLIC RESPONSES:

29. Neighbouring land owners and occupiers have been consulted and this has resulted in 12 letters of objection from 17 local residents.

Objectors' comments are summarised as follows:

- Concerns over highway and pedestrian safety.
- Noise disturbance from activities on site. Loss of peace, quiet.
- Loss of parking due to position of access.
- Loss of open space.
- Barn and storage containers not in keeping with residential character of the area.
- Size of proposed barn.
- Height of fencing is affecting residential outlook.
- Loss of privacy.
- Visual impact.
- Hedge will take several years to grow.
- The barn will not be used for agriculture but another type of business and will be accessed at unsociable hours as is the case with the containers on the site.
- Concerns are not simply about the size of the building but also that the access road, site and building will be used for business purposes.
- The building will block a footpath which may be an accrued right of way.
- Alleged character of the applicant and his associates, and intimidating and anti-social behaviour.

APPLICANTS STATEMENT:

30. Mr Berry bought the land off Durham County Council as agricultural land and intends to use it in such a way. Mr Berry had originally added some storage containers on site not realising that he required a planning permission. Therefore, he was then instructed by the enforcement officer to put in an application along with the agricultural building which he desired on the land. He then instructed my firm to carry out the proposed drawings and associated application. This application was then deemed to be too large for the site and in turn refused. Since then we have reduced the scale of the proposal by almost half in height and footprint and related the building where the Council thought was more favourable and re-submitted. Therefore I believe that the proposed scheme is in line with the Planning Officers requirements.

PLANNING CONSIDERATIONS AND ASSESSMENT

31. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, design and character of the area, the impacts upon neighbouring residential amenity, highways safety, land stability and drainage.

32. The application site lies at the edge of the rural/urban fringe therefore in this instance Local Plan countryside policies EN1 and EN2 are not relevant. The main policy in terms of this proposal is Derwentside Local Plan Policy AG3 which requires proposals for agricultural development to be required and designed for the operational needs of the unit, to not form an intrusive element within the landscape or harm amenity and to incorporate adequate landscaping. This policy is consistent with the NPPF. In terms of justification for the development the application details that the building is required for the storage of agricultural vehicles and equipment required to maintain the surrounding grazing land, and to store hay and other foodstuffs to feed the livestock on site. The amount of agricultural land associated with this proposal amounts to 0.97 acres.
33. The site and adjacent pasture can only support very limited levels of livestock. It is considered that the applicant is keeping the very limited amounts of livestock on the adjoining pasture primarily for pleasure rather than profit and therefore the proposal amounts to a hobby farm. In planning terms, the use of the land would therefore be agriculture. Having researched similar applications involving comparative amounts of pasture and limited livestock your Officers conclude that the requirements in terms of land maintenance and welfare of livestock requires some storage of limited amounts of machinery, vehicles and hay. Furthermore it is accepted that for visual amenity and security purposes equipment would be better stored within a secure building than outside. In view of the above, it is considered that the proposed building, which has been considerably reduced in size following negotiations, would now comply with Policy AG3 of the Derwentside Local Plan as the building is required and designed for the operational needs of the unit. The proposal is therefore acceptable in principle.

Impact upon the character of the area

34. Derwentside Local Plan Policy GDP1, specifically sections (a), (e) and (f) require proposals to be of a high standard of design which is in keeping with the character of the area, requires the protection of open land recognised for the contribution its character makes to an area and requires that adequate landscaping is incorporated. Policy AG3 requires proposals to not form an intrusive element within the landscape and to incorporate adequate landscaping. These policies are consistent with the NPPF.
35. To accord with these Local plan policies the form, mass, layout, density and materials of development need to be in keeping with the site's location and need to take into account the sites natural and built features and should incorporate landscaping.
36. It is noted that objectors and Landscape Officers raised concerns with regard to the nature and design of the originally proposed building and its impacts upon the residential character of the area. It is not considered that the amended size of the building is excessive for the land requirements and visually it is considered to be more domestic in size and scale, akin to the size of a double garage. The proposed materials are not of high quality although they are typical for an agricultural building. The applicants have been advised to amend the materials so that the building would have a brick or render finish and concrete tiles for the roof as such materials would be more in keeping with the domestic streetscape however they are unwilling to do so. Nonetheless the reduced size of the building would help to minimise its impact upon the open character of the end of the cul-de-sac. The proposal has positively

evolved since the previous application with some landscaping now being proposed which will in time help screen the building from views in the streetscape.

37. One of the core policies of the NPPF is to ensure that planning takes account of the different roles and character of different areas. Section 7 of the NPPF requires proposals to add to the overall quality of an area and amongst other criteria should use streetscapes to create attractive places to live. In accordance with the NPPF developments should also respond to local character and reflect the identity of local surroundings and be visually attractive with appropriate landscaping.
38. The role of this area has historically been undeveloped yet maintained land which acts as a transition from the adjacent built up area to the open countryside beyond. This had the benefit of providing a soft green edge and open aspect to the residential cul-de-sac. The reduced size of the building along with the alternative type of fencing (post and rail typically 1.5m in height) and hedging adjacent to the hammerhead, as opposed to the current 2m high close boarded timber fencing would not significantly harm the open aspect or alter the undeveloped nature of this site. The reduced size of the building is now in keeping with the size of the dwellings on the streetscape. The proposal would now have a minimal impact on the quality and attractiveness of the area.
39. The proposal therefore does not conflict with the NPPF in terms of design and visual amenity. Furthermore it is considered that the revised development would no longer be significantly harmful to the character of the area and would therefore accord with Derwentside Local Plan Policies GDP1 and AG3.

Protection of Existing Landscapes

40. Policy GDP1 of the Derwentside Local Plan requires the protection of existing landscapes which accords with section 11 of the NPPF. From afar the building would be seen in the context of the surrounding built form therefore in wider landscape terms there would not be significant adverse impacts. In terms of the more localised landscape to address the concerns of residents and Landscape Officers the applicant has reduced that size and thereby this reduced amount of development combined with the positive addition of landscaping, are now sufficient to protect the local and wider landscape.

Impacts on residential amenity

41. Derwentside Local Plan Policy GDP1 seeks to ensure that neighbours are protected from harmful development. Policy EN26 of the Derwentside Local Plan only allows for development to be granted where it is not likely to have an adverse impact on the environment having regard to likely levels of noise pollution. Both of these policies accord with Section 11 of the NPPF which advises that decisions regarding developments should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and should aim to mitigate and reduce impacts arising from noise through the use of conditions.
42. Objectors have raised concerns over noise from vehicles, tractors and persons associated with activities on site. It is considered that the impact on the nearby neighbouring residents would be from the loading, unloading and movement of vehicles, materials and machinery associated with the building. Given the proposed storage detailed the Environmental Health Officer considers that there are limited noise or odour issues associated with the development and does not consider that it would result in statutory nuisance. The Officer did have concerns that the presence

of a building of the size originally proposed on the site would be likely to allow for the increased intensity of the use of the surrounding pasture land and had concerns over the keeping of animals and operation of noisy machinery close to residential properties. However given the limited size of the landholding it is considered that it does not lend itself to intensive farming of cattle etc. with only small scale keeping of chickens, rabbits, sheep and goats feasible on an area of land this size. Therefore a significant intensification of use or odour is unlikely and in any event would not amount to a change of use as it would still be agriculture. With regards to noise the agricultural use is lawful and therefore noisy equipment can be used on the land regardless of the application. The proposal would however bring benefits in terms of unloading/loading being possible within the building rather than outside which would reduce noise. Bearing the above in mind the proposal would be unlikely to be detrimental to neighbouring residential amenity or cause a statutory nuisance and therefore in this regard the proposal is considered acceptable in accordance with Derwentside Local Plan Policies GDP1 and EN26.

Highway Safety

43. In accordance with Derwentside Local Plan Policy TR2 all developments should have a safe access to the Highway. Local residents are concerned about highway and pedestrian safety. The Highways Officer previously had concerns that given the large size of the building that this was an intensive use which could involve large and frequent agricultural vehicles travelling along the street and turning within the estate hammerhead which he considered to not be appropriate on this residential street with high on street parking demand. Whilst the Officer concedes that the proposal will still involve agricultural vehicles using this estate road, on reflection, and bearing in mind the revised smaller scale of the development and revised access he does not object to the proposal. The revised access would now allow for a vehicle to pull off the public highway in a safe manner, and to park, turn in curtilage and proceed onto the public highway in a forward gear and see other road users from the point of access.
44. It has also been borne in mind that it is reasonable for a developer to require vehicular access to their pasture land. It is noted that there are no suitable alternative sites for a new access to the land which would not have similar issues in terms of the need to traverse estate roads and even greater constraints. Therefore whilst taking access from a residential estate road is not ideal it is not considered detrimental to highway safety to the extent that a refusal could be justified on this basis.
45. It is noted that local residents are concerned that the position of the access would remove on street parking however this is not designated parking and is intended to be kept clear for manoeuvring purposes.

Land stability

46. The site is within a high risk area in terms of former mine workings which could affect the safety and stability of the area. The Derwentside Local Plan is silent in respect of land stability. In terms of the NPPF, Section 11 requires Local Planning Authorities to prevent new development from being put at unacceptable risk from amongst other effects land instability. It is noted that the Coal Authority have objected to the development as they consider there is insufficient information to assess whether or not issues of land instability relating to the past coal mining activity on the site can be satisfactorily overcome. Under such circumstances it is considered appropriate to attach a condition to ensure that further assessment is undertaken to assess whether the site can be remediated and if so that any necessary remediation carried out prior

to the commencement of the development. This approach is consistent with that which has routinely been applied throughout the County.

Drainage Issues

47. Derwentside Local Plan Policy GDP1 seeks to ensure that there is adequate provision for surface water drainage. This policy is consistent with Section 10 of the NPPF. It is proposed that surface water will drain to a soakaway which would accord with the County Durham Surface Water Management Plan and therefore this is considered acceptable subject to a condition requiring its installation within a specific timescale. With such a condition the proposal will accord with Derwentside Local Plan Policy GDP1 and the NPPF.

Other Issues

48. Several objectors have made reference to the containers which are currently on the site however these do not form part of the proposal and were detailed in error on the originally submitted and now superseded application forms. These containers are currently subject of an enforcement notice which requires the permanent removal of the containers and their contents by 20th October 2017.

49. Loss of open space has been cited as an objection however the lawful use of the land is agricultural land and not open space and the land can be lawfully enclosed with a combination of 2m and 1m high fencing.

50. Concerns have been raised about the character of the applicant and anti-social behaviour on site however the character of an applicant is not a consideration to which weight can be afforded as planning permission relates to land rather than individuals. Anti-Social behaviour is not a matter that is typically associated with agricultural development and use. Since the applicant acquired the land residents have made numerous reports about the applicant intimidating local residents and engaging in anti-social behaviour. These matters are more properly dealt with by the Police and Anti-Social Behaviour officers rather planning legislation which is primarily concerned about land use.

51. Loss of privacy is a concern of local residents however this is not an issue that arises from the use of agricultural buildings.

52. Comments have been made in relation to blocking of a public right of way although no details have been provided of its location. There are no registered Rights of Way on the site or adjacent to the site and at present in terms of presumed rights of way the Rights of Way Officer has confirmed that as yet no persons have applied for a Definitive Map Modification Order (DMMO) to have the alleged right of way recorded on the definitive map. There does not appear to be any clear, well-trodden routes across the land nor do the LPA have any evidence of such use and any application would need to rely on user evidence provided by the public. There is therefore a separate statutory regime for resolving this issue. Should such a claim be made and be successful it may affect the development of the site and therefore this must be taken into account when assessing the deliverability of the scheme. However in the likelihood of such a claim being successful it is considered that it would be feasible to amend the position of the building prior to construction to accommodate potential Rights of way or if necessary post construction potential Rights of Way could be diverted or closed. Given the above it is not considered that the possibility of accrued rights of access across the site should carry significant weight against this proposal.

CONCLUSION

53. The amended proposal would bring some limited benefits in terms of the provision of internal rather than external storage and an improved boundary with the hammerhead. There would not be significant adverse impacts to the residential character and appearance of the area from the proposed building which is both required and designed for the operational needs of the hobby farm on the site and surrounding land. There would not be significant adverse impacts in terms of residential amenity, the landscape, drainage and highway safety subject to conditions. The proposal would therefore be in accordance with up to date Derwentside Local Plan Policies GDP1, EN26 and AG3 and the NPPF. Paragraph 14 of the NPPF directs the Local Planning Authority to approve development proposals that accord with the development plan without delay.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out only in accordance with the following approved plans except insofar as such details may be inconsistent with any conditions attached hereto when such condition shall prevail:

Plan Ref:	Date Submitted:
Site Location Plan	7/08/2017
1500062-010 Revision F	12/10/2017

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan.

3. The building hereby approved shall only be used for the storage of vehicles, plant and machinery required for the maintenance of the adjoining land identified in red on the attached plan Ref No. LO/DCC/1 and for the storage of hay and other foodstuffs required for the livestock on the adjoining site identified in red on the attached plan Ref No. LO/DCC/1.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan.

4. No plant or machinery shall be operated on the site outside of the hours of 08:00 to 19:30.

Reason: In the interests of residential amenity in accordance with Policy EN26 of the Derwentside District Local Plan.

5. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

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

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

Details of planting procedures or specification.

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

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

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

All planting in the approved details of the landscaping scheme shall be carried out in the first available planting season following the commencement of construction of the storage building.

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

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with policy GDP1 of the Derwentside District Local Plan.

6. No development shall take place before a Coal Mining Risk Assessment or similar information has been submitted to and approved in writing by the Local Planning Authority in relation to the assessment of the coal mining legacy risks within the site. In the event that the assessment confirms the need for the treatment of any areas of shallow mine workings and/or the mine entry for stability purposes, and/or any other mitigation measures to ensure the safety and stability of the proposed development, these works shall be detailed within the report and undertaken prior to commencement of development. The site shall be developed wholly in accordance with said document with confirmation of the completion or remediation works in full being provided prior to the commencement of construction of the storage building.

Reason: To protect the development against potential Coal Mining legacy issues that may affect the site in accordance with the NPPF.

7. Before the completion of the storage building a soakaway shall be installed on site.

Reason: To ensure satisfactory surface water drainage in accordance with Derwentside Local Plan Policy GDP1.

8. The construction of the storage building shall not commence before the site access has been constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980.

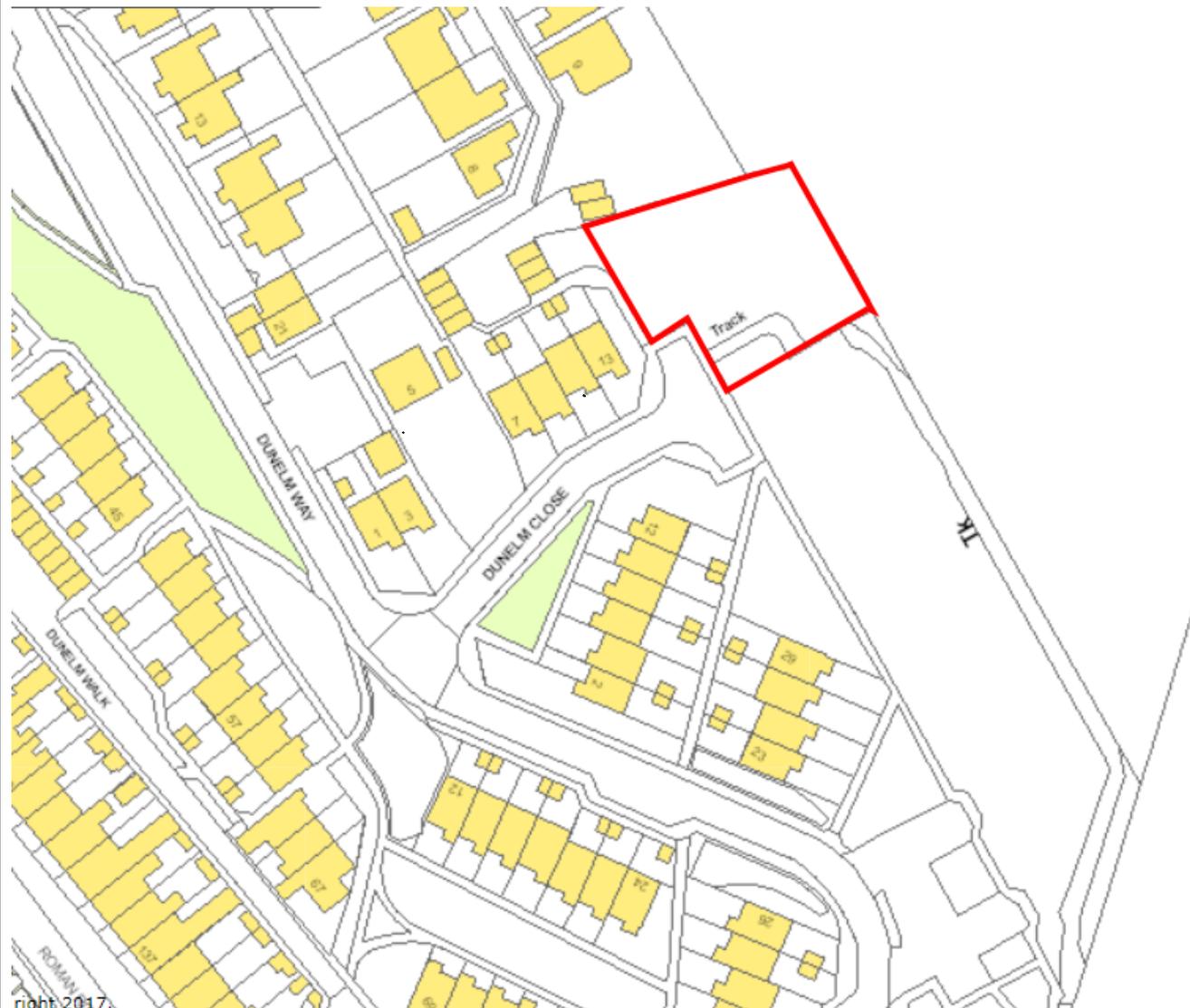
Reason: In the interests of highway safety in accordance with Derwentside Local Plan Policy TR2.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Derwentside District Local Plan (saved policies 2007)
National Planning Policy Framework, March 2012
National Planning Practice Guidance



Planning Services

Land to the North of 13 Dunelm Close.

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Comments

Date 28th October 2017

Scale 1:1250

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/03715/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping.
NAME OF APPLICANT:	Lidl UK GmbH
ADDRESS:	Land to the South of 1 Boyd St, Delves Lane, Consett
ELECTORAL DIVISION:	Delves Lane
CASE OFFICER:	Colin Harding, Senior Planning Officer, 03000 263945 colin.harding@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Background

1. **Members will recall that at the last meeting of the North Area Planning Committee on 28 September 2017 it was resolved to defer this item to enable the issue of the retention of the entrance archway into the former Victory Pit to be considered further. At the time of the last Committee it was not proposed that the archway would be retained; however, following subsequent discussions between Lidl, Elected Divisional Members and Officers, it has now been agreed that the front façade of the archway would be retained but located in a new position on site. This report has been updated in relevant highlighted sections to account for this change in the scheme.**

Site

2. The application site measures 0.8ha in area and is located to the west of Delves Lane, and lies approximately 400m from Consett Town Centre. The site most recently comprised a scrapyards, although this use has now ceased. From the mid-nineteenth century, the site formed part of Crookhall Colliery, hosting first the Latterday Saints Pit (also known as Delves Pit) until 1913, and then subsequently the Victory Pit from 1921 until its closure in 1963. Evidence of this previous use remains on site in the form of derelict cottages, and a large stone building fronting onto Delves Lane itself. This building most likely incorporated the colliery offices, and also includes an arched entrance which is possibly a later addition. Within the site itself, there is also remaining evidence of the winding house. The majority of the remainder of the site is semi-reclaimed grassland or bare ground, although the western part of the site takes the form of dense scrub, which forms part of the large area of scrub and open space beyond the western extent of the site, and also includes informal pedestrian and cycle routes.

3. To the north of the site lies open grassland and scrub, which lies to the rear of houses on Boyd Street, and beyond this land runs the C2C Cycle Route. The eastern boundary of the site is formed by Delves Lanes itself, beyond which lies retail premises in the form of B&M Bargains. To the south lies Delves Lane Industrial Estate, which hosts a number of businesses including Bescol Motors, GT Engineering and Elddis Transport.
4. There are no statutory or locally designated landscapes or ecological sites that would be affected by the proposals, the closest being over 2km away. No recorded public rights of way are contained within or adjacent to the application site, Footpath No. 42 (Consett) being the closest, and located over 100m away on the eastern side of Delves Lane.

Proposal

5. Planning permission is sought for the erection of a retail food store that would provide 1,234sqm of internal floor space. The building would be orientated broadly north to south, on the western part of the plot with the store frontage facing into towards Delves Lane, to the east. 131 parking spaces are proposed within the site.
6. The main store building would measure approximately 70m in length (north to south) by 35m in depth, with a flat roof profile that would have a maximum height of 7m, falling to 5.5m at the rear. The building would be rendered white with occasional grey render vertical pillars to eastern and southern elevations. The main entrance would feature floor to ceiling glazing along with a projecting canopy feature.
7. The proposed development would take access from Delves Lane. A vehicle loading and servicing area would be provided to the north side of the building. Landscape planting is proposed around the perimeter of the site, particularly the western boundary, to the rear of the store.
8. This application is being reported to the North Planning Committee as it is classed as a major development.

PLANNING HISTORY

RELEVANT PLANNING HISTORY

9. There is no relevant planning history.

PLANNING POLICY

NATIONAL POLICY

10. 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’.

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. The following elements of the NPPF are considered relevant to this proposal;
12. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. *Part 2 - Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
14. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
15. *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. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
18. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

19. *Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

LOCAL PLAN POLICY:

Derwentside District Local Plan (1997) (DDLDP)

20. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
21. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.
22. *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.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Derwentside District Local Plan)

RELEVANT EMERGING POLICY:

23. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 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 being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

24. *Highway Authority* – Raise no objection, advising that the submitted Transport Assessment is considered sound. The site access has been relocated and redesigned during the application process, and now meets junction standards. Additional parking within the site has been now incorporated in accordance with parking standards.
25. *Drainage and Coastal Protection* – Raise no objection provided the development is carried out in strict accordance with the submitted revised drainage strategy

document entitled “Addendum Report”. Officers advise that they would like to see permeable paving added as a source control where possible within the car parking areas. Within the surface water management of the site permeable paving would provide a better treatment stage than road gullies alone.

26. *Northumbrian Water* – Raise no objection provided the development is carried out in strict accordance with the submitted revised drainage strategy document entitled “Addendum Report” and a condition restricting flow rates via the proposed sewer connections.
27. *The Coal Authority* – Originally objected to the proposed development as the building would be located above a pair of known mineshafts. Following the receipt of an amended layout, this objection has now been withdrawn.

INTERNAL CONSULTEE RESPONSES:

28. *Spatial Policy* – Raise no objections, advising that the DDLP is silent with respect to retail development. Referring to the Retail and Town Centre Study (2009 and 2013 update) and the town centre boundaries within this, the application has been identified as being an out of centre retail development. It has therefore been considered against the sequential and impact tests detailed in Paragraphs 24 to 27 of the NPPF. This assessment has concluded that sequentially and in terms of impact on the town centre, the proposal is acceptable. Given the DDLP is silent a planning balance test is required by the case officer. It is highlighted that in terms of retail tests the application would not have a significantly adverse impact on the town centre. In addition, there are regeneration benefits.
29. *Design and Conservation* – Raise no objection. The existing colliery arch is considered to be a non-designated heritage asset, and officers consider the retention of it should be explored alongside the viable delivery of the scheme. The application should be determined in the context of Paragraph 135 of the NPPF and the substantial harm as a result of the loss of a non-designated heritage asset should be balanced against public benefits of the scheme, and the significance of the asset.
30. *Archaeology* – Raise no objection, subject to a condition requiring a watching brief due to the previous use of the site as a colliery. However, it is also suggested that consideration be given to dismantling the archway, and re-erecting it somewhere on site.
31. *Environment, Health & Consumer Protection (Land Contamination)* – No objections are raised. The submitted ground investigation has been considered is agreed with, however a condition is recommended as gas monitoring has not yet been finalised.
32. *Environment, Health & Consumer Protection (Air Quality)* – No objections are raised. It is advised that the operational phase of the development is unlikely to have a significant adverse impact upon air quality, however a dust management plan should be secured for the construction phase.
33. *Environment, Health & Consumer Protection (Noise Action Team)* – Raise no objections in principle, however it is considered that the submitted noise report does not adequately assess the impact of potential 24 hour deliveries, and that they should be restricted until adequate monitoring has taken place.
34. *Landscape* – No objections are raised. The revised layout presents a landscaped frontage to Delves Lane an improvement on the original scheme.

35. *Landscape (Arboriculture)* – No objections are raised. Trees within the site do not warrant preservation orders and removal will be required to facilitate development. Woodland to the north and west must be retained and protected throughout development.
36. *Ecology* – No objections are raised. The ecological impacts of development are the loss of brownfield and scrub habitats, the ecological impacts of the development have been effectively mitigated for through the provision of Section 106 Planning Obligation that will provide Durham County Council with £8000 to deliver ecological enhancements to Local Wildlife Sites within the local area. The off-site ecological mitigation ensures that the development meets the biodiversity requirements of the NPPF.
37. *Travel Planning* – No objections are raised, however it is advised that the submitted travel plan requires refinement and this can be secured by means of a condition. Sufficient cycle stands have been provided.
38. *Climate Change and Sustainability* – Offer no objections, but highlight that the moving of the Lidl store away from the town centre is inherently less sustainable, and further raises concerns that no sustainability statement has been submitted in order to demonstrate compliance with Part L of Building Regulations.

PUBLIC RESPONSES:

39. The application was initially advertised by means of individual notification letters, site notice and press notice. **The following representation have been received:**
40. **Two letters of representation have been received from local residents which, although not objecting to the proposal, highlight the importance of the colliery archway in terms of the social history of the area, and urge the retention of the archway on the site in some form.**
41. **One representation in support of the application outlines that they consider the arch to be an unattractive structure and its retention would detract from the proposed development.**
42. *Cllr Malcolm Clarke (Delves Lane Division)* – Requests that planning permission is granted only subject to a condition ensuring that the road facing brick archway relating to the former colliery is retained in full.
43. *Laura Pidcock (Member of Parliament for North West Durham)* – Indicates that although the development is welcomed, there needs to be a guarantee with regards to the preservation of the cultural and historic heritage of the site. It is requested that the proposed development is only approved subject to a condition that requires the retention of the existing archway.
44. ***The Crookhall Foundation* – raise concerns in relation to the loss of the archway and seek that it is preserved and recognised as part of the development.**
45. ***Durham Mining Museum* – raises concerns about the loss of the archway as an important part of the areas tradition and seek that the arch is preserved and incorporated into the development.**
46. ***Association for Industrial Archaeology* – does not object to the application as whole but expects every effort to be made to retain the arch.**

47. *Durham Constabulary* - No objections are raised and the crime risk assessment for the development is considered to be low. However, the importance of enclosing the car park by means of a well thought out landscaping scheme is highlighted, in order to deter youth congregation. It is also noted that the proposed 2m fencing would not offer any level of security.
48. **Following discussions between Local Members, Lidl, and officers, Councillors Clarke and Brown, have both now confirmed that they are happy with the proposals in light of the intention to now retain part of the archway on site.**

APPLICANTS STATEMENT:

49. The Lidl proposal on Delves Lane in Consett is in accordance with National Policy and the Development Plan and there are no other material considerations that indicate planning permission should not be forthcoming. The development proposals constitute sustainable development for the following reasons:
- The proposal comprises the development of a vacant, undeveloped and underused site ;
 - The proposal will result in the re-use of previously developed land which represents sustainable development;
 - The proposal will improve customer choice and enhance the shopping experience for shoppers within this area of Consett and the neighbouring area;
 - The proposals full comply with both the sequential and retail impact tests set out within the National Planning Policy Framework;
 - The impact analysis demonstrates that the proposal will not have any significant adverse impact on the vitality and viability of Consett town centre.
 - The development proposal will provide a contemporary building design that will be complimentary to the visual character of the surrounding area;
 - A number of economic benefits will be provided as a result of the new store, including Lidl's continued investment in the area and commitment to providing jobs and training for the local community;
 - New landscaping will be provided surrounding the site and providing a high level of visual amenity; and
 - The proposal will provide off-site ecological mitigation to deliver additional biodiversity improvements.
50. **Following discussion with the Ward Councillors and Planning Officers, Lidl have agreed to retain the façade of the archway and relocate it to a parcel of land near the proposed cycle stand. The existing archway will be dismantled and rebuilt brick by brick to retain its character.**
51. To summarise, the proposed scheme adopts the principles of sustainable development, in relation to social, economic and environmental factors. The proposal has demonstrated through various technical reports that the scheme complies with relevant policy as set out within the NPPF and the Development Plan. Therefore, the application should be supported.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OGZFMPGDK3U00>

52. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, design and impact upon the surrounding area, impact on heritage assets, access and highway safety issues, residential amenity, flooding and drainage, ecology and other issues.

Principle of Retail Development

53. 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 (DDLPL) 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.
54. With regards to this, DDLPL policies relating to retail development have now expired, and effectively the development plan is now silent in this respect. Paragraph 14 of the NPPF states that where a development plan is absent, silent and/or out-of-date, that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, or specific policies of the NPPF indicate that development should be restricted.
55. Although the DDLPL originally designated a town centre boundary for Consett, the relevant retail policies have not been saved, and therefore can carry no weight in the decision making process. Town centre boundaries are fundamental in the decision making process for proposals of this type. Notably Paragraph 23 of the NPPF identifies the need to define the extent of town centre boundaries in the Plan making process.
56. In the absence of a saved town centre boundary policy, reference should be made to the Council's Retail and Town Centre Study (R&TCS). This was originally produced in 2009 and updated in 2013. The study defined town centre boundaries alongside Primary and Secondary frontages. The defining of these boundaries aligns with Paragraph 23 of the NPPF and therefore can be used to assess the application and establish whether the site is in centre, edge of centre, or out of centre. Using the boundaries defined within the Retail and Town Centre Study, the application site is 'out of centre'.
57. Paragraph 24 of the NPPF states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses (food retail is defined by Annex 2 of NPPF as a main town centre use). It goes on to state that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
58. In addition to the sequential test, the NPPF also states that when assessing applications for retail, leisure and office development outside of town centres, an impact assessment should be required. LPAs should require an impact assessment

if the development is over a proportionate, locally set threshold. Where there is not a locally set threshold, the NPPF gives a default threshold of 2,500sqm.

59. The NPPF goes on to state that an impact assessment should consider the impact of the proposal on existing, committed and planned public and private investment in a centre or centres within the catchment area and also the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.
60. Paragraph 27 of NPPF states that where an application fails to satisfy the sequential test, or is likely to have a significant adverse impact on town centres, it should be refused. Consequently, Paragraph 27 is considered to be a restrictive policy for the purposes of Paragraph 14 of the NPPF.

The Sequential Test

61. The applicant has provided a sequential assessment that concludes that there are no sequentially preferable sites. This has looked at sites within Consett town centre and also on the edge of Consett town centre. The following sites have been considered and dismissed for various reasons:
 - Existing Lidl store, Victoria Centre, Consett;
 - Vacant plot on the corner of Genesis Way and Ponds Court;
 - Land off Park Road;
 - Land at the former Belle Vue Swimming Pool on Ashfield Road, and
 - Vacant plot adjacent to Consett Medical Centre off Station Road.
62. The site of the existing Lidl store is located at the Victoria Centre within Consett town centre. This provides a gross area of 1,460sqm. The applicant has recognised that this does not meet the requirements of the retailer, and therefore consideration has been given to the potential to extend. Due to the constraints of the site this is considered to not be a viable option. It is accepted that the site is constrained and to provide a unit that would meet the operator's requirements on the site would require significant redevelopment which site ownership issues along with the nature of the site, would not allow.
63. The sites at Genesis Way/Ponds Court and adjacent to Consett Medical Centre (both edge of centre), have both been dismissed by the applicant for being too small. The applicant's conclusions on both of these potential sites are accepted. Neither would be able to accommodate the Lidl store proposed by the applicant in terms of its size 2,470sqm (Gross Internal).
64. The site at Land of Park Road has been identified as a potential site but again has been dismissed by the applicants due to issues over topography. In addition the applicant has suggested that the site is unavailable citing a history of housing planning permissions that have lapsed. The site's availability would preclude the site for development and therefore the applicant's conclusions on the site are accepted.
65. Finally, the site of the former Belle Vue swimming pool has also been identified. This has been dismissed by the applicant as unavailable. This site has been identified for housing development and in addition the access is unlikely to be suitable for a new food store.
66. Having undertaken an assessment of sites within Consett town centre and also on the edge of Consett town centre it is considered that the sequential test is adequately met in this instance.

The Impact Assessment

67. The proposed development falls above the national impact threshold of 2500sqm (2,566sqm) and the applicant has therefore provided an impact test. The applicant has considered impact on town centre vitality and viability, and also impact on existing committed and planned public and private investment.
68. In terms of committed and planned public and private investment, the applicant has concluded that the proposed foodstore would not have an impact. This view is accepted, as there are no proposed in-centre schemes that this application would adversely impact upon.
69. The impact on town centre vitality and viability also requires scrutiny. The applicant has stated that the intention is for the company to decamp from its current in-centre store and move to an out-of-centre location. This would therefore create an empty town centre unit which is a direct short term adverse impact of the proposed development. It is however, acknowledged that this existing site does not meet Lidl's operational requirements, and this is recognised in the acceptance of the sequential test.
70. For the purposes of the impact test, the applicant has considered the prospect of a similar retailer occupying the unit made vacant. Whilst there is a degree of uncertainty within these conclusions, this provides a reasonable basis for assessment.
71. Having regards to the conclusions of the impact assessment, in the context of these assumptions, it is considered that the majority of impact would be felt by stores that are currently based outside of the defined town centre boundaries. This is based on the principle of "like effects like" and the applicant's conclusions that the greatest impact would be felt by the edge-of-centre Aldi store, as well as to a lesser extent by Tesco and Morrison's (also edge-of-centre), are considered to be reasonable. It is also agreed that the impact on these would not be significant, considering the new store would continue to fulfil the same role that it has historically, albeit, a slightly more enhanced role.
72. In terms of town centre stores, accepting there is a degree of uncertainty over the impact that the proposal would have on the long term functioning of Lidl's existing unit, it is considered that the impact on Consett town centre would not be significantly adverse. The town centre has a limited range of convenience retailers within the town centre and it is considered that these are likely to continue to fulfil their complementary role to the larger food retailers within the town. Finally, it is also worth noting the relative performance of Consett town centre and the low levels of vacancy that are evident.
73. It is therefore considered that the impact assessment is adequately met in this instance.

Conclusion on Retail Policy Assessment

74. The proposal is considered to pass the sequential test, and further, would not have a significant adverse impact upon Consett Town Centre. As a result, Paragraph 27 of the NPPF does not indicate that permission should be refused in this instance, and further that the presumption in favour of sustainable development contained with Paragraph 14 of the NPPF remains engaged.

Design and Impact upon the Surrounding Area

75. The site, in its current state is a largely derelict former colliery site so redevelopment of it, from a visual impact perspective would improve the appearance of the immediate area in a positive manner, any impacts upon heritage assets notwithstanding.
76. Design improvements during the course of consideration of the application have seen a re-alignment of the building, with it now fronting towards Delves Lanes from the rear of the site, as opposed to presenting a side elevation, as originally proposed.
77. Although of a relatively standard, utilitarian design, the proposed store is not considered to be unattractive and demonstrates a simple quality commensurate with other large modern retail developments. Consequently, the proposed store building is considered to be of a suitable design and appearance and of a suitably high quality in design that it is considered to accord with DDLP Policy GDP1, which is considered to be consistent with NPPF and can continue to be afforded significant weight, and Part 7 of the NPPF.
78. In terms of landscaping, a comprehensive scheme is proposed. This would see significant planting to the west and north of the proposed store, with further perimeter planting to the eastern and southern boundaries, around the extent of the car park and service yard. Landscape Officers have raised no objections to the proposed development in this regard, subject to a planning condition ensuring the proposed landscaping scheme is implemented.
79. Overall, the re-development of the site would address an otherwise largely derelict site within Delves Lane. The proposed building would be fit for purpose and the development overall would be a positive addition to the local streetscene by regenerating the application site. The proposal would therefore be considered to accord with DDLP Policy GDP1 and Part 7 of the NPPF.

Impact upon Heritage Assets

80. In terms of the heritage context of the application site, it does not lie within a Conservation Area, nor are there any Listed Buildings within the vicinity. However, the site has its own historical context as a former colliery, and some of the buildings that remain upon the site are considered to be non-designated heritage assets. These would be lost in their entirety as a result of this development. Representations received from elected community representatives indicate that these remnants of the former colliery use of the site are of significant cultural value to the local community.
81. NPPF Paragraph 135 states that 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 is required having regard to the scale of any harm or loss, and the significance of the heritage asset. DDLP Policy GDP1 sets out that development should meet high quality standards of design and protect the landscape and historic features of the surrounding area. This Policy is considered to be compliant with the NPPF, which also requires that development contributes to and enhances the natural and local environment under Parts 11 and 12, while Part 7 states that good design is a key aspect of sustainable development and is indivisible from good planning. Significant weight can therefore be afforded to DDLP Policy GDP1 in this respect.

82. The application site currently contains remnants of buildings associated with the former colliery and coke works use of the site. At the northern end of the site is a row of derelict single-storey cottages. These structures are believed to date to between 1896 and 1921, and may have been associated with the later phase of use of Delves Colliery which closed in 1913. The applicant's heritage statement concludes that due to their condition, their lack of architectural merit, lack of historical significance, or communal value, that these structures cannot be considered to be significant historic assets. This is a view which is shared by the Council's Design and Conservation officers.
83. A large single storey building occupies almost the entire street frontage of the site. The building backs onto Delves Lane, and is of a mixed stone and brick construction. Many of the original openings have been filled, and the original roof has been removed and replaced with corrugated metal sheeting. The building appears to have been constructed between 1921 and 1939, and was associated with the former Victory Pit which closed in 1963, serving as the colliery offices. The distinctive archway entrance was likely added after the initial construction of the building, as is evidenced by the incorporation of different building materials and construction techniques.
84. The submitted heritage statement considers that the elevation of this building that fronts onto Delves Lane has little aesthetic appeal, is not representative of the building's original function, and has also suffered from modifications over time. It also considers that the archway is a redeeming feature, but acknowledges that this may not even be contemporary to the original building, or perhaps even its original function. It contends that any significance that this building has is local, and historical, as Victory Pit drove the expansion of Delves Lane in the early 20th Century, and therefore forms an important part of local history. However, the connection to the past use of the site is diminished by the lack of other surviving structures of the colliery complex.
85. The submitted heritage statement also highlights that other surviving examples of buildings of this function and date can be found both regionally and nationally, and that on the whole these examples are in better condition. Such examples can be found in the form of Easington Colliery pay office, Beamish pay office, and Woodhorn Colliery offices in Northumberland. The heritage statement concludes overall that the surviving colliery building on the site has little overall significance.
86. Design and Conservation Officers have considered the content of the submitted heritage assessment, and find that following further work carried out during the application process that it is objective, and well balanced, and draws reasonable conclusions with regards to the significance of the structures. They have advised that the archway related to the colliery offices constitutes a non-designated heritage asset, and opportunities to retain it in some meaningful form should be explored within the viable delivery of the redevelopment scheme, a view shared by the County Archaeologist. **Accordingly, prior to the presentation of the report at the Meeting on 28 September, Officers sought the retention of the arch; however, the applicants considered that its retention could not be justified.**
87. **However, following deferral of the item, opportunities to retain the archway on site in a meaningful form on the site have been explored further. These positive discussions have culminated in the applicant submitting a revised layout plan which highlights the retention of the archway on the site, and details the extent of the archway that would be retained. The archway would be repositioned in an area of grassed open space within the site and would**

largely consist of the façade with associated pitched roof, together with the construction of associated brick piers to provide structural support.

- 88. The concerns of the local community as expressed by the elected community representatives with regard to this issue have therefore been explored further and it has been established that the applicant is now willing to retain part of the archway on site. The Local Elected Divisional Members have confirmed that they are happy with the proposals for the partial retention of the archway. It would be necessary to impose an appropriate planning condition to specify the precise details of the retention works and the timing of the implementation of the works. Subject to the imposition of such a condition, the proposal would accord with DDLP Policy GDP1 and meet the requirements of Paragraph 135 of the NPPF in terms of considering the effect of an application on the significance of a non-designated heritage asset.**

Access and highway safety issues

89. DDLP Policy TR2 requires that development proposals provide clear and defined safe vehicle access (including service vehicles), adequate turning and manoeuvring and satisfactory access to the public transport and adopted highway networks. This Policy is considered compliant with the NPPF which also seeks to promote accessibility by a range of methods while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application. Paragraph 32 of the NPPF requires applications which proposed significant amounts of traffic movements should supported by a Transport Assessment and should only be refused where the residential cumulative impacts of development are severe.
90. The proposed development would result in a single vehicular access points on to Delves Lane, which would incorporate a protected right turn junction for traffic entering the site. The detail of the access junction has been amended following discussions with Highway Authority officers, and is now considered to be acceptable, and in accordance with DDLP Policy TR2.
91. A Transport Assessment has been submitted that considers the impact of the development on the surrounding road network, which has been assessed by the County Highways, who concur with its findings that the surrounding highway network is considered to hold enough capacity to cater for the proposed new retail store. The Highway Authority outline that the Council's Parking and Accessibility Guidelines state a maximum level for parking, which this proposal complies with. The proposals would therefore not be in conflict with Paragraph 32 of the NPPF, as there would be no severe impact upon the highways network.
92. Travel Planning officers have reviewed the submitted Framework Travel Plan, which is largely considered to be sound but requires further amendments. It is considered that this matter can be dealt with by condition, along with securing the implementation of a travel plan coordinator to secure sustainable travel objectives. Sustainable methods of transport to the site are also encouraged within the submission with provision for both cycle parking and electric vehicle charging point proposed, and it is considered appropriate that these aspects be covered by condition to ensure their delivery in accordance with DDLP Policy TR3 and Part 4 of the NPPF.
93. Overall, based on the advice of the Highway Authority the proposal would be served by an appropriate means of access and traffic generated can be accommodated on the wider highway network. The internal layout is considered acceptable, while there

is sufficient capacity in the immediate highway network to accommodate a higher flow of traffic to and from the site as a result of the lower level of parking provision. . Subject to conditions relating to sealing historic accesses, provision of cycle parking and electric vehicle charging points and an updated travel plan, the proposal is considered acceptable in highways terms and complies with DDLP Policies TR2 and TR3, and Part 4 of the NPPF.

Residential Amenity

94. DDLP Policy GDP1 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. This Policy is considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Part 11 of the NPPF seeks to avoid noise from giving rise to significant new impacts. No objections have been raised by neighbouring properties to the proposed development with regard to the impact upon their amenity.
95. The closest residential properties to the proposed store are those on Boyd Street to the north of the proposed store building, approximately 50 metres away at the closest point. As such, a range of impacts from the proposal are possible upon the residential occupiers of these buildings. Primarily, the general impacts associated with the store operation such as vehicle movements of customers, operation of machinery and plant and deliveries. The store proposes opening hours of 7am to 10pm Monday to Saturday, and a 6 hour period between 10am and 4pm on Sundays and Bank Holidays. These times are comparable to similar uses in the vicinity, and therefore are deemed appropriate. Noise generated from the movement of cars would be within acceptable levels during the majority of the day, as it would be assimilated into the high overall background noise level of this location. The design of the proposed retail store would see the delivery bay and plant compound along the northern elevation of the building, whilst the proposed refrigeration plant would sit at the rear of the store, albeit at the northern end. There is potential for some disturbance later at night as a result of the proposed opening times (10pm Monday – Saturday); however this would not be considered to cause a significant adverse effect in accordance with DDLP Policy GDP1.
96. The applicant has provided a Noise Impact Assessment in support of the proposed 24 hour delivery times. The Noise Impact Assessment has been reviewed by the Council's Environmental Health and Consumer Protection Officer who consider that the case study used to demonstrate that deliveries carried out during the night would not result in an increase in noise over background levels is not to be representative, as a result of the timing of the example survey, and the fact that the delivery vehicle concerned was not using reversing alarms at the time, contrary to Lidl's standard delivery practice.
97. As a result, it is considered that it has not been demonstrated that 24 hour deliveries would not have a detrimental impact upon levels of residential amenity available to nearby residents, and therefore a condition is proposed in order to limit the timing of deliveries.
98. Impacts from the general operation of the store for long periods (i.e. 7am to 10pm Monday to Saturday) are however considered to be acceptable, however, Officers are justified in controlling the store opening times to the public to ensure the amenity of the nearby residents is safeguarded.

99. External lighting is proposed to the site, yet no detail has been provided with the application. As the site is in a prominent location, it is considered appropriate to agree details of a proposed lighting scheme by way of condition to ensure that lighting levels and spillage are suitably contained.
100. With regard to air quality, Environmental Health and Consumer Protection Officers have advised that the operation of the store is unlikely to have a significant impact upon air quality, although the construction phase should be adequately controlled by means of a dust management plan, which can be secured by means of a planning condition.
101. The construction phase of any new major development can be one which lasts several months or years and can, as a result lead to impacts of their own upon the surrounding area. Primary impacts include noise, dust, vibration and light and can cause significant impacts upon nearby residents if not controlled. The proximity of neighbouring residential properties would make some form of control appropriate to safeguard amenity. A condition requiring a Construction Management Plan detailing measures to minimise the impact of construction activities on the neighbouring properties would therefore be appropriate in order to safeguard amenity during the construction phase of the development.
102. Overall, whilst it is recognised that there would be a minor reduction in the level of amenity experienced by the occupiers of surrounding residential properties due to the proximity of the development, most of the impacts would be assimilated into the general background noise climate in the operational phase. No objections were received from nearby residents or other premises with regard to amenity concerns and no objections are raised by Environment, Health and Consumer Protection officers, subject to 24 hour deliveries being restricted until it can be adequately demonstrated that they would not result in an adverse impact upon residential amenity. The development is therefore considered to comply with DDLP Policy GDP1 and Parts 8 and 11 of the NPPF in this respect.

Flooding and Drainage

103. Part 10 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 11 of the NPPF takes account of the impact of any development upon the natural environment. DDLP GDP1 follows these requirements of the NPPF by ensuring new development does not increase flood risk and is consistent as a result.
104. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low flood risk probability. A mains sewer connection is proposed for both foul and surface water connections. In accordance with NPPF requirements, surface water runoff would be restricted to greenfield rates through the use of Sustainable Urban Drainage Systems (SuDS). In this instance conveyance swales, trapped gullies and flow control will be utilised). Foul water discharge would be considered domestic in nature and would be discharged in to the existing network.
105. The Council's Drainage and Coastal Protection officers raise no objection to the proposed method of surface water attenuation set out in the FRA and the greenfield run off rate of 5 l/sec. Northumbrian Water also offers no objections subject to the implementation of the proposed drainage scheme and restriction in run-off rate. As

such, the proposed drainage scheme is considered to comply with DDLP Policy GDP1 and Parts 10 and 11 of the NPPF in this respect.

Ecology

106. Part 11 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. There are no designated areas which border the site or within 2km of the site boundaries. An ecology appraisal has been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site.
107. However, the submitted report does identify that the site forms Early Successional Brownfield Land, and further that this habitat would have the potential to support Dingy Skipper Butterflies, as well as reptiles. Although no Dingy Skippers have been recorded on the site, they have been recorded twice within 1.2km of the site, within the last 16 years, and therefore the presence of the species cannot be wholly discounted.
108. The submitted ecology report identifies a series of onsite mitigation measures to offset any loss of potential habitat, however the applicant has indicated that the delivery of these would not be compatible with the efficient operation of the superstore. In lieu of the relevant mitigation being provided on site, a financial contribution of £8,000 would be secured through a planning obligation under S106 of the Town and County Planning Act 1990 (as amended) in order to allow biodiversity enhancements to be delivered on Durham County Council land within the Delves Lane area.
109. The County Ecologist has advised that the financial sum proposed is acceptable, and represents a proportionate figure to offset any biodiversity impacts, in accordance with the industry recognised methodology.
110. As a result, it is considered that impacts of the development upon biodiversity interests can be adequately offset, in accordance with Part 11 of the NPPF.

Other Issues

111. In relation to land contamination the applicant has submitted a phase 1 desk study report which identifies that there is a low risk of contaminants being present on site, but site investigation work is recommended. After reviewing the submitted report the Council's Environment, Health and Consumer Protection officers (Contaminated Land) advises that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations in line with Part 11 of the NPPF.
112. Planning plays a key role in helping to reduce greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. The development would be expected to achieve a proportion of its energy supply from renewable resources, or through an equivalent level through energy effect measures. Although the applicant has not submitted a sustainability statement setting out how this would be achieved, it is considered that an adequate strategy for energy reduction can be secured by means of an appropriate planning condition in order to ensure that the proposal complies with Part 10 of the NPPF.

113. Paragraph 120 of NPPF states that planning decisions should prevent unacceptable risks from land instability by ensuring that new development is appropriate for its location. Being a former colliery, it is perhaps unsurprising that the site is located in a High Risk Coal Mining Development Area. Originally, the Coal Authority had raised objections as the store building was proposed to be located over the two known mineshafts that exist on the site. Following these comments, the scheme has been amended, resulting in the building being re-located within the site, with the mineshafts now being located within the car park. On this basis, the Coal Authority has now withdrawn its objection, and there are no unresolved land stability issues. The proposed development can therefore be considered to be in accordance with Paragraph 120 of the NPPF.

Planning Balance

114. In summary, as DDLP policies are considered to be absent, or silent, with respect to this proposed development, the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF which requires the granting of planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or where specific NPPF policies indicate that development should be restricted. Policies within the DDLP are considered out-of-date with regard to retail requirements as no town centre boundaries have been defined. The Council's Retail and Town Centre Study (2013) however assesses the site as being outside of a town centre location.
115. By representing retail development in an out-of-centre location, Paragraph 27 of the NPPF indicates that such development should be restricted, unless the development passes sequential, and town centre impact tests. Whilst the second limb of Paragraph 14 is engaged, as the sequential and town centre tests are passed in this instance, such restrictive policy does not disapply the presumption in favour of granting planning permission. Instead the first limb of Paragraph 14 is in operation, which requires planning permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of doing so.
116. The proposed development would improve the appearance of what is a currently underutilised brownfield site, which would in overall terms enhance the character and appearance of the area. Additionally, the development would lead to the creation of 40 job opportunities, which would offset the loss of the existing smaller store, as well as provide additional employment, and also increased consumer choice. Overall, the proposed store would contribute to social and economic development within the Delves Lane, and the wider Consett area.
117. In terms of adverse impacts, it is recognised that there would be a minor reduction in the level of amenity experienced by the occupiers of surrounding residential properties due to the proximity of the development, most of the impacts would be assimilated into the general background noise climate in the operational phase.

CONCLUSION

118. The presence of a general urban noise climate with a high background level and the site in close proximity to a busy main road, would result in limited, if any impact upon the nearest residential properties. However impacts from

allowing unrestricted delivery times to the store, cannot yet be fully understood; and a broader range of impacts are possible from unrestricted store opening times (such as customer vehicle movements) and so conditions are proposed to maintain control of these aspect.

119. The proposal would be served by an appropriate means of access and would have an appropriate impact on the wider highway network. Parking provision is within the Council's Parking and Accessibility Guidelines stated maximum. The scheme would not increase the risk of flooding elsewhere.
120. Any impacts on biodiversity can be adequately offset by means of a financial contribution towards offsite ecological enhancements. It is considered that the planning obligation to secure a £8,000 payment for offsite ecological mitigation represents a proportionate figure to offset any biodiversity impacts and meets the three planning tests set out in Paragraph 204 of the NPPF and Section 122 of The Community Infrastructure Levy Regulations 2010. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.
121. In summary, the scheme is considered to represent sustainable development as set out in the NPPF, and in accordance with Derwentside District Local Plan Policies GDP1, TR2, and TR3, and that planning permission should be granted.

RECOMMENDATION

That the application is **APPROVED** subject to the completion a Section 106 Legal Agreement to secure the following:

- £8,000 towards biodiversity enhancements within Delves Lane Electoral Division;

and subject to the following conditions:

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

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

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

Proposed Site Layout 07147-SPACE-A(90)GAP002-14 Rev.19

Landscape Details R/1917/1C

Boundary Treatment Plan 07147-SPA-A(99)GAP002-3 Rev.3

Proposed Elevations 07147-SPA-A(00)GAE001-4 Rev.4

Proposed Roof Plan 07147-SPA-A(00)GAP201-3 Rev.3

Proposed Ground Floor 07147-SPA-A(00)GAP001-3 Rev.3

Tree Survey AMS-EXI

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1, TR2 and TR3 of the Derwentside District Local Plan and Parts 1, 2, 4, 7, 8, 10, 11 and 12 of the National Planning Policy Framework.

3. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 1. Overall strategy for managing environmental impacts which arise during construction;
 2. Measures to control the emission of dust and dirt during construction;
 3. Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure;
 4. Designation, layout and design of construction access and egress points;
 5. Directional signage (on and off site);
 6. Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;
 7. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
 8. Routing agreement for construction traffic.
 9. Storage of plant and materials used in constructing the development;
 10. The erection and maintenance of security hoarding/fencing including decorative displays and facilities for public viewing, where appropriate;

The approved Construction Management Plan shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In order to protect the amenity of neighbouring residents from commencement of the development in accordance with Policies GDP1 and TR2 of the Derwentside District Local Plan and Parts 4, 8 and 11 of the National Planning Policy Framework. This condition is required to be pre-commencement in order to ensure that adequate mitigation measures are in place before work begins.

4. **Prior to the commencement of development, full details of a scheme for the retention of the archway as shown on Proposed Site Layout 07147-SPACE-A(90)GAP002-14 Rev.19 shall be submitted to and agreed in writing by the Local Planning Authority. Such scheme as agreed shall be fully implemented prior to the retail foodstore hereby approved first being brought into use.**

Reason: In order to ensure the retention of a non-designated heritage asset in accordance with Paragraph 135 of the NPPF and Policy GDP1 of the Derwentside District Local Plan. This condition is required to be pre-commencement in order to ensure that an appropriate scheme is agreed before any demolition takes place.

5. Prior to the commencement of any part of the development hereby permitted a scheme to deal with contamination shall be submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections (a), (b), (c) or (d) are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

- (a) Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

- (c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.
- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and for the Local Planning Authority to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems details are required in advance of work commencing on site in accordance with Part 11 of the National Planning Policy Framework. Required to be pre-commencement in order to ensure that the site is safe and suitable for development, before works start.

- 6. Within three months of the commencement of the development a detailed landscaping scheme, including method of protection of roots and protection of trees from vehicle impacts where necessary, has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

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

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

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

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy GDP1 of Derwentside District Local Plan and Parts 7, 8, 11 and 12 of the National Planning Policy Framework.

7. Within one month of the commencement of the development, details of the materials to be used in the construction of the main store building shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the works shall be carried out in accordance with the approved plans.

Reason: In the interests of the visual amenity of the area and to comply with Policy GDP1 of Derwentside District Local Plan and Parts 7, 8, 11 and 12 of the National Planning Policy Framework.

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

Reason: In the interests of the appearance of the area and to comply with Policy GDP1 of Derwentside District Local Plan and Parts 7 and 12 of the National Planning Policy Framework.

9. Prior to the retail store hereby approved being brought into use, details and positioning of electric vehicle charging point(s) and parking space(s) shall be submitted to and agreed in writing by the Local Planning Authority. The spaces should be created and be fully operational at the time of the store first opening and thereafter shall only be solely for the use for the charging and parking of electric motor vehicles.

Reason: In the interests of promoting sustainable travel in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 4 and 8 of the National Planning Policy Framework.

10. Prior to the retail store hereby approved being brought into use the on-site cycle parking facilities depicted on the proposed site plan (Site Layout 07147-SPACE-A(90)GAP002-14 Rev.14) shall be installed and all general car parking spaces shall be made available for use. The cycle parking facilities shall be retained in perpetuity.

Reason: In the interests of highway safety and the promotion of sustainable transport in accordance with Policy TR3 of the Derwentside District Local Plan and Parts 4 and 8 of the National Planning Policy Framework.

11. Within 6 months of occupation of the retail store hereby approved, a final Travel Plan, conforming to The National Specification for Workplace Travel Plans PAS 500:2008, Bronze Level, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall then be implemented and monitored in accordance with Local Authority Guidance.

Reason: In the interests of promoting sustainable travel in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 4 and 8 of the NPPF.

12. No construction/demolition activities, including the use of plant, equipment and deliveries, shall take place before 0700 hours or after 1900 hours Monday to Friday, or take place before 0800 hours or after 1700 hours on Saturday. No works shall be carried out on a Sunday or Public Holiday.

Reason: In the interests of residential amenity, in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.

13. The retail store hereby approved shall only be open to members of the public between the hours of 07:00 and 22:00 Monday to Saturday, and 10:00 and 18.00 Sundays and Public Holidays.

Reason: In the interests of residential amenity in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.

14. No deliveries shall be made to the retail store hereby approved outside of the hours of 0700 – 2130.

Reason: In the interests of residential amenity in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.

15. No external lighting shall be installed until full and precise details have been submitted to and approved by the Local Planning Authority to include the following:

- A statement setting out why a lighting scheme is required, and the frequency and length of use in terms of hours of illumination during the summer and winter.
- A site survey showing the area to be lit relative to the surrounding area, the existing landscape features together with proposed landscaping features to mitigate the impacts of the proposed lighting.
- Details of the make and catalogue number of any luminaires/floodlights.
- Size, type and number of lamps fitted within any luminaire or floodlight.
- The mounting height of the luminaires/floodlights specified.
- The location and orientation of the luminaires/floodlights.
- A technical report prepared by a qualified Lighting Engineer demonstrating the light spillage (vertical illumination level) at the site boundary and the windows of all nearby dwellings.

The approved scheme shall be constructed and installed in full accordance with the approved details and shall thereafter be maintained in full accordance with the approved details.

Reason: In the interests of residential amenity in accordance with Policy GD1 of the Wear Valley District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.

16. Both foul and surface water drainage shall be carried out in accordance with submitted 'Flood Risk Assessment and Drainage Statement' and 'Addendum Report –Proposed Lidl Superstore, Delves Lane, Consett'

Reason: In the interests of flood prevention in accordance with Part 10 of the NPPF.

17. Within one month of 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. Thereafter the development shall be carried out in complete accordance with the approved scheme and retained while the building is in existence.

Reason: In the interests of sustainable development in accordance with Part 10 of the National Planning Policy Framework.

18. 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 County Durham 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 Paragraphs 135 & 141 of the National Planning Policy Framework because the site is of archaeological interest. Required to be pre-commencement to ensure that no archaeological remains are disturbed by the commencement of work

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

Reason: To comply with Paragraph 141 of the National Planning Policy Framework, 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.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) (CC) 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.
- Statutory, internal and public consultation responses.



Planning Services

DM/16/03715/FPA
 Demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping, Land To The South Of 1 Boyd Street, Delves Lane, Consett.

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Comments

Date 26th October 2017

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