



Area Planning Committee (North)

Date Thursday 30 November 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 26 October 2017 (Pages 3 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/17/01930/FPA Land to the South East of Ford Crescent, Lanchester (Pages 11 - 42)
Detailed planning application for the erection of 52 dwellings including associated access, infrastructure and open space.
 - b) DM/17/03064/FPA The Coach House, Derwentcote Farm, Hamsterley Colliery (Pages 43 - 52)
Addition of single storey glass canopy to rear elevation of property.
6. Appeal Update (Pages 53 - 54)
7. 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
22 November 2017

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

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

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

Contact: Lucy Gladders

Tel: 03000 269 712

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 26 October 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, K Thompson, S Wilson (Vice-Chairman), S Zair, A Bainbridge, D Bell, L Boyd, M McKeon and M McGaun

Apologies:

Apologies for absence were received from Councillors A Hopgood and J Shuttleworth

Also Present:

Councillors J Brown, J Carr and W Stelling

1 Apologies for Absence

Apologies for absence were received from Councillors A Hopgood and J Shuttleworth.

2 Substitute Members

Councillor L Brown substituting for Councillor A Hopgood.

3 Minutes of the Meeting held on 28 September 2017

Minutes of the meeting held 28 September 2017 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest (if any)

Councillor A Shield as a former Board Member of the Durham Villages Regeneration Committee declared a previous prejudicial interest in Item 5(a) DM/17/02799/FPA Land to the south of Palmer Road Dipton. He further declared non-prejudicial interest in Item 5(b) DM/17/02609/FPA Land to the north east of 13 Dunelm Close, Leadgate as he was the local divisional member.

Councillor O Milburn as a former Board Member of the Durham Villages Regeneration Committee declared a previous prejudicial interest in Item 5(a) DM/17/02799/FPA Land to the south of Palmer Road Dipton.

Councillor I Jewell declared non-prejudicial interest in Item 5(a) DM/17/02799/FPA Land to the south of Palmer Road Dipton as he was the local divisional member.

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

The Chairman advised that the items of business would be heard in the following order; 5c, 5a, 5b.

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

The Committee considered a report of the Senior Planning Officer regarding the demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping (for copy see file of Minutes).

The Team Leader – Strategic Team provided a detailed presentation which included photographs of the site and plans of the proposed layout. It was noted that the application had been deferred from the last meeting to enable further discussions to take place regarding options for the retention of the entrance archway to the former Victory Pit. He reported that following discussions between Lidl, Elected Members and Officers, it had now been agreed that the front façade of the archway be retained, but located in a new position on site. He proceeded to run through the material changes in the report and conditions.

Councillor J Brown, local member, addressed the committee to speak on behalf of local residents. She reported that she was happy that an agreement had now been reached with Lidl as detailed in Condition 4 and the outcome was exactly what had been hoped for by residents.

She went on to thank Lidl for their extremely positive approach to negotiations and for being so accommodating. She further extended her thanks to Officers. On the basis of the addition of Condition 4 she therefore supported the proposals.

Councillor Shield **MOVED** that the application be approved subject to the conditions as listed in the report.

Councillor Zair **SECONDED** the proposal.

Following a vote being taken it was

Resolved: That the application be **APPROVED** subject to the conditions as listed in the report.

Councillors D Bell, A Shield and O Milburn left the meeting at this point and took no part in the discussion or voting thereon.

a DM/17/02799/FPA - Land to the south of Palmer Road, Dipton

The Committee considered a report of the Senior Planning Officer regarding the proposed erection of 56 dwellings including landscaping and infrastructure (re-submission) for copy see of Minutes).

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

The Chair at this stage asked for questions from the committee.

Councillor Thompson raised a query with regard the county's housing supply and figures stated within the Council Plan. In response the Senior Policy Officer advised that the figure quoted was that drawn from the consultation document. An announcement on the Council Plan was expected very shortly although he acknowledged that the county did have a very good supply of housing at this present time.

The Senior Planning Officer further reported that the county had a target to build 378 affordable homes this year, with a total of 196 being delivered during the period April and September 2017.

Councillor L Brown asked whether the difference between intermediate and affordable homes could be provided. The Senior Planning Officer provided an overview in response.

Further discussion took place regarding the proposed four, 2 bed units which were to be handed over to Karbon Homes.

Councillor Robinson asked whether the covenant issue had been resolved. The Senior Planning Officer advised that this was immaterial and land issues were dealt with separately by legal.

Councillor Thompson asked a further question with regard to maintenance of green areas and whether a condition could be attached to specify that these be handed to DCC for ongoing maintenance. The Solicitor advised that the council wouldn't necessarily want responsibility for the ongoing maintenance. In any event the maintenance of land was unlikely to render the scheme unacceptable. The Senior Planning Officer advised that the scheme would include a 5 year maintenance program.

In referencing the committee's previous decision on the application, Councillor McGaun asked for clarity on the reason for refusal the last time the application was considered. The Senior Planning Officer advised that the previous proposals were refused on the grounds of lack of affordable homes. It was noted that the original application included provision of 8 affordable homes however at the time the application was agreed the legal agreement was not signed and the application was held unapproved by the Council until it was presented again with revised proposals in July 2017.

Councillor Thompson asked whether this type of development would ever be considered for social housing. The Solicitor advised members that it would not be reasonable to ask for 100% social housing on a development of this nature.

The Chairman asked at this point whether an explanation could be given as to why the application with the inclusion of 4 affordable units was now viable for the developer when it had not been previously. The Senior Planning Officer provided an explanation for this and noted that it was positive that the developers had responded well to discussions following the last refusal.

The Chairman then asked Mr Jackson, Karbon Homes to provide an overview of the scheme proposed.

Mr Magee, local resident, addressed the committee to speak in objection to the application. He advised that he spoke on behalf of neighbours and friends who were unable to attend the meeting. He reported that all previous concerns raised or submitted held true and residents remained puzzled as to why the developers would want to develop such a difficult site. Residents were unanimous in their disapproval of the proposals.

He advised that what was required in the village was not housing, but play facilities for children. There was currently no locally equipped play provision. Two previous play sites had now been built upon and the proposed kick about area did not in his opinion meet the requirements of play provision.

In referencing the proposed affordable units he added that the provision of only 4 units which would be sold to Karbon Homes at Full Market Value for rent would not meet the affordable housing need in the area.

Mr I Prescott, Durham Villages Regeneration Company, addressed the committee to speak in support of the application. He advised that there were many benefits brought by the application including; helping the council to achieve its 5 year housing supply, provide much needed play space, biodiversity and economic benefits, including employment. He further advised that the site has suffered flooding, with surface water run-off damaging some properties in the past. The proposed scheme would reduce run off from 23.3 litres per second to 4.4 litres per second.

Mr S Jackson, Karbon Homes, addressed the committee to speak in support of the application. Mr Jackson provided some detail regarding the Homes and Communities Affordable Homes grant (HCA) which had been secured by Karbon Homes to provide four 2 bed affordable rented homes.

The Chairman then asked members for any comments or questions.

Councillor McGaun **MOVED** that the application be **REFUSED** on the grounds of loss of open space and the lack of affordable housing.

The Solicitor advised that financial figures had been submitted and approved by the council and the councils assessments had determined that the scheme would be

unviable should further affordable homes be requested. She did however note that the decision rested with the committee.

Councillor Robinson suggested that the committee may be faced with no option but to approve the scheme on the basis that the previous reason for refusal, had been due to the lack of affordable housing. This scheme had now addressed that issue.

Councillor Thompson **SECONDED** the proposal.

Following a vote being taken the Motion was **LOST**.

Councillor McKeon **MOVED** that the application be **APPROVED** subject to the conditions as listed in the report.

Councillor Wilson **SECONDED** the proposal.

Following a vote being taken it was

Resolved: That the application be **APPROVED** subject to the conditions as listed in the report.

b DM/17/02609/FPA - Land to the north east of 13 Dunelm Close, Leadgate.

The Committee considered a report of the Principal Planning Officer regarding the erection of an agricultural barn (for copy see file of Minutes).

The Principal Planning Officer provided a detailed presentation which included photographs of the site and plans of the proposed layout. She advised that since the report had been written a further letter of objection had been received containing 12 signatures. The concerns raised related to the visual impact of the building on the landscape; construction materials considered to be out of character with the area and storage of equipment proposed not required for the maintenance of the land.

The Principal Planning Officer further advised that should members be minded to approve the application, 2 additional conditions would be required, the first, that the existing fence should be removed and replaced with suitable hedging prior to the commencement of the building and the second, that details of the colour sheet to be used on the building be agreed with officers prior to use.

Councillor W Stelling, local member addressed the committee to speak in objection to the application. He advised that he understood the land to have been sold to Mr Berry for the purpose of community allotments and queried whether the change in use to agricultural had been agreed.

He advised that the existing fence which surrounded the site, installed by the applicant was an eyesore. Animals were currently left roaming around the site and on a number of occasions had escaped and were left roaming the housing estate.

Although he acknowledged that the applicant had significantly reduced the proposed size of the building, it did not detract from the fact that it was ugly and out of character with the area. The proposed materials were unsuitable and he noted the applicants' refusal to agree to planners recommendations of a brick and render building.

Regarding highways issues, he went on to add that the existing hammerhead at the site should be left as it is and could see no reason for the need to drop the curb for what was intended by the applicant.

He went on to refer to policies GDP1, GDP3 and EN26 of the Derwentside District Local Plan and NPPF Parts 4,7 and 11, all of which he felt the application failed to meet. He further noted that no coal mining risk assessment had been undertaken.

In response the Principal Planning Officer advised that the issue of land use was a separate issue and would have to be dealt with outside of planning. She did however note that should the site be used for the purposes of allotments, there could potentially be a number of buildings placed on site.

Mrs S Mower, local resident, addressed the committee to speak in objection to the application on behalf of herself and neighbouring residents.

She advised that since the land had been purchased by Mr Berry there had been an adverse impact upon the residents, including increase in traffic and accessing the building at unsociable hours. The roads were also often covered in dirt and muck from vehicles accessing the site.

The proposed box sheeting was considered to be out of keeping with the area and she could not see why an area of land grazed by animals required machinery such as a quad and mini digger. She further noted that machinery had been used on site at unsociable hours causing disturbance to residents.

In referring to highways issues, she queried the requirement for the proposed access road and noted that the land although not designated for parking had been used for this purpose for many years.

She went to reiterate comments already made regarding the unsightly state of the land. She further noted that animal dung was not regularly removed from site and did during warmer weather, cause a foul smell. Residents of Dunelm Close had also been subjected to shouting and intimidating behaviour from those using the site, some instances of such having being reported to the police. In addition fires had been lit on site and left unattended by the applicant, causing concern and possible danger to others.

Councillor Brown asked whether there were any conditions placed on the land sale. She further noted the state of the site and sympathised with residents for the issues they were facing.

Councillor Wilson asked whether the council would have more control over the operations on site via enforcement action should planning permission be granted with conditions.

Councillor Shield, noted as local member that he had grave concerns regarding the application which included; the adverse visual impact the building would have on the area given its uncharacteristic design. The increase in use of highway and hammerhead due to increased visits to the site by families etc. given its intended use as a hobby farm. He therefore suggested that the application contravened policies GDP1, AG3, EN26 and TR2 of the Derwentside Local Plan and Parts 7 and 11 of the NPPF.

Councillor M McKeon asked whether given the potential covenant issue, the decision should be deferred until those discussions had taken place. The Chair reminded members that this was an issue to be dealt with outside of the planning committee and could not be taken into consideration today.

Councillor Thompson commented that he found the use of a quad bike to be problematic, adding that it did not fit in with the environment and size of land being farmed. He therefore queried whether it could be conditioned as to what was kept in the building. In response the Principal Planning officer advised that this would be covered by Condition 3, which gave the authority enforcement powers to ensure that the authority were satisfied with the contents of the building and that the items were being used for the purposes of maintaining the site.

Councillor Milburn asked whether Highways could offer their views and also asked whether it was known what kind of hedge would replace the fence.

The Principal DM Engineer commented that he too sympathised with residents, recognising that there had been non-legitimate highway use causing conflicts for other road users. He also noted that concerns had been raised regarding the dirt which was being dragged onto the public highway from the site.

He reported that in light of the above Highways Engineers had requested that legitimate access be installed with parking on site for use of the site only. He further noted that the road width was suitable in width for a tractor to pass when cars were parked either side.

Councillor L Brown asked how big of an area the applicant farmed. She also referred to the Allotments Act 1907 and trade use. The Principal Planning Officer advised that the site was approximately 1 acre in size. The Solicitor advised that although an interesting point, the land use was a separate issue to be considered outside of the planning committee.

In response to Councillor Wilson's previous question regarding enforcement, the Principal Planning Officer advised that Condition 4 would ensure that the hours of operation of machinery could be controlled.

Further discussion took place regarding the coal mining risk assessment and it was noted that the condition would only be discharged upon completion of a full coal mining risk assessment.

Councillor Shield therefore **MOVED** that the application be **REFUSED** on the grounds that it contravened policies GDP1, AG3 and EN26 of the Derwentside Local Plan and Parts 7 and 11 of the NPPF.

Councillor Zair **SECONDED** the proposal.

Following a vote being taken it was

Resolved: That the application be **REFUSED** on the grounds that the proposed building by virtue of its appearance, design and materials would be detrimental to the visual amenity, residential amenity and character and appearance of this predominantly residential/urban fringe area contrary to Derwentside Local Plan Policy GDP1, AG3 and EN26 of the Derwentside District Local Plan and Parts 7 and 11 of the NPPF.

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/01930/FPA
FULL APPLICATION DESCRIPTION:	Detailed planning application for the erection of 52 dwellings including associated access, infrastructure and open space.
NAME OF APPLICANT:	Bellway Homes Limited (North East)
ADDRESS:	Land to the South East of Ford Crescent, Lanchester.
ELECTORAL DIVISION:	Lanchester
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 consists of 3.46 ha of open countryside east of Ford Road (B6301) on the southern boundary of Lanchester, a village described as a Local Service Centre in the County Durham Settlement Study 2012. Lanchester sits mid-way between Durham City (7.2 miles) and Consett (4.9 Miles). Annfield Plain, classified as a Smaller Town / Larger Village, with a small supermarket, is 2.7 miles to the north. The village includes a range of community, education, retail and leisure facilities and access to bus routes and a cycleway. The entrance to the site is 0.4 miles (path) or 655m from the village centre.
2. The village sits within the valley floor of Smallhope Burn, with a historic core designated as a Conservation Area surrounded by modern urban extensions to the south, west and north. The A691 passes through the eastern part of the settlement.
3. The site is within a designated Area of High Landscape Value (AHLV) defined in the Derwentside District Local Plan (Policy EN6). This designation surrounds the north, east and south of the village. The site is open unimproved grassland, surrounded by field boundaries featuring sporadic hedges and trees. The land falls from the B6301 towards the floodplain of Smallhope Burn, this lower area consisting around a fifth of the site.
4. The hedged north boundary of the part of the site proposed developed sits alongside the Settlement Boundary (Policy HO7) and the property named Oakwell', with its extended garden to the rear. The eastern part of the site is formed of the floodplain of Smallhope Burn, with that watercourse being the boundary. Across the Burn is

Dora's Wood, a community woodland area and the Lanchester Valley Walk/Cycleway. South of the site is open countryside leading towards the designated parkland around Newfield Hall. The West of the site faces the large dwelling named West Park and further rising agricultural land designated as AHLV. There are two mature trees within the site, one of which is subject to a formal Preservation Order. The trees on the roadside and south boundaries are likewise protected.

The Proposal

5. The application seeks detailed planning permission for the development of 52 houses covering 56% of the site at an overall density of 15 dwellings per hectare (dph). The dwellings proposed are: 38 four bed units, 6 three bed units and 8 two bed units. 42 of the dwellings are proposed detached. 20% of the scheme is proposed as affordable dwellings, these being 2 three bed and 8 two bed units. The affordable dwellings are either in semi-detached or mid-linked form.
6. The site frontage is proposed kept open to retain the protected isolated mature tree within the field and provide a feature that both benefits the new residents and visually mitigates the urban intrusion into the countryside. The lower part of the site is likewise kept free of development where formed of the extended functional floodplain of the adjacent watercourse. This part of the site is proposed for ecology and leisure use, and as part of the development's sustainable drainage system.
7. The application is proposed accompanied by a s.106 legal agreement to secure the provision of the affordable housing and an education contribution.
8. The application is reported to Committee as a 'major' application.

PLANNING HISTORY

9. The site has no formal 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.
11. 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'.
12. 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.

13. The following elements of the NPPF are considered relevant to this proposal;
14. *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.
15. 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.
16. *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.
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.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

23. National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
24. *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.
25. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
26. *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.
27. *Tree Preservation Orders and trees in conservation areas* - A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the: cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.
28. *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.

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.

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

LOCAL PLAN POLICY:

32. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
33. *Policy GDP1 – General Development Principles* – 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.
34. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
35. *Policy EN2 – Preventing Urban Sprawl* – except where specific provision has been made in the Plan development outside existing built-up areas will not be permitted if it results in: the merging of neighbouring settlements, ribbon development, or encroachment into the surrounding countryside.
36. *Policy EN6 – Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.
37. *Policy EN7 – Protection of historic parkland* – Historic parklands will be protected from development which would harm their character.
38. *Policy EN9 – Works to trees covered by preservation orders* – Only allows the cutting down, lopping, pruning, topping or uprooting of protected trees if the work is

necessary because of good arboricultural reasons or the survival or growth prospect of other protected trees is threatened, or if the tree is causing structural damage and no other remedial action is possible, or the tree is a danger to life or limb

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 TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

RELEVANT EMERGING POLICY:

42. 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:

43. **Highways** - The applicant submitted a Transport Assessment to support the application which set out the site access arrangements and some footway improvements on Ford Road. It has been proposed for the working width of the carriageway to be reduced to 5.5m to the south of the access to achieve visibility splays of 2.4m x 120m. A section of footway widening around 100m in length on Ford Road was proposed north of the site access to improve pedestrian access from the site. A scheme to ensure epicormics growth on roadside trees would not affect site visibility at the access is required.
44. Highways Engineers have insisted that an extended footway widening scheme was required for safe pedestrian movements to the village from the site access up to Ford Street as the pedestrian environment is so uncomfortable heading North on Lanchester Road because of the narrow footway (further reduced by street furniture) that the 'at risk level' was deemed as 'severe' for any new pedestrian movements particularly for parents with small children and mobility scooters. The applicant brought forward proposals to introduce traffic calming on the B6301 Ford Road,

Lanchester in order to accommodate the new development on the outskirts of the existing development, and to overcome the issue of the narrow footways.

45. It was recognised that wider footways along Ford Road are needed to serve the new development however this should not be at the expense of road safety. The B6301 is a strategic route within the rural area and as such takes the larger vehicles, with goods vehicles amounting to over 13% of the traffic flow. It also forms an important link for local agricultural vehicles which can be quite wide. Ford Road currently has a speed issue mainly due to the southern section of Ford Road lacking credibility owing to the properties being set well back and lack of frontage development. There is a gateway feature at the 30mph terminal point nevertheless speeding continues to be an issue. It is acknowledged however that Ford Road does not suffer from a personal injury accident problem, the last incident being in 2010.
46. The proposal details from the agent shows traffic calming in the form of priority give way features. The proposal appears to be based on the use of road markings only, with the footway being widened over the narrower sections. The northern most give way appears to have limited stacking space before stopped vehicles prevent opposing vehicles from passing. In reality it is likely that vehicles will mount the pavement in order to maintain a flow of vehicles, particularly at busy times when traffic may become gridlocked by the features.
47. Engineers consider that any scheme should not result in measures which result in a highway which is inferior to that existing in terms of capacity and safety. A scheme of traffic calming measures cannot be supported – a view supported by the Durham Constabulary Traffic Management Officer.
48. Acknowledging that development should only be permitted or refused on transport grounds where the residual cumulative impacts of development are severe, Engineers consider the applicant has fallen somewhat short of what would be required to mitigate the severe highways impact the development proposals on Ford Road. Possible opportunities have been fully explored with the applicant but have been concluded unacceptable.
49. Given the above findings Highways Engineers recommend that the application as it currently stands be refused, as the safety and sustainability implications of the reduced footpath width connecting the site to the village centre are of such an adverse nature that they both represent the severe impact. In coming to this conclusion, material weight is given to highway design technical guidance set out in Manual for Streets and the Government's 'Inclusive Mobility' advice. The failure of the proposed development to comply with the minimum footway widths set out in MfS would mean there would be potential for conflict to arise between pedestrians and vehicles at Ford Road. The residual cumulative impact of the scheme on highway safety would be deemed as severe by the Highways Department, with the development therefore contrary to paragraph 32 of the NPPF and Development Plan Policy TR2(e).
50. **Northumbrian Water** – confirm they have no issues with the application, provided any development is conditioned to be carried out in strict accordance with the submitted "Flood Risk Assessment and Drainage Strategy" that indicates that surface water from the proposed development will discharge to the watercourse, whilst foul flows will discharge to the existing combined sewer.
51. **The Environment Agency (EA)** – raise no objection subject to the imposition of a condition to ensure the mitigation measures contained in the submitted Flood Risk Assessment ensuring there will be no development in the defined EA Flood Plain.

52. **The Coal Authority** – The Coal Authority considers that the content and conclusions of the Mine Workings Investigation Report are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development.

INTERNAL CONSULTEE RESPONSES:

53. **Spatial Policy** - This section represents a short summary of the Spatial Policy Team's response, and identifies key planning policies and their current status relevant to the consideration of this proposal. The full text of the response is available on-line. It also highlights any relevant policy related material considerations in terms of national policy, guidance and local evidence bases. The key planning policy considerations outlined in this response relate to:

- Identification of the development plan policies that are relevant to this proposal and their current status in decision taking
- Whether there are any other policy related material considerations that need to be taken into account
- Whether there are any specific policy requirements that relate to the scheme
- Consideration as to whether the test set out in paragraph 14 of NPPF is engaged and if so, whether there are any policy related adverse impacts or benefits that should be considered.

54. Existing Planning Policy Context

(i) Local planning policy framework: Adopted Local Plans

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 (LP) remains the statutory development plan and the starting point for determining applications - alongside the County Durham Waste Local Plan and the County Durham Minerals Local Plan (however given the nature of this proposal the Minerals and Waste Local Plans are not relevant) - 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. The LP 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 status of each of the relevant policies is therefore also set out in section 3 below.

(ii) Local planning policy framework: Emerging County Durham Plan

Paragraph 216 of NPPF confirms that weight can be given 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.

An Issues & Options consultation was completed in 2016 on the emerging the County Durham Plan (which will replace district local plans when it is adopted). However, it is not sufficiently advanced to be afforded any weight in the decision making process.

(iii) Local planning policy framework: Neighbourhood Plans

A Neighbourhood Plan is being prepared for Lanchester Parish. Two rounds of informal consultation have been carried out, however a draft plan has not yet been formally consulted upon and therefore no weight can be given to the plan at this stage.

(iv) Policy related material considerations: NPPF

The main purpose of the NPPF is to achieve sustainable development. It is regarded as a material consideration in determining planning applications. Where the development plan is absent, silent or relevant policies are out-of-date paragraph 14 sets out how proposals should be considered through the application of a two 'limbed' test. This is set out in the second bullet of the 'decision taking' section – it requires LPAs to grant permission unless:

- *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole: or*
- *specific policies in this Framework indicate the development should be restricted.'*

55. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to help boost the supply of housing.

56. 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.

57. 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.

58. The NPPF also sets out a range of specific national policy approaches which are material considerations alongside relevant parts of Planning Practice Guidance (PPG), which provides further clarity on such matters.

59. Paragraph 17 sets down the core planning principles which should be material to planning decisions. Key objectives include improving and enhancing places, supporting development to meet local needs and opportunities for growth. Schemes should incorporate high quality design and a good standard of amenity for all users, while supporting the transition to a low carbon future. Development should contribute to conserving and enhancing the natural and historic environment and reducing pollution, support sustainable transport opportunities in terms of location and design.

60. Relevant paragraphs for determining this proposal include amongst other things:

- 32 – development which generates significant amounts of movement should be supported by a Transport Assessment/Statement – opportunities taken to support sustainable transport and reduce need for major infrastructure
- 37 – sustainable locations
- 49 – housing application should be considered in the context of the presumption in favour of sustainable development – housing policies out of date where an authority cannot demonstrate a 5 year supply of housing
- 56-66 – ensure high quality and inclusive design

- 69 – ensure safe and accessible developments and environments
- 73-74 – ensure access to open space – it should not be built on unless assessed as surplus to requirements or it can be replaced by equivalent or better provision
- 95 – support delivery of energy efficiency improvements
- 96 – support decentralised energy supplies and takes account of landform, layout, building orientation, massing and landscaping to minimise energy consumption
- 103 – schemes should not exacerbate flood risk
- 109 – schemes should contribute to and enhance the natural and local environment
- 118 – encourage opportunities to incorporate biodiversity in and around developments
- 120 - developer and/or landowner responsibility for securing a safe site where it is affected by contamination or land stability issues
- 123 – schemes should ensure adequate amenity
- 125 – schemes should limit light pollution
- 139 – covers non-designated heritage assets of archaeological interest that are equivalent to scheduled monuments

61. As the test is engaged in this instance policy-related 'adverse impacts' and 'benefits' are set out in this response.

62. In conjunction with these material considerations regard should also be had to the most up to date relevant spatial policy evidence base, which is set down in this response.

Key 'saved' development plan policies current status is assessed thus by Policy Officers:

63. Policy GDP1 - is considered to be consistent with the NPPF and can be afforded weight in the decision-making process.

64. Policy EN1 - While this policy is slightly more restrictive than what is set down in NPPF, it nevertheless offers some consistency with national guidance and can be given weight in the determination of this scheme. The recent Richborough case has confirmed that environmental policies can be considered separately from policies specifically connected with housing supply, and more weight can be given to such policies than what was considered in the Paddock appeal decision which preceded the Richborough case (see Section 4, below). Our view is that full (or near enough full) weight can now be given to this policy.

65. Policy EN2 - The circumstances where development will not be permitted remain established planning principles and are therefore relevant. They do not preclude development supported by NPPF and other policies in the LP where they are consistent with NPPF. The policy is clear in its intent and accords with paragraph 154. However the decision taker should make it clear which of these circumstances are applicable and set out the adverse impacts which would result as a consequence which render the proposal unsustainable development in the context of NPPF. As per EN1, the recent Richborough case has confirmed that environmental policies can be considered separately from policies specifically connected with housing supply, and more weight can be given to such policies than what was considered in the Paddock appeal decision which preceded the Richborough case (see below). Our view is that weight can be given to this policy.

66. Policy EN6 - The purpose and content of this saved policy is reflected in the objectives of both NPPF & PPG, however NPPF does not recommend local landscape designations. Notwithstanding this NPPF acknowledges the importance of

protecting the character of 'valued landscapes' under paragraph 109. The Council considers Areas of High Landscape Value fall within the scope of such landscapes, which has been confirmed in recent appeal decisions (see Section 4, below). For these reasons the saved policy is considered to be consistent with NPPF and can be afforded weight in the determination of this proposal, augmented by more up to date evidence set down in the Durham Landscape Strategy (2008).

67. Policy EN11- This policy is considered to be consistent with NPPF (particularly paragraph 118) and can be afforded weight in determining the application.
68. Policy HO7 - The policy seeks to direct new development to sustainable locations within the built up area, and to safeguard the countryside as a limited resource. It is therefore not considered to be a 'policy for the supply of housing' for the purposes of interpreting paragraph 49 of NPPF. The site falls outside of this boundary and is therefore contrary to the plan in this regard. This policy is based upon evidence relating to the projected development requirements for the lifespan of the local plan (the plan period), which has now passed. As such, whilst it provides a useful starting point for identifying the extent of the built up area and countryside, and for considering the locational credentials of any proposal, it is considered to be out-of-date. It is therefore considered that whilst relevant to the proposal, and broadly consistent with the principles of NPPF, limited weight should be attached to this element of the policy in the determination of this application. The actual impact, if any, of a proposal in locational terms is a matter of judgement.
69. Policy HO22 - The NPPF states recreation provision should be based on robust and up-to-date assessments of need, rather than specific levels of provision per development. Therefore, whilst this policy approach (i.e. ensuring adequate provision exists to support new development) broadly accords with paragraph 73 of NPPF, a more up-to-date evidence base is set out in the OSNA, Playing Pitch Strategy and Action Plan. As the general aims are consistent with national policy, H022 can be given some weight in the decision making process when read in conjunction with more up-to-date evidence.
70. Policy TR2 - The policy also sets down requirements for car parking however these have been superseded by more up-to-date County standards. As the general aims are consistent with national policy TR2 can be given some weight in the decision making process when read in conjunction with the more up to date county standards and the advice of the Highways Team.

Policy Officers identify other material considerations as:

71. Strategic Housing Land Availability Assessment 2013 (SHLAA) - A slightly smaller site - roughly excluding the sustainable drainage (SuDs) area identified in the submitted scheme - has been assessed through the SHLAA process (latest published version 2013). Overall, it has previously been deemed to be 'unsuitable' in principle for housing development. The summary noted that development would lead to significant adverse visual impact and urban sprawl. Access would not be easy and involve the loss of roadside trees. Ford Road is narrow and there is a lack of footpath access to the settlement. There would also be the loss of land that is considered to be parkland and the loss of veteran trees some of which are subject to TPOs. As it stands the site forms a visually attractive gateway into Lanchester from the south.
72. This evidence base has been ratified by the SHLAA Partnership which includes external partners. A summary of the assessment is provided below framed around the key decision making criteria adopted by the SHLAA process and in the context of NPPF.

73. Landscape impact - Structural landscaping required. Despite mitigation significant adverse visual impact on the landscape and its designations will remain. The entire site is within an Area of High Landscape Value and Tree Preservation Orders are present on the southern and western boundary as well as within the site. Development would cause an incursion into open countryside impacting upon attractive views to Greenwell Ford Park. This issue should be considered in the context of paragraph 109 of NPPF.
74. Biodiversity Impact - There would be impacts on biodiversity. Greenwell Ford Meadow (CWS) is 400m from the site and as such development is expected to have an ecological impact. Development would also have landscape issues and involve the loss of veteran trees and land considered to be parkland.
75. These issues should be considered in the context of paragraphs 109 and 118 of NPPF which states, amongst other things, that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity where possible.
76. Highway Access - The highways team consider the sites suitability for housing as 'conditional'. Ford Road is narrow and the site is on a bend however it is suggested that access is possible from Ford road but would involve the loss of roadside trees. There are very poor footway links to the village with no realistic means to improve them. Overall, the highways team are opposed to large developments with such poor pedestrian links to the village. The NPPF is largely silent on minor residential schemes however it emphasises the importance of sustainable transport modes and ensuring safe and suitable access for all people.
77. Open Space - The site is not formally recognised in the Open Space Needs Assessment.
78. Level of Accessibility/Relationship to Settlement - The SHLAA assessment suggests that while access to some services and facilities is generally good, some may be outside of walking distance for some residents (e.g. education, health/leisure, retail park, industrial estate/business, park & main town). The bus transport accessibility score does not meet minimum requirements for frequency and walking distance. If this site is developed consideration should either be given to additional provision of services/facilities or investment in bus services to meet and improve upon minimum requirements to enable more sustainable transport opportunities. There are very poor footway links to the village from this site with no realistic means to improve them.
79. The site is greenfield which has never been developed. It is roughly square adjoining a residential area on one side, farmland on two others and the banks of Smallhope Burn on the other. Adjacent housing is low-density detached houses with gardens. It could be argued that the development of this site would be the beginnings of sprawl away from the village along main roads and would be visible from the surrounding area.
80. 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.
81. Government policy (11th bullet, paragraph 17 of the NPPF) seeks to actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. LPAs should support a pattern of development which, where

reasonable to do so, facilitates the use of sustainable modes of transport (paragraph 30, NPPF).

82. Flood Risk - The eastern part of the site should not be developed due to the flood risk and SuDs / flood defences should be incorporated if the site were to be developed. Site specific flood assessments are likely to be needed as well as the site is adjacent to FZ3B. Paragraph 100 of NPPF seeks to resist development in areas at risk of flooding and direct development away from areas at highest risk.
83. Heritage Impact - Although no known constraints on the site as it is over 1 ha an archaeological survey would be required at application stage.
84. Strategic Housing Market Assessment - 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.
85. Open Space Needs Assessment - The OSNA (2010) sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site specific basis. This is a relevant material consideration in conjunction with Policy HO22 and paragraph 73 of NPPF.
86. Recent Appeal Decisions
87. I note that a scheme for 14 units has recently been allowed at appeal for a site on the opposite side of the B6301 on a site referred to as The Paddock. This decision has some implications for the submitted proposal as there are some similarities - namely outside of the settlement boundary and within the AHLV - however it is of equal importance to appreciate that there are also some significant differences between the two development proposals and sites.
88. It is important to also note the Richborough Supreme Court decision has superseded this decision in some key areas, notably in terms of the scope of environmental policies and their links to housing supply i.e. they are no longer regarded as policies connected to housing supply and can be given corresponding weight. Further commentary is provided in the Local Plan policy section above.

Specific policy requirements that relate to the scheme

89. 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 20% can reasonably be expected on sites of 15 dwellings/0.5 hectares.
90. Play space and recreation provision - As identified above 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.
91. 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.

92. 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.

93. 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:

Whether the 2 limbed test is engaged and the implication for the decision taker

94. Spatial Policy Officers have provided an assessment of the status of relevant local plan policies above. With this in mind whilst the local plan is not 'absent' or 'silent,' given the current uncertainty with regards to housing land supply, the housing supply policy framework is out of date by virtue of paragraph 49 of NPPF. Therefore the two 'limbed' test set out in the 'Decision Taking' section of paragraph 14 of NPPF is engaged. This test sets a high bar for resisting a proposal.

95. In undertaking the test the decision taker must determine whether there are any restrictive policies within NPPF which would render the scheme unacceptable, in accordance with the second 'limb' of the test. Footnote 9 identifies examples of specific policies of restriction (in principle) in the Framework. The SHLAA records concerns, particularly in relation to landscape, biodiversity and highway matters, which may qualify as such restrictions. Feedback from specialists will confirm these and whether there are any additional restrictions.

96. 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 'saved' local plan policies - where they relate to any identified harm and benefits – are included in the planning balance assessment. It is for the decision taker to determine the level of weight that should be afforded to them in accordance with their status (which is set out in section 3 of this response). Many of the 'saved' policies remain relevant when considering those aspects of the scheme, as set out above.

97. Potential Policy related benefits and adverse harm

98. From a planning policy perspective the following are considered relevant in this case:

Contribution to housing land supply

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. The housing trajectory associated with the withdrawn County Durham Plan (CDP) is no longer relevant and similarly the CDP Objectively Assessed Need (OAN) for housing figure no longer exists. This raises the issue of what is the requirement against which the supply is to be measured in order to calculate whether or not a 5 year housing supply exists.

99. On 15 June 2016 a report into the County Durham Plan Issues and Options (the first stage of the re-emerging plan process) was presented at Cabinet. The report was approved at Cabinet and consultation on the CDP Issues and Options commenced

on 24 June. In relation to housing, the Issues and Options presented three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the CDP plan period).

The three alternatives are:

- 1,533 houses per year (29,127 houses by 2033)
- 1,629 houses per year (30,951 houses by 2033)
- 1,717 houses per year (32,623 houses by 2033)

100. 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 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 about 4.51 years' worth supply and against the highest figure, 4.20 years of supply.
101. Whilst none of the three scenarios within the Issues and Options had been publicly tested, it did serve to demonstrate that set against varying potential figures, the Council had a relatively substantial supply of housing at that time.
102. 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.
103. Recent 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.
104. 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.
105. Broadening housing choice - In undertaking 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. Providing affordable or specialist housing cannot be considered as benefits in terms of satisfying local housing need and the planning balance.
106. 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.
107. 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 SHLAA assessment has identified concerns in relation to the location of this site and its accessibility to services and facilities. While the Inspector in the Paddock Appeal was of the view that there is a reasonable array of services and facilities and access to higher order settlements is reasonable, it is

noted that this was along routes that differ to those linking to the submitted proposal. Further consideration is required to determine the locational sustainability of this proposal and whether any benefit can be given in the balance.

108. 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 in addition to those highlighted in this report (i.e. primarily landscape, highways and biodiversity 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.
109. **Landscape** - Assessed against the NPPF, the proposed development would result in a permanent and adverse change to the character and appearance of the site itself. In that respect the proposals would, to some degree, run counter to the Framework's core planning principle of recognising the intrinsic character and beauty of the countryside (paragraph 17).
110. The site lies within an Area of High Landscape Value (AHLV) identified in the Local Plan and a Landscape Conservation Priority Area identified in the County Durham Landscape Strategy. These are indicators that the site is, or forms part of, a valued landscape in the way the term is used in the Framework. In that respect the proposals would, again to some degree, run counter to the Framework's requirement that the planning system should protect and enhance valued landscapes (paragraph 109). In establishing to what the degree to they would do so, and having regard to the way the issue has been considered in other appeal decisions, the key considerations are:
- Whether the local landscape has specific characteristics or demonstrable attributes that elevates it above the ordinary.
 - Whether the effects of the development would be harmful to the landscape and to what degree.
- The AHLV was identified in Policy EN6 of the Derwentside District Local Plan in 1997 and the County Durham Structure Plan 1991-2006. While the AHLV has not been reviewed since that time, the area has been the subject of a detailed Landscape Character Assessment and Landscape Strategy, both of which were adopted in 2008. The area is subject to on-going landscape assessment in reports on Parks and Gardens of Local Interest indicating an on-going systematic assessment and review of the various aspects of heritage assets and designated landscapes.
111. A comparison between the Landscape Conservation Priority Areas identified in the Landscape Strategy and the AHLV boundary (see Figure 1 below) shows a good degree of commonality. This is evidence that the AHLV designation is reasonably robust, well-founded and under on-going review.
112. Characteristics and attributes of the AHLV that elevate it above the ordinary include:
- The strong valley topography that affords extensive views across the landscape;
 - The generally good condition of the landscape with its relatively intact field boundary networks;
 - The well-wooded or heavily timbered character of much of the landscape with locally abundant woods and hedgerow, roadside or field trees;
 - The presence of a number of historic parklands and estates with strong cultural associations including Greencroft Park, Greenwell Park, Broomshiels Hall and Burnhopside Hall.
 - The scenic quality that arises from combinations of the above.

113. In terms of the local landscape, the site forms part of a tract of farmland and parkland which historically formed part of the larger Greenwell estate. While much of this was tenanted farmland, the area immediately south of Lanchester was managed directly from Greenwell Ford as the estate's home farm. The core of the parkland lies east of Ford road with the area identified in the Derwentside Local Plan as historic parkland. The village developed southwards along Ford Road towards the Park in the C20th, largely in the 1970s. With the exception of the detached villa of West Park this has taken place on areas of working farmland outside of the park and outside of areas of the more aesthetically enhanced estate farmland referred to above. This includes the recently approved Paddock site. The village boundary now comes up to the edge of that landscape, the two fields, now combined into a single field forming the application site (historically known as Clarke's Close and Low Ewe Close) being the first fields of the old Greenwell estate east of Ford Road.
114. Taken as a whole the local landscape exhibits some coherence as an area of aesthetically improved estate landscape. This doesn't result from a single design or a single period but reflects an organic and piecemeal pattern of interventions over the generations. It retains many features associated with that broad phase of its development including woodland copses, mature and veteran parkland, field boundary and roadside trees, estate walls, formal gardens, ponds and water features. Although some elements are in poor condition the legibility of the landscape as a whole remains relatively strong. The abundance of mature and veteran trees combined with the natural topography make it attractive in views from the locality including the approach to the village along Ford Road and in some local views back across the Smallhope and Browney valleys.
115. The site itself forms a small but integral part of this landscape. It contains a number of attractive features including its natural topography and its mature field, boundary and roadside trees. Although there are some condition issues – the gappy or relict nature of boundary hedges and the rather incongruous fencing used to protect some of the trees from horses – it continues to read as part of that wider estate landscape and forms part of a particularly attractive entrance to the village with a strong sense of place.
116. The southern approach to the village along Ford Road has a strong character defined by the abundance of mature roadside trees and filtered views through to the surrounding countryside on both sides of the road. These include views across the site down to the Smallhope Burn and back towards the park. The immediate settlement edge at the entrance to the village is well contained, being mediated by the large gardens of West Park and Oaklea with their robust hedges and garden trees. These form a strong and well-established demarcation between the village and the surrounding countryside.
117. In terms of the critical assessment of 'Harm', the proposals would entail some modification of the natural topography and particularly the river terrace bluff and its minor valley in the south. The proposals would entail the loss of three mature/veteran trees required by risks associated with retaining them in a new urban environment. They are notable features that contribute to the character of the local landscape and might otherwise be expected to contribute to the character of the landscape of an undeveloped site for some time.
118. The effect on the character of the landscape at the level of the site and its immediate locality would clearly be transformative. The site would be only partially developed with the floodplain retained as open land and a green developed in the west to retain some set-back of built form in views from Ford Road. Built development would

nevertheless remain its defining characteristic and it would have a notable effect on the rural character of the landscape forming the immediate setting of the village.

119. The site is visually contained and most of its significant effects would occur within that immediate area. The effects of the proposals on the character of the landscape would be localised and wouldn't affect the general character of the wider Browney Valley Character Area or the wider Browney and Smallhope AHLV. Nevertheless it is concluded that those effects would be significant at the level of the site and the local landscape it forms part of due to the particular value and sensitivity of that landscape, and the contribution it makes to the immediate setting of the village.
120. For the reasons set out above I consider both the AHLV generally, and the local landscape the site forms part of as being a 'valued landscape' in the way the term is used in paragraph 109 of the Framework. I would see the level of harm to the local landscape, although localised, as being of an order that would bring it into conflict with the Framework's core principles that the planning system should protect and enhance valued landscapes (paragraph 109) and take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside (paragraph 17).
121. In terms of the relevant policies in the Development Plan, The supporting text to Policy HO7 indicates that the Interim Development Limit protects and maintains the attractive setting of the village, in particular the slopes to the north-east and south-west. It is therefore considered the development limit in this area plays a strong role in protecting and maintaining the attractive setting of the village.
122. In respect of the compliance of EN6, the AHLV Policy, the Framework does not discourage the use of local designations. Paragraph 113 of the Framework states that local planning authorities should set criteria based policies against which proposals for any development on or affecting protected landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so protection is commensurate with their status and gives appropriate weight to their importance. The Derwentside Local Plan identifies locally designated landscapes and differentiates in policy between them and nationally designated landscapes.
123. In terms of how up-to-date the policy is in other respects, while the AHLV has not been reviewed since 1997, the area has been the subject of a detailed Landscape Character Assessment and Landscape Strategy, both of which were adopted in 2008. As noted above a comparison between the Landscape Conservation Priority Areas identified in the Landscape Strategy and the AHLV boundary show a strong correspondence between the two – certainly in respect of land within the AHLV. This is evidence that the AHLV designation is reasonably robust and up to date. The landscape of that area has not changed in any meaningful way in the intervening period.
124. Landscape Officers consider the level of harm identified above to conflict with the criteria given in EN1 in that the proposals would not help to maintain or enhance the character of the local landscape and wouldn't be sensitively related to the landscape resource of the area.
125. The proposals would clearly involve an encroachment into countryside and would therefore be in conflict with EN2.
126. The approach taken to conserving the character and beauty of the countryside in the Derwentside Plan relies on a number of policies and needs to be read as a whole.

Landscape Officers indicate their understanding of EN6 is that it was intended to deal with development 'considered to be appropriate' which the supporting text says should, in general, 'be compatible with its predominantly rural nature' and therefore needs to be read together with EN1 and EN2 which are the primary policies for determining whether a development is appropriate in areas of countryside, which includes AHLVs.

127. For Policy EN7 there would be no direct impact on Greencroft Park, which is identified as a park of local significance. The park, its boundaries, features and significance is currently under review as part of a wider exercise. The application site forms part of the wider estate farmland surrounding the parkland core, and contains some aesthetic interventions which forms part of its setting, the two being clearly interrelated.
128. There would be harm to the special character of the AHLV arising from the siting and design of the proposals. Although that harm would be localised, I would consider it to be significant due to the particular sensitivity of the local landscape the site forms part of, and the contribution it makes to the immediate setting of the village.
129. **Drainage and Coastal Protection** – The Senior Area Drainage Engineer confirms that subject to confirmation of details of the porous nature of driveways (which can be achieved through an appropriately worded condition and submission of the hydraulic calculations to support the design of the proposed drainage scheme (for auditing purposes) the scheme meets the requirements of the Council as Strategic Flood Risk Authority, incorporating sustainable drainage principles, taking into account its relationship to the existing village and the adjacent watercourse. Development Plan Policy and Government advice set out in the NPPF and NPPG is considered satisfied.
130. **Ecology** – Having sought amendments to the Recommendations and Mitigation Strategy contained within the submitted Ecological Impact Assessment, the Senior County Ecologist is satisfied that the impacts of the development can be mitigated on-site if the proposals set out in that document are conditioned and carried out, meeting the requirements for development to result in a net bio-diversity gain as per paragraph 118 of the Framework.
131. **Education** – Education Officers confirm a development of 52 houses could produce an additional 16 primary pupils and 6 additional secondary pupils. There are sufficient secondary school places available but no primary school places. Lanchester EP Primary School will be expanded from September 2017 but even after this expansion there will be no places for pupils from this proposed development. There is no space at the front of the site for any further classrooms and due to the topography at the rear of the building, significant work would be required to either "build up" the ground or building a 2 storey extension to make it the same height as the rest of the building which is single storey. A contribution from the developer of £232,526 towards an additional classroom would be requested.
132. **County Archaeology** – the applicant has carried out a field evaluation of the site, including geophysical survey and trial trenching. These have revealed no significant archaeological remains, and there is therefore no archaeological objection to this scheme.
133. **Pollution Control (Noise)** – based on the information submitted with the application, the development is unlikely to cause a statutory nuisance.

134. **Pollution Control (Contamination)** –confirm they have assessed the available information and historical maps with respect to land contamination and reviewed the Dunelm Geo-environmental appraisal D7604 Rev 1 dated 22/2/17. Noting within this assessment that further works are required to determine the extent of the Marshal Green Seam in relation to coal workings, it is recommended that this is undertaken and verification given as to whether there is the potential for mine gas emissions. A condition to this end is suggested.
135. **Sustainability** – In terms of Locational Sustainability, the site was previously assessed as being ‘unsuitable for housing’ in the 2016 SHLAA. The sustainability appraisal concluded that there were significant adverse impacts, relating to biodiversity, landscape (as has been raised by specialist officers subsequently) and access to employment opportunities. The site has reasonable access to services and facilities located within Lanchester, however public transport from the site is poor. Employment opportunities are not located within a short drive (over 7km) however public transport from the Village centre is good. The site is also adjacent to the Lanchester Village Conservation Area and as such may have an impact upon its setting.
136. **Trees** - Mature trees within and outside the site are protected by a Tree Preservation Order, therefore full tree protection during works must comply with BS 5837 2012.

PUBLIC RESPONSES

137. A consultation exercise consisting of site notices posted adjacent the site entrance, advertisement in the local press and direct mail consultations to 15 properties resulted in the receipt of 27 objections from 21 properties, along with a Ward Member, The Parish Council, Village Partnership and Campaign for the Protection of Rural England (CPRE).
138. The main site specific concern with the development relates to drainage and surface water flooding issues, with residents concerned that the land often floods particularly in the lower area of the site. Letters are supported by evidence of past flooding events. There is criticism of the Environment Agency’s, Northumbrian Water’s, Applicant’s and the Council’s records and assessment of this issue, with correspondents particularly passionate on this topic, with threats that any approval would be ‘criminally negligent’ in an ‘insane location’. The entire field is prone to surface water flood and the river in flood would be a danger and the proposed public amenity of being an open space a risk to life.
139. The second principle issue relates to highways, with attention drawn to the reduced width of the available footpaths, particularly when street furniture is taken into account. The safety implications of this and implications for the Local Authority are compared to the Grenfell Tower disaster by one resident. Other correspondents extend the unacceptable highways implications the capacities of the village road network and its principal junctions, with the volume of traffic the development will generate.
140. The effect of the proposal on the countryside and character of the open land around the village, and the development plan policies relating to this are assessed and offered as objections to the scheme by a number of correspondents.
141. Further in terms of the effect on the natural environment, objectors point out that the development will result in the loss of wildlife habitats, biodiversity and that existing trees would be destroyed.

142. It is stated that additional housing in Lanchester detracts from the small village it currently is and offers no bonuses, particularly as residents consider the village is already struggling to meet needs of residents with doctors, dentists and schools. The need for the housing is therefore questioned. Further issues relate to the effects on existing residential amenity and loss of tourism within the village as existing facilities are overwhelmed.
143. Some residents and the Parish Council set out as assessment of the proposals against the Development Plan policies, the NPPF and planning caselaw, and the various weights given by the applicants to elements of their case – particularly in the planning balance.
144. One neighbouring property has indicated an issue regarding the extent of the site overlapping their land ownership. This issue appears to have been resolved by the applicants with the site boundary redrawn to exclude this claimed land.

APPLICANT'S STATEMENT:

145. The Applicant's Agent has submitted a full five page statement for Member's attention, which is available for inspection on the Councils website via the following link at the foot of this section, as can the full text of objector's letters. A summary for the statement is set out below.

Highways

146. Our Client has never agreed that the proposal is unacceptable in its current guise, they simply wished to work with the Council to come to a solution that would satisfy the Local Authority in order to expedite the delivery of the proposal, as was the case in the Cadgers Bank proposal.
147. There are no outstanding concerns as to the internal layout, nor the access to the site (giving suitable maintenance of the trees in the locality). As such the concern relates solely to pedestrian access from the development (to Lanchester Village).
148. It is unreasonable of the Council to seek to remedy existing issues through new development. The appropriate test is whether the resulting impact of our scheme would have a severe impact, we contend, in opposition to your summary, that it does not.
149. We have previously drawn the Council's attention to the Paddock decision, a residential scheme within Lanchester for 14 dwellings which was approved at appeal. The decision made specific reference to the accessibility of the appeal site to services and facilities. The Inspector concluded "that the existing connections via The Paddock allows good access to the centre of Lanchester, with the various services and facilities all within reasonable walking distance". The Inspector goes on to comment on highway safety and impacts as a consequence of the proposed development. The matter is concluded with the statement that "the existing carriageway and footpaths are adequate to support the additional residential development."

Landscape Policy

150. The Policy response received from the Council has given weight to policies of the Development Plan (EN1, EN2, EN6 and HO7) following the narrow interpretation of policies for the supply housing provided within the Richborough Case. It is our contention that Policies EN1 and EN2, whilst serving a dual purpose (for Housing and Landscape), should only be given relatively limited weight; in line with the

findings of the Paddock Appeal decision (Para 22) as they are not in conformity with the Framework and are out-of-date.

151. In addition, Policies EN6 and HO7, whilst relating to AHLV and settlement boundaries are restrictive policies and should be given lesser weight in line with Para 63 of the Richborough decision. The Council have stated that they accept that para 14 was triggered because of other reasons (i.e. status of settlement boundary policy and expired housing target, as outlined in the policy response).
152. We find it incredulous that in one breath the Council is stating that landscape harm is underpinned by policy (EN1, EN2, EN6 and HO7) which should be given weight in the decision-making process, but in the same breath say the application should be considered following the trigger of the tilted balance. The policy is out-of-date, and Paragraph 14 is enacted, whereby an adjusted planning balance is required, whereby ***harm needs to significantly and demonstrably outweigh the benefits***.
153. The landscape comments from the Council agree that the site is visually contained, and any effect would clearly be localised. The Paddock site previously referenced was also located within an AHLV and outside the current settlement limits (Policy EN6). The Inspector concluded that whilst the development would amount to a change to the existing disposition of land use and an intrusion into the countryside immediately to the south of Lanchester, he did not accept that the resultant effect following appropriate planting and visual mitigation would result in the loss of the semi-rural character of the southern approach or an overall adverse effect on the AHLV.
154. Our Client's proposal at Ford Road, is located in an even more discrete location to the east of Ford Road and one which can accommodate housing readily, with Ford Road itself forming a defensible western boundary to the site.

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=ORAF9KGDFWL00>

PLANNING CONSIDERATIONS AND ASSESSMENT

155. 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, development in a countryside location, highway safety, drainage, locational sustainability and the planning balance.

Principle of the Development

The Development Plan

156. 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 (DDLP) 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 the weight to be afforded to relevant saved local plan policy will depend upon the degree of consistency with the NPPF.

157. 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

158. 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.
159. 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.
160. 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.
161. 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

162. 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.
163. 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)

164. 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.
165. 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.
166. 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.
167. 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.
168. 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.
169. The Housing policies in the Local Plan relate to the Lanchester settlement boundary (HO7) and the provision of open space within development schemes (HO22). The Spatial Policy response, above, indicates that limited weight should be attached to policy HO7 which, 'provides a useful starting point for identifying the extent of the built up area and countryside'. HO22 can be given some weight in the decision making process when read in conjunction with more up-to-date evidence.
170. The proposal would be contrary to policies EN1 and EN2(c) which seek to protect the countryside from encroachment. However, as saved policy EN2, for which the evidence base is now out of date, paragraph 14 of the NPPF is engaged. There are no specific policies in the Framework that indicate development should be restricted in this location. The assessment of the proposals must therefore be carried out on the basis that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, led by up to date policies in the Development Plan and then assessed against the policies in the Framework, either individually or taken as a whole.
171. However, it is clear that even though paragraph 14 is engaged, weight can still be afforded to policies EN1 and EN2 in the determination of this application. The NPPF does not make these policies irrelevant, nor does it prescribe how much weight should be afforded, although it must be less weight than if the policies were not considered to be out of date.
172. In simple terms, Officers' conclusion on the acceptability of development will therefore depend upon an assessment of the benefits and disbenefits of the scheme. Namely this is whether the benefits that the scheme would bring are outweighed by

any 'harm' that may be identified. That exercise can only be done once all relevant considerations have been assessed and accordingly, this balance is set out later in this report.

Locational Sustainability

173. In terms of its relationship to the village, and the commercial, community, social, leisure and educational opportunities available in it – along with sustainable transport nodes giving links to other settlements the site – the site is not badly placed. This conclusion is based on the expectations of relative ease of access to such opportunities commensurate with the size and offer of the settlement. The site is 660m from the village centre – not an unreasonable walk in a medium sized village. However, whilst the distance to the village centre is considered acceptable, the nature of the access is considered compromised, as discussed in the Highways section of this assessment.

Design

174. The application proposes a potentially attractive development that shows obvious efforts to reflect the implications of the site, its landform and existing elements of the natural environment in particular. The site frontage is kept open, retaining the key isolated tree and the roadside trees giving some regard to the semi-parkland appearance of this entrance to the settlement, whilst giving an attractive frontage to the dwellings at the site entrance. Dwellings are not proposed on the lower part of the site, which forms the functional floodplain of the adjacent watercourse, this area proposed to accommodate biodiversity planting and part of the scheme's sustainable drainage system. This part of the village has a range of house types, ages, sizes and materials, with no strong overall vernacular. Whilst criticised by objectors, the applicant's house-type elevations have a distinct character that would give the development an appropriate appearance of quality. In terms of both the layout, and the appearance of the development, the proposals are considered to meet of the requirements of Policy GDP1(A) of the Development Plan, and part 7 of the Framework.

Affordable Housing

175. The proposal meets the requirement for 20% of the intended dwellings being 'affordable'. This provision can be ensured through a s.106 legal agreement to be attached to any approval, said agreement considered to meet the necessary tests set out 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). This is a requirement of all major development in the 'Central Delivery Area' and cannot be considered a benefit in the planning balance.

Landscape

176. Paragraph 109 of the Framework states the planning system should contribute to and enhance the natural and local environment through a number of actions, including 'protecting and enhancing valued landscapes'. There is no definition of what represents a 'valued landscape', however Planning Inspectors (e.g. APP/Z1510/W/17/3172575) have come to the conclusion that such an interpretation can be given to rural areas whose physical attributes demonstrably take it beyond mere countryside. The assessment must be considered and systematic to be defensible in the planning process. The application site is within an area defined in

the Derwentside District Development Plan in 1997 as an Area of High Landscape Value (AHLV), policy EN6. This countryside policy is considered consistent with the NPPF by Spatial Policy Officers, above, both with paragraph 109, and the Core Principles of the Framework at paragraph 17, recognising the intrinsic character and beauty of the countryside. While the AHLV has not been reviewed since that time, the area has been the subject of a detailed Landscape Character Assessment and Landscape Strategy, both of which were adopted in 2008. Ongoing assessment reflects the tools available to the Local Authority to protect the countryside and valued landscapes.

177. The development plan, against which the proposals must be assessed in the first instance also includes countryside protection policies EN1 and EN2(C) which seek to protect the countryside for its own sake, consistent with the NPPF's Core Principles.
178. The comments of the Council's Principal Landscape Officer are set out in detail above. The development proposal has been through a systematic assessment in terms of its effect at a number of levels – harm to the site, harm to the immediate countryside, harm to the nearby designated parkland landscape, harm to the setting of the adjacent part of the village, and harm to the setting of the whole village. In simple terms it is concluded that of each of these eventualities, the particular harm this development results in that is such that it contravenes local policy and national advice is the local effect on the countryside. That this part of the countryside and its immediate environs have been subject to formal designation and on-going review and assessment as landscape assessment has evolved demonstrates a consistent and ongoing commitment to identify what are currently referred to as 'valued landscapes' and warrant protection as open countryside through countryside policies. This last point important as the protection claimed for the site is wholly for its intrinsic value as countryside, the concerns not aimed as a method of housing restraint.
179. The harm to the countryside within the AHLV in this location must be assessed in the planning balance as a negative impact of the proposals.

Highways

180. Highways Engineers have considered a number of elements to their Highways assessment. They have no objections to the volume of traffic the development would generate in terms of the capacities of surrounding roads and junctions. The proposed highways network within the scheme is considered safe and capable of adoption, with sufficient car parking for residents and visitors set out in the design. The implementation of an acceptable new junction onto Ford Road is capable of being safely set out, with its long-term acceptability dependent on any epicormics or basal growth from the protected roadside trees being actively managed. This can be achieved through an appropriate condition in the landscape management plan to require regular inspection and works where necessary by the applicant's Management Company.
181. There are two overlapping issues that despite considerable discussion and consideration of alternatives have been unable to be resolved in extensive negotiations between the developer's and the Council's Highway Engineers during the application process.
182. The existing footway between the proposed site entrance on the B6301 and the junction of the B6296 below Cadger Bank has stretches where it is significantly

restricted in width – the restricted width exacerbated by the presence of various street furniture. Unfortunately the length of restricted pavement correlates with a stretch of road where there is both no footway on the opposite site of the carriageway and a wall that physically restricts carriageway width, and prevents widening. It is acknowledged that this restricted footway potentially already serves up to 50 existing residential dwellings. Both alterations to the existing arrangement and alternative schemes have been considered, at length, without resolution. Acknowledging there are no existing personal injury records from this stretch of road, County Highways Engineers consider the risk level ‘severe’ for any new pedestrian movements generated by the scheme – particularly for parents with small children or users of mobility scooters.

183. Highways Engineers note that the Framework advises that development should only be permitted or refused on transport grounds where the residual cumulative impacts of development are severe. They have concluded that despite all efforts, the applicant has not demonstrated that they could mitigate the severe highways impact the development proposals would have on Ford Road, and that all possible opportunities have now been fully explored and are now deemed as unacceptable.
184. The two-fold nature of this issue is that the footway is firstly considered physically unacceptable in highway terms because of the restricted width implications for physical safety and of which is significantly below the recommended width for residential streets. Secondly the restricted space is extremely difficult to negotiate and some users may have to use the carriageway and face oncoming traffic. The restricted width makes users feel vulnerable to conflict with motorised vehicular traffic and thus is likely to restrict the likelihood of the footpath being used to access the village and its facilities by adults and children who may have wished to do so on foot / bicycle / with pushchair / mobility scooter, significantly reducing the locational sustainability credentials of the scheme to a development aimed at providing dwellings that would be attractive to families with children. This therefore runs counter to aims to encourage walking as a means of travel, and to provide good accessibility to services and facilities.
185. These issues were recently examined in an appeal decision in Cornwall (APP/D0840/W/17/3171249), albeit the Highway Authority in that instance deemed that proposed scheme as satisfactory. Nonetheless, that Inspector examined the language of the technical guidance on highways design (the Manual for Streets (MfS)), as used also by Durham County Engineers, and concluded the restricted width of footway available in that instance, ‘weighed heavily against the proposal’, despite some apparently significant benefits in terms of contribution to housing supply. Acknowledging that each scheme must be assessed on its own merits, there do appear some parallels with the current proposal and the weight that the Planning Inspectorate can attribute when ‘highway safety shortcomings are so severe that they outweigh all other considerations’.
186. It is concluded that both in terms of Highway Safety, and the implications of this for the locational sustainability of the scheme, that Highways issues are not acceptable, being contrary to Policy TR2 of the Development Plan and paragraph 32 of the NPPF. The negative weight attributed to these issues must be considered in the planning balance.

Drainage and Flooding

187. This issue is always a particular concern of the residents of Lanchester, with the Village having been subject to significant and repeated flooding events, both in the village centre, and as evidenced by objector's letters, from overland flood flows on the valley sides of Smallhope Burn and Alderdene Burn as they lead to the River Browney, overwhelming drainage systems to the detriment of residential property. The applicant's Flood Risk Assessment and Drainage proposals have been sent for consideration to the Environment Agency, Northumbrian Water as Statutory Undertaker and the Council's Drainage and Coastal Protection Team as the designated Strategic Flood Risk Authority. Additional information has been submitted during the course of the application at the request of the latter, with each of the three Authorities satisfied that subject to conditions to ensure the projected flows are regulated as described by the applicants proposals and mitigations, the development is acceptable from a drainage and flooding point of view.
188. The development will not address existing problems for adjacent development, but will ensure that the drainage implications of the development are managed. The NPPF requires, at paragraph 103, that planning decisions must ensure that development does not result in flood risk being increased elsewhere, requiring major developments in particular to be informed by site specific flood risk assessment. This requirement and that of Policy GDP1(I) and (J) are considered as confirmed as acceptable by the specialists' responses. This issue is neutral in the planning balance.

Education Provision

189. Spatial Policy Officers note that Paragraph 72 of NPPF states 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. Assessing both the projected education need and the detailed implications of providing this in the required establishment, the Education Department asks a contribution from the developer of £232,526 towards an additional classroom be requested. The applicant has confirmed this would be provided through a legal agreement attached to any approval. Such a requirement is considered to meet the necessary tests of the CIL, NPPF and NPPG in being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.
190. With the monies proposed intended to ensure the education related impacts of the scheme to an acceptable level, rather than being a benefit this would provide mitigation to the development and as such must be viewed as neutral in the planning balance.

Ecology

191. The developer has worked with the County Ecologist to ensure that through the landscaping plan proposed for the lower, floodplain area of the site biodiversity impacts can be mitigated to result in a scheme that gives a net biodiversity gain. This is a requirement of the NPPF, and is therefore considered neutral in the planning balance.

Ground Conditions, Amenity and Archaeology

192. Both the Coal Authority and Council Environmental Protection Officers have assessed the submitted information and consider that the issues raised can be

addressed through imposition of an appropriately worded condition to ensure any necessary remediation and site preparation works. This meets the requirements of paragraph 120 of the NPPF and is neutral in the planning balance.

193. 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. Again this expedient is considered to meet the requirements of paragraph 120.
194. Archaeology is a particular consideration on the western side of Lanchester, given the significant Roman remains and potential in the area. The applicant has liaised with the County Archaeological and carried out field evaluation of the site, including geophysical survey and trial trenching. These have revealed no significant archaeological remains, and the County Archaeologist confirms there is no requirement for conditions to require further investigation. The requirements of paragraphs 128 and 139 of the Framework are concluded addressed to specialist Officer's satisfaction.
195. Part of the application site bounds the designated Conservation Area, effectively covering the floodplain on the east side of the watercourse. With no development planned in that area of the site and the abutting areas of floodplain on the west side of the Burn, and the designation providing a setting for the historic core of the village, it is concluded there is no detrimental effect on the setting of the Heritage Asset.
196. No issues of residential amenity have been identified such that they would result in a sustainable refusal reason.

The Planning Balance

197. As the proposals must be considered through a 'tilted' planning balance – 'tilted' because of the 'presumption in favour' of granting planning permission unless adverse impacts significantly and demonstrably outweigh the benefits – then it is necessary to weigh up both the harm and the benefits of the proposal in order to reach a conclusion as a matter of planning judgement.

The Benefits of the development

198. It is accepted that the development would bring a high quality residential scheme that would add to the Council's housing supply. However, the weight to be afforded to the boost to supply is a matter of disagreement between Officers and the Applicant. The Applicant argues that significant weight ought to be afforded to the boost as in their view the Council cannot demonstrate a 5 year supply of deliverable sites. Officers' view is that due to the present uncertainty on the 5 year housing land supply position, whilst positive weight can be afforded to the contribution which this scheme would make to supply, the weight ought to be less than suggested by the Applicant.
199. The development would result in New Homes Bonus payment to the Council, along with the creation of 158 direct and indirect jobs through the construction phase and the supply chain. Whilst these are only temporary benefits, the economic activity that future residents would bring to the area, first from fitting out their new dwellings, and then from their occupation are also of positive material weight. Benefits are listed in the submitted Planning Statement under the three headings that reflect the three strands of sustainable development in the Framework and includes that the

development will widen housing choice and provide additional open space within the village.

200. The development is of high quality, with good basic locational sustainability, which brings a number of specified benefits, whilst giving assurances that the technical constraints of development, such as the important drainage issues, can be addressed through imposition of conditions. This is of positive weight in the planning balance.

Adverse Impacts of the development

201. There are two issues which specialist consultees raise as objections to the proposals which must be assessed as negatives in the planning balance – the overlapping highways safety and sustainability concerns relating to the restricted footpath connection between the site and the village centre, and the effect on the intrinsic value and appearance of the countryside in this location – as a ‘valued landscape’. Officers are of the view that significant weight ought to be afforded to these adverse landscape and visual and highway safety impacts.

202. Weighing up the benefits and disbenefits of the scheme, it is considered that the adverse impacts significantly and demonstrably outweigh the benefits of the proposed development that the presumption in favour of granting planning permission is therefore disappplied and accordingly, planning permission should be refused.

203. It is further considered that even if greater weight is given to the boost to housing land supply as a benefit of the scheme and lesser weight to the adverse landscape and visual impacts as a disbenefit of the scheme (as advocated by the Applicant), the magnitude of the harm is still such as to significantly and demonstrably outweigh the benefits of the development.

CONCLUSION

204. The application has been considered in the first instance against the appropriately weighted saved policies in the Derwentside District Local Plan, and concluded as contrary to countryside policies EN1 (Protecting the Countryside), EN2(C) (Protecting Urban Sprawl), EN6 (AHLV) and highways policy TR2 (Development and Highway Safety).

205. In applying the advice in paragraph 14, no issues have been raised that identify development should be restricted.

206. The scheme has then been assessed against the ‘tilted balance’ in paragraph 14 both in terms of the policies in the Framework taken as a whole, and the ‘tilted’ weight in favour of granting planning permission. Harm relating to highways and landscape and visual impacts are however considered such that they ‘significantly and demonstrably’ outweigh the benefits of the scheme.

207. On this basis the proposal is recommended for refusal.

RECOMMENDATION

208. That the application be REFUSED for the following reason:

The harm to countryside considered a valued landscape and the safety and sustainability implications of the reduced footpath width connecting the site to the village centre are of such an adverse nature that they significantly and demonstrably outweigh the benefits of the scheme, being both contrary to development plan policies, EN1, EN2(c), EN6 and TR2, and when assessed against Framework paragraphs 14, 17, 109, and 32, and the Framework when taken as a whole.

STATEMENT OF PROACTIVE ENGAGEMENT

209. 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

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/17/03064/FPA
FULL APPLICATION DESCRIPTION: Addition of single storey glass canopy to rear elevation of property
NAME OF APPLICANT: Dr Kaaki
ADDRESS: The Coach House, Derwentcote Farm, Hamsterley Colliery
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 site subject of this application is a traditional two storey stone dwelling which is located on a former commercial livery known as Derwentcote Farm which lies in the open countryside between Hamsterley and Hamsterley Mill in an Area of High Landscape Value. To the west and south of the site is a neighbouring residential property, Derwentcote Farm, to the north is woodland and to the east are buildings and land used for the equestrian centre.

The Proposal

2. This application seeks planning permission for the installation of a glass canopy to the rear of a recently constructed orangery extension which is to the side of this dwelling. The canopy would measure 6.5m by 5m and it would be supported by white aluminium posts. The canopy has a lean to design rising from 2.2m in height to 2.96 in height. There would be five glass panes in the right hand side with the canopy being otherwise open.
3. The application is reported to Committee as a local Councillor, Councillor Watts Stelling has requested that this be determined at this level as it involves development in the countryside which is of public interest, the excessive size and design of the canopy and as he considers the site has already been overdeveloped in an unsympathetic manner.

PLANNING HISTORY

4. Planning Permission was granted in 1993 for the conversion of a farm building to a dwelling (to be occupied in accordance with a livery business). In 1995 permission was granted for the conversion of farm buildings to three dwellings. Extensive research has been undertaken by the enforcement team and it has been concluded that neither of these permission were implemented therefore the dwelling that currently occupies the site is unauthorised. Due to the length of time since the conversion took place it is now immune from enforcement action. Between 2006 and 2015 there have been various applications for extensions to the property including the recently constructed orangery.

PLANNING POLICY

NATIONAL POLICY:

NATIONAL PLANNING POLICY FRAMEWORK

5. 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:
 6. *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.
 7. *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.
8. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

NATIONAL PLANNING PRACTICE GUIDANCE:

9. 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.
10. *Design* -The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

LOCAL PLAN POLICY:

11. The following section details the saved policies in the Derwentside District Local Plan thought most relevant to the consideration of this application:
12. *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.
13. *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.
14. *Policy EN3 Extensions to buildings in rural areas* - will only be permitted if the proposals reflect the character of the original building, the scale does not adversely affect the appearance, and the proposal does not result in the loss of feature(s) of the host building.
15. *Policy EN6 Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.
16. *Policy HO19 Extensions and alterations to existing dwellings*- states that planning permission will only be granted if the proposal reflects:
 - the character of the original dwelling and its surroundings
 - respects the scale of the original dwelling
 - incorporates pitched roofs wherever possible
 - specifies materials to match those of the existing dwelling

- does not result in an unacceptable loss of privacy and/or amenity to neighbouring occupiers, and
- does not result in the loss of off-street car parking space such that the level of provision is reduced to below the minimum requirements.

17. Supplementary Planning Guidance Note 2 House Extensions

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:

18. 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

INTERNAL CONSULTEE RESPONSES:

19. Landscape Officer: Advises that the structure would not represent a significant change to the visual amenity value or character of the landscape.
20. Ecology Officer: View are awaited.
21. Public Rights of Way Officer: Advises that public footpath no. 11 Consett passes in fairly close proximity to the proposed location of the glass canopy however it is advised that it will not directly effect public use of the footpath.

PUBLIC RESPONSES:

22. Neighbouring land owners and occupiers have been consulted and this has resulted in one letter of objection from the neighbouring resident whose comments are summarised as follows:
- The scale of the extension is out of proportion to the original converted farm building and not in keeping with the character of the building or its surroundings contrary to local plan policies EN3 and HO19.
 - There is no requirement for a further structure larger than most domestic conservatories.
 - The property is already overdeveloped with extensions exceeding normal permitted floorspace and volume.
 - Loss of amenity and privacy to neighbouring properties.

- The cumulative impact of the extension would result in the property being highly obtrusive and inappropriate for the Derwent Valley Area of High Landscape Value contrary to Derwentside Local Plan Policy EN6.
- Noise and disruption caused by continuous development at the property.
- The extension is unsustainable and unjustified as it benefits no residential or business need as no one lives at the property and it has ceased to operate as a business therefore it is contrary to Derwentside Local Plan Policy EN1.
- Works have been undertaken at the property which are unlawful so the appropriateness of approving an extension to a property with unlawful additions is questionable.
- The property sits in a wildlife corridor and is in the Lower Derwent Valley red kite reintroduction scheme area. The erection of a predominantly glass structure projecting into a garden area would be an increased collision hazard for transiting birds.
- The extension would be visible from a Public Right of Way 15m to the west.
- The property has very bright LED flood lighting which is illuminated through the night, every night. One of these lights shines on the area of the proposed extension and the light on the glass structure would cause considerable additional glare and reflection.

APPLICANTS STATEMENT:

23. The proposed development is for a single-storey glass canopy to the rear elevation of the existing residential property. The property is not a listed building, nor is it in a conservation area. The proposed glass canopy is an enhancement of the garden as opposed to an extension as no additional floor space/useable living space is being created. The glass canopy will be accessible from the existing sun room and the garden as the glass canopy is open on all elevations, comprising just a roof and support posts. The materials are high quality and durable; clear glazing in the roof and aluminium powder coated posts and profiles in RAL 9016 'Traffic White' to remain in keeping with the property. In relation to the existing property, the addition of the glass canopy is small and subservient. As is visible from aerial imagery, there are very few buildings in the surrounding area. The development would not result in an increased overlooking to neighbouring properties.

PLANNING CONSIDERATIONS AND ASSESSMENT

24. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the whether the extension is of an acceptable design the impacts upon character of the area and whether there would be impacts upon neighbouring residential amenity.

Impact upon the character of the area

25. Derwentside Local Plan Policy GDP1 sections (a) requires proposals to be of a high standard of design which is in keeping with the character of the area. Derwentside Local Plan Policy EN1 requires development in the countryside to either benefit the rural economy or maintain or enhance landscape character. Derwentside Local Plan Policy EN3 requires extensions to building in the countryside to reflect the character, style and scale and to not result in the loss of features important to the host property.

Derwentside Local Plan Policy EN6 requires proposals to pay particular attention to the landscape qualities of the area in the siting and design of buildings. Derwentside Local Plan Policy HO19 require extensions to reflect the character, scale and materials of the host property.

26. As the objectors have pointed out, this property has already been extended significantly and has undergone considerable cosmetic alterations which to a certain extent have altered its traditional agricultural character. Nonetheless in comparison this structure is relatively minor and it is considered that the size and scale of the canopy is subservient to the host dwelling and given the open and lightweight nature of the glass structure it would appear as a contemporary yet sensitive and unobtrusive feature which would not add to the bulk of this building.
27. In terms of impacts upon the landscape as the extension would be discretely located to the rear of an existing extension and this property at the bottom of the valley within a rear garden area enclosed with 2m high close boarded timber fencing there would not be an adverse impact upon the landscape in terms of wider views. In terms of closer views it is noted that there is a PROW 15m to the west of the site from which it would be possible to view the proposed extension in quite close proximity. However given that the extension is considered to be of an acceptable design and scale and as it would be seen in the context of surrounding built form it is not considered that the proposal would be harmful to the Area of High Landscape. The proposed extension would not adversely impact on the amenity of users of the PROW.
28. It is therefore considered that the proposal would accord with the above policies, although as policies EN1 and EN6 are only partially compliant with the NPPF, then in accordance with paragraph 215 of the NPPF, less weight can be afforded to them in the assessment of this application.
29. 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.
30. Given the position of the extension and its size, scale and design it is considered that this proposal would have a negligible impact on the quality or the attractiveness of the area. The proposal therefore does not conflict with the NPPF in terms of design and visual amenity.

Impacts on residential amenity

31. Derwentside Local Plan Policy GDP1 seeks to ensure that neighbours are protected from harmful development. This policy accords 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. Whilst the closest neighbour has raised concerns over their amenity and privacy there are intervening structures such as close boarded timber fencing and an extension that would prevent any impacts from the canopy in terms of neighbouring light, outlook or privacy. Whilst views of the extension from the first floor of the neighbouring property would be possible these views would be from some considerable distance (33m) and would be indirect and of the glass roof mainly rather than the entire structure. Concerns have also been raised in relation to noise and light pollution. Given the minor nature of this extension it is not considered that it

would result in significant noise and disruption over a long period of time. Given the position of the extension with a roof which slopes away from the neighbouring property and the distance to neighbouring property it is not considered that reflected light would significantly affect the amenity of the neighbouring occupiers.

Other Issues

32. The neighbour has made reference to unlawful development on the site however the Planning Enforcement Team have investigated this issue and consider it not expedient to take action in relation to these matters. The enforcement investigation is not relevant to the consideration of the present application.
33. One of the objections raised is that the extension is contrary to Derwentside Local Plan Policy EN1 as it benefits no residential or business need as no one lives at the property and there is no longer a business on site. Derwentside Local Plan Policy EN1 requires development in the countryside to benefit the rural economy or help to maintain or enhance the landscape character. The policy does not require there to be benefit in terms of residential need. Whilst the proposal is of little benefit to the economy it would maintain the landscape character as detailed above therefore it is not considered to be contrary to Derwentside Local Plan Policy EN1.
34. Concerns have been raised in relation to impacts to birds however given the low height of the canopy and the position close to other more substantial structures it is not considered that the canopy would present a new hazard to birds.

CONCLUSION

35. The proposal would bring negligible benefits other than to an individual property owner. There would not be significant adverse impacts to the character of the property or the Landscape character in terms of residential amenity that would outweigh the benefits. The proposal would therefore be in accordance with Derwentside Local Plan Policies GDP1, EN1, EN3, EN6, HO19 and SPG2 and the NPPF.

RECOMMENDATION

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

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

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:
Amended Site Location Plan	08/11/2017
PL02	15/09/2017
PL03	14/09/2017

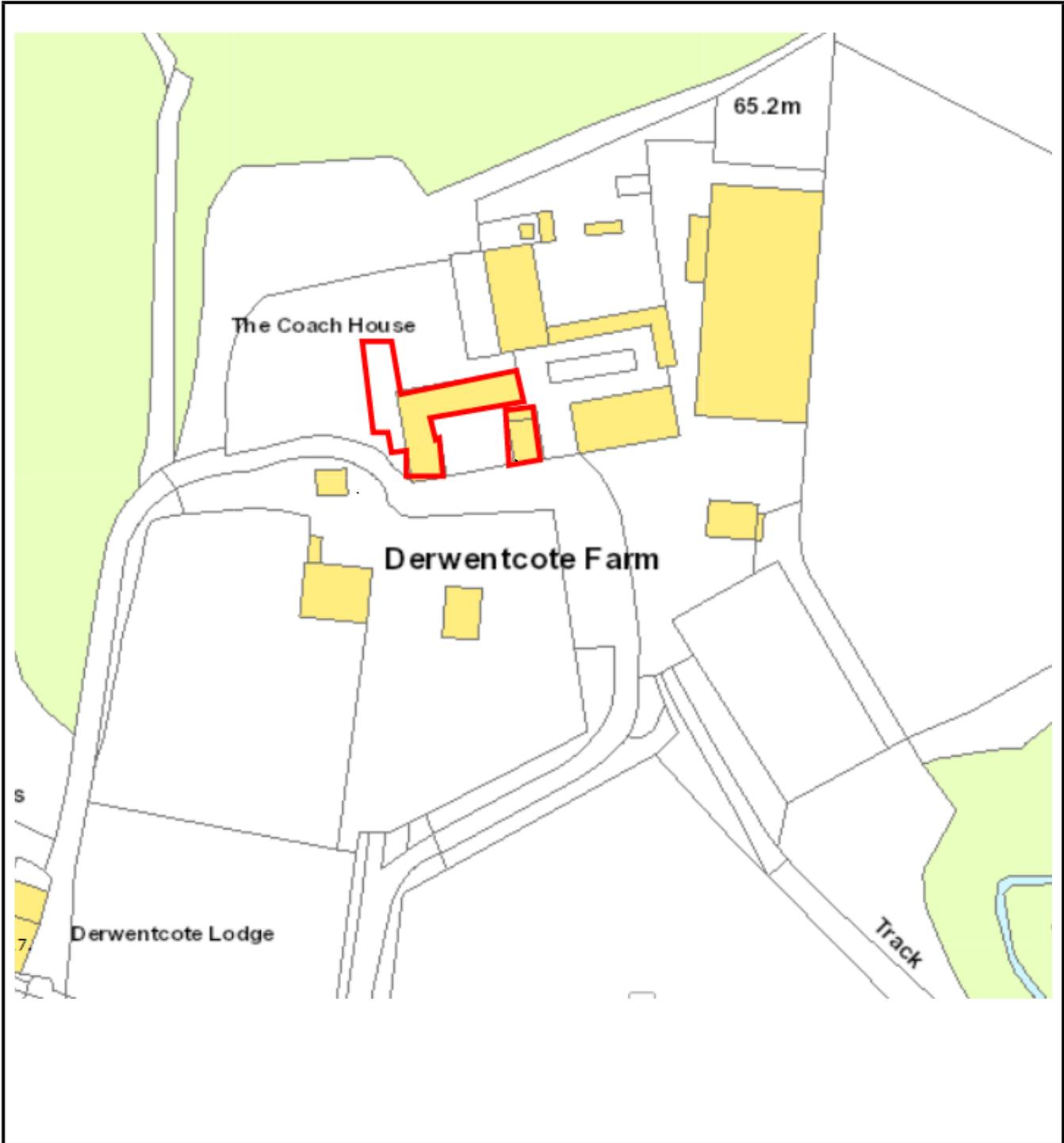
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan.

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

The Coach House, Derwentcote Farm,
Hamsterley Colliery

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Comments

Date 30th November 2017

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Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 6

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against the refusal of planning permission for a partly retrospective general purpose agricultural building at 5 Front Street, Burnhope (DM/16/02733/FPA).

The application was refused under delegated powers on 9th March 2017 on the following grounds –

'The principle of agricultural development on the application site is considered to be contrary to criterion (a) of Policy AG3 and Policy EN1 of the Derwentside District Local Plan as the applicant's agricultural enterprise has not yet been demonstrated and the proposal would not be of benefit to the rural economy.'

'The location of the building, in terms of its effects on the landscape, would conflict with criterion (b) of Policy AG3, and Policy EN1 of the Derwentside District Local Plan as it is considered the building would have an intrusive effect and would not maintain or enhance the landscape character of the site.'

The appeal was dealt with under the written representations procedure. The Inspector in determining the appeal considered that the two main issues were the agricultural need for the proposal, and the character and appearance of the proposal.

The Inspector noted that the appellant was the owner of 35 ewes, and had a landholding measuring almost 5 hectares, however the proposal was not supported by any farm accounts, movement records, or a business plan that would clarify the operation of a unit as a commercial enterprise. It was also noted there was no guarantee an expansion of the business would take place.

Whilst the Inspector recognised there is some agricultural use of the land, and the appellant had the skills, knowledge, experience, and investment in

farming, the Inspector agreed that the evidence did not demonstrate the holding is being operated as an agricultural unit. Therefore the Inspector concurred with the Council's first refusal reason as the proposal conflicted with Policies AG3 and EN1 of the Derwentside District Local Plan as no rural business had been demonstrated, and as a consequence would not be of benefit to the rural economy.

In regards to the character and appearance of the proposal, the Inspector noted that although the building would sit close to domestic properties and their gardens, the building would be read in the visual context of the existing built environment. It was also noted the land to the rear of the Front Street is varied, with some building of an agricultural or commercial nature.

On this basis, the Inspector did not consider the proposal would have a harmful effect on the character and appearance of the area, as the proposal would accord with Policies AG3 and EN1 of the Derwentside District Local Plan as it would be sited and designed to be in scale with, and not form an intrusive element within, the landscape, and would maintain or enhance the landscape character of the site.

The Inspector noted the significant correspondence between the appellant and the Council during the application in an attempt to resolve the issues, and acknowledged the appellant's compliance in respect of the retrospective nature of the proposal, however such matters would not outweigh the harm identified in relation to the main issues listed above. The Inspector dismissed the appeal.

Report prepared by Nick Graham, Planning Officer