



Area Planning Committee (North)

Date Thursday 21 December 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 30 November 2017 (Pages 3 - 8)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/17/03144/FPA - Former Site of Lumley Boys School, Land North of Fenton Well Lane, Great Lumley (Pages 9 - 26)
Erection of a dwelling.
 - b) DM/17/03413/FPA - Glebe Farm Ebchester Hill Ebchester Consett (Pages 27 - 40)
New dwelling
 - c) DM/17/03152/FPA - Lawson Court, West Pelton (Pages 41 - 56)
Erection of 14 two Bedroom Dwellings, including parking and associated landscaping
6. Appeals Update (Pages 57 - 58)
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
13 December 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

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DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 30 November 2017 at 1.00 pm**

Present:

Councillor I Jewell (Chairman)

Members of the Committee:

Councillors D Bell, L Boyd, M McGaun, M McKeon, O Milburn, A Shield, L Taylor and S Wilson (Vice-Chairman)

Apologies:

Apologies for absence were received from Councillors A Bainbridge, H Bennett, A Hopgood, J Robinson, J Shuttleworth, A Simpson, K Thompson and S Zair

1 Apologies for Absence

Apologies for absence were received from Councillor A Bainbridge, A Hopgood, J Robinson and J Shuttleworth.

Apologies for absence were also received from Councillor A Simpson who had intended on substituting for Councillor A Hopgood.

2 Substitute Members

There were no substitutes.

3 Minutes of the Meeting held on 26 October 2017

The minutes of the meeting held on 26 October 2017 were confirmed as a correct record and signed by the Chairman with the following amendment:-

Councillor O Milburn declared an interest in Item 5(a) as a former Board Member of Derwentside Homes of which Karbon Homes is a subsidiary.

4 Declarations of Interest (if any)

Councillor A Shield declared a non-prejudicial interest in Item 5(b) as the local member.

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

The Committee considered a report of the Senior Planning Officer regarding the proposed erection of 52 dwellings including associated access, infrastructure and open space (for copy see file of Minutes).

The Senior Planning Officer provided a detailed presentation which included photographs of the site and plans of the proposed layout as well as details of late objections. Members had visited the site the previous day and were familiar with the surroundings.

Mr D Friesner, Lanchester Parish Council was in attendance to speak in objection to the application. He firstly added his thanks to the committee for visiting the site the previous day and to the officers for their comprehensive report.

Mr Friesner advised that the Parish Council aims to effectively manage change within our rural Parish community and not to prevent it. The record of growth is not that of a community resistant to change at all costs but the council does have a role as custodians of the positive attributes that create our rural village atmosphere and parish community way of life. We have a record of supporting development in the Parish (over 200 properties since 2001), at a level which we consider to be both sustainable and manageable.

The main reasons for opposing the proposed development were as follows:-

- It is contrary to several Saved Policies:
 - (i) Policy GDP1 – General Development Principles
 - (ii) Policy EN1 ‘Protecting the Countryside’
 - (iii) Policy EN2 ‘Preventing Urban Sprawl’
 - (iv) Policy EN6 ‘Development within Areas of High Landscape Value’
 - (v) Policy H07 and breaches the natural limit / boundary to the village.
- Part of the site borders the Conservation Area. The proposal adversely affects the setting and significance of the Conservation Area and the village atmosphere. The development would be visibly intrusive on the entrance to the village along Ford Road and would be visible from several areas inside and outside the village.
- We believe this proposed development does not contribute positively to the Lanchester Neighbourhood Plan’s overall Vision for our parish’s future development
- The proposed development is in an area of High Landscape Value which should be protected
- The proposed development will adversely affect the existing flora and fauna. At present the land provides opportunities for wildlife which are not disturbed by development.
- We are greatly concerned that sewage from 52 dwellings will be pumped up the site to meet with a manhole in Ford Road. The proposed pumping station is in an area which floods regularly. Areas of the village suffer power failures during the year. What contingencies will be in place in the event of a malfunction, power failure or flood? (The recent incident at York is just one such serious example). Of great concern is the capacity of the existing sewers to cope with the additional and substantial sewage generated. Residents from

Ford Road and Ford Crescent (several of whom have responded directly) report that sewers are often overwhelmed, resulting in sewage running onto highways and into properties. Affected residents have been informed by Northumbrian Water that there is already an incapacity issue. Also, how has the cumulative impact of the 14 dwelling development at The Paddock been factored into these calculations?

- Periods of rain result in parts of the site flooding. (residents' letters submitted support this). Surface water floods Ford Road and surrounding properties, including running down onto the proposed site. When Smallhope Burn rises, it can break its bank flooding the lower part of the site. Together with this erosion, we have grave concerns for the safety of residents living within such close proximity.
- Ford Road is an historic entrance to the village which is narrow and winding. Access to the site is off Ford Road at the corner of the proposed site on a bend with visibility issues. Ford Road carries a significant amount of traffic including lorries, vehicles, and regular users such as agricultural tractors towing fully laden trailers, often with overhanging loads. The road is narrow in places. Such large vehicles often overhang the footpath to accommodate other passing vehicles. We are concerned that the development will create substantial additional traffic and congestion along Ford Road and throughout the village. In addition speeding traffic has regularly been reported. This is acknowledged. The proposal to narrow the road to widen the pavement is particularly worrying. It will not improve this situation nor make things any safer for residents and road users. If anything, it will make it even more dangerous.

Mr M Gladstone, Lanchester Partnership and Council for the Preservation of Rural Lanchester, was in attendance to speak in objection to the application. He advised that there were many reasons to object to the application however would focus on three main issues as follows:-

- Undesirable intrusion into the countryside, which feels like vandalism on a Grade 3 area of agricultural land.
- Ford Road footway inadequate to serve current foot traffic let alone any increase from additional homes. At the footpaths narrowest point it was 62cm wide with the remaining sections of the footway substandard width at best. Traffic surveys indicate that on average cars travel at 35mph along this stretch of road with the 85th percentile travelling at 41mph. He reiterated how dangerous this stretch of road was highlighting that in 2006 a site meeting to this area was restricted in number of attendees by the council because the foot way was so narrow and there was safety concerns for more than 4 people to present on site at the same time.
- Lanchester is a historic village and it was feared that because of the growing population it would soon become a small town. It was noted that the application was not sustainable on the basis of lack of jobs in the village and lack of supporting key infrastructure. In addition the local economy would not be supported by people walking into the village to do their shopping on the basis that the walk there would be so dangerous.

In conclusion he added that the village faced extraordinary pressures from developers and urged members to refuse the application as they had done with 5 other similar schemes which had been submitted to date.

Mr M Gabrielle, Bellway Homes was in attendance to speak in support of the application. He advised that by supporting the application Bellway would be able to help deliver their share of homes in the area. In referring to Policy he advised that the NPPF supported sustainable development and the Local Plan could not be relied upon as its saved policies were out of date.

In addition the development would be a logical growth of Lanchester. The site had clear defensible boundaries and low density housing to mirror that of dwellings and estates within the village. He further referred to the Cadger Bank and Paddock applications which had been won on appeal

He noted that although the Highways Officers objected to the application, there had been no recorded accidents in this location.

Mr Gabrielle further noted that the application would bring a £8.4m uplift for the local economy and over £21k per week in spending power.

In conclusion he advised that the site was the best in area to accommodate the growth of the village. There had been no negative press surrounding the application and only 27 objections had been received from 21 properties.

Councillor Wilson raised a query regarding the Area of High Landscape Value its significance within the NPPF and how strongly refusal on these grounds would stand at appeal. The Senior Planning Officer advised that Paragraph 109 of the framework states that the planning system should contribute to and enhance the natural and local environment through a number of actions, including 'protecting and enhancing valued landscapes' and although there was no definition of what represented a valued landscape, officers were confident of defending the decision at appeal. The Principal DM Engineer noted that Ford Road was a strategic freight road and with such the footpath widths were inadequate and unacceptable for new development.

Councillor Shield noted the historic highway and the volume of heavy vehicles which passed through each day. In addition the foot path in question linked this site to the village centre. He accepted that Highways had assessed the area and noted that it was only possible to improve the highway at certain points. He therefore added that in street terms the footway and highway were unacceptable for the additional traffic that would be generated and on that basis found it to be wholly unacceptable.

At this point the Chair welcomed G Lawson, Principal Landscape Officer who provided a detailed explanation regarding the characteristics of areas of high landscape value and noted that this area also fell within the conservation area of Lanchester and with such was a very attractive area of land with a sensitive relation to the village itself. On the basis of his assessment of the site, he reiterated that paragraph 109 of the NPPF did apply.

Councillor Shield further to comments he made earlier noted that in addition to the highway issues and increased footfall on the substandard footway, Lanchester had a massive parking problem and this development would exacerbate those issues. In addition the development would be an encroachment into the countryside as it was outside of the curtilage of the village. He therefore **MOVED** that the application be refused on the grounds as listed within the report.

Councillor McGaun **SECONDED** the proposal.
Following a vote being taken it was

Resolved: That the application be refused on the grounds as listed within the report.

b DM/17/03064/FPA The Coach House, Derwentcote Farm, Hamsterley Colliery

The Committee considered a report of the Planning Officer regarding the proposed addition of a single storey glass canopy to the rear elevation of property (for copy see file of Minutes).

The Planning Officer provided a detailed presentation which included photographs of the site and plans of the proposed layout. She further provided details of the lengthy planning history of the site.

Mr P Winton, local resident was in attendance to speak in objection to the application. He also provided a summary of the planning history noting that the dwelling had been subjected to peace meal development enlarging it to over 50% of its original floorspace. He further detailed the enforcement activity which had taken place noting that further to recommendations made by the authority, the owner had taken the decision not to apply for a certificate of lawful development.

He further noted that the applicant and officers report dismissed the potential threat the canopy would have on birdlife.

He advised that as a neighbour he had been subjected to light and noise disturbance and felt that the unsympathetic development of the whole site, including the use of materials which were not in keeping with the original building or surrounding buildings, resulted in a highly obtrusive visual impact on the landscape. He therefore urged members to protect the Derwent Valley and refuse the application.

The Solicitor advised Members that their role was not to enquire into the planning enforcement history in relation to this property but to determine the current application on its own merits and if the objector was dissatisfied with the way in which the enforcement investigation was undertaken, he could take that up separately..

Councillor Shield commented that the application in his opinion contravened Saved Local Policies GDP1, EN1, EN3 and H019. He noted that although the property may not be obtrusive from the A694 during the day, it was however on an evening

when floodlit. In addition a public right of way was a mere 15 metres away and the proposed canopy would be visible from this point.

Councillor Boyd added that she to have grave concerns regarding the proposed extension and sympathised with the local residents' concerns, however acknowledged that the proposal by Councillor Shield may not be strong enough to warrant refusal.

Councillor McGaun asked whether the proposed extension was being put on to something which didn't already have permission. Clarification was provided regarding the unauthorised development, which due to the passing of time meant it was too late to enforce against and a Lawful Development Certificate application could not be insisted upon. The Planning Officer also advised that orangery did have permission which had been granted under delegated powers.

Councillor Milburn asked what the intended use of the extension was. The Planning Officer advised that it was not stated in the application however it was thought that it was intended for entertaining.

Further discussion took place regarding the layout of the site and it was noted that the proposed extension was to the rear of the dwelling and although visible from the PROW it would not be visible from the main road.

Councillor Wilson added although sympathetic to the objectors concerns he felt that the committee's hands were tied on this occasion. He therefore **MOVED** that the application be approved subject to the conditions as listed within the report.

Councillor Boyd **SECONDED** the proposal.

Councillor Shield then proceeded to **MOVE** that the application be refused on the grounds that it contravened policies GDP1, EN1, EN3 and H019 of the Saved Derwentside Local Plan.

There was no seconder to Councillor Shield's proposal.

Following a vote being taken it was

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

6 Appeal Update

The Committee considered a report of the Principal Planning Officer which provided details of an appeal considered by the Planning Inspectorate against the refusal of planning permission for a partly retrospective general purpose agricultural building at 5 Front Street, Burnhope. The appeal was dismissed by the Inspector.

Resolved:

That the content of the report be noted.

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/03144/FPA
FULL APPLICATION DESCRIPTION:	Erection of a dwelling
NAME OF APPLICANT:	Mr Alan Bell
ADDRESS:	Former Site of Lumley Boys School, Land North of Fenton Well Lane, Great Lumley
ELECTORAL DIVISION:	Lumley
CASE OFFICER:	Nick Graham Planning Officer Telephone: 03000 264 960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The proposed development site is set on the western edge of Great Lumley within the designated North Durham Green Belt. The site fronts onto Fenton Well Lane, a country road without footpaths, where a stone wall forms the front boundary of the site. It is bounded by agricultural land to the north and west, with Fenton Well Lane lying to the south, and a cluster of residential properties approximately 50m to the east.
2. The land gently falls away to the west, and is visible from the western embankment of the River Wear and the East Coast Main Line.

The Proposal

3. The applicant proposes a modern, detached, 'L' shaped two storey dwelling accessed from Fenton Well Lane. The dwelling is proposed to be constructed on the existing walls and foundations of the school house, which has not been in situ for approximately 30-40 years, although the foundations of which are still visible on the site. The materials proposed include stone walling, elements of render, and a natural slate roof. A large driveway is also proposed within the site to accommodate car parking.
4. The application is reported to Committee at the request of a local Ward Member.

PLANNING HISTORY

5. Outline planning permission was refused in 2003 (ref. 2/03/00558/OUT), and dismissed at appeal (ref. APP/G1305/A/04/1140566) for the erection of a dwelling due to the site's location in the Green Belt and the harm to the character and

appearance of the countryside. A further outline application was submitted in 2006 (ref. 2/06/00208/OUT) for the erection of a dwelling however this was withdrawn.

PLANNING POLICY

NATIONAL POLICY:

NATIONAL PLANNING POLICY FRAMEWORK:

6. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision-taking, the most relevant of these in this instance being:
7. *NPPF Part 3 – Supporting a Rural Economy* – Requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, supporting all types of business and enterprise, promoting development and diversification of agricultural and rural business and supporting tourism and leisure activities that benefit rural businesses, communities and visitors whilst respecting the character of the countryside.
8. *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.
9. *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.
10. *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.
11. *NPPF Part 9 – Green Belts* – The five purposes of Green Belt land are set out thus; to check unrestricted urban sprawl, to prevent towns coalescing, to safeguard the countryside from encroachment, to preserve the setting and character of historic towns and to assist urban regeneration. Planning Authorities are required to ensure substantial weight is given to any harm to the Green Belt, with ‘very special circumstances’ required to over-ride Green belt policies.
12. *NPPF Part 11 – Conserving and enhancing the natural environment* – The planning system should contribute to and enhance the natural environment by; protecting and

enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.

NATIONAL PLANNING PRACTICE GUIDANCE:

13. 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.
14. *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.
15. *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.
16. *Rural Housing* - It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship.
17. *Light Pollution* - Artificial light can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky. Some proposals for new development, but not all, may have implications for light pollution. Impacts upon background light levels, impacts from existing lighting, impacts upon protected species and wildlife, dark landscapes and reflection from existing buildings all are important factors to consider. If any of these are affected, then where light shines, when it shines, how much shines and ecological impacts should be investigated.

LOCAL PLAN POLICY:

18. The following are those saved policies in the Chester-le-Street District Local Plan relevant to the consideration of this application:
19. *Policy NE2 – Development beyond settlement boundaries* – outside of settlement limits development will be strictly controlled. Development should protect and enhance the character of the countryside and be consistent with maintaining the economic sustainability of agriculture and other rural businesses.
20. *Policy NE4 – Appropriate development in the Green Belt* - seeks to control appropriate development in the Green Belt, restricting the construction of new

buildings to; agricultural and forestry uses, sport, recreation and other uses that preserve Green Belt openness, proposals for the limited extension, alteration or replacement of existing dwellings, the reuse or conversion of existing buildings and mineral extraction.

21. *Policy NE5 – New Dwellings in the Green Belt* – There is a presumption against the construction of new dwellings in the Green Belt.
22. *Policy NE6 – Development affecting the Visual Amenity of the Green Belt* – Development within or conspicuous from the Green Belt will not be granted where the proposal by virtue of its scale, siting, materials or design is detrimental to the visual amenity of such.
23. *Policy NE15 – Areas of High Landscape Value* – Special attention will be given to the maintenance and enhancement of the landscape character and quality of Wear Valley Areas of High Landscape Value. Propose for development within these areas will only be permitted where they are of a high standard of design, reflect the scale and character of buildings in the area and do not detract from the high landscape quality.
24. *Policy T8 – Car Parking Provision* – States that new development should seek to minimise parking provision other than for cyclists and disabled users, other than in exceptional circumstances.
25. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding capacity, have good links to public transport, make provision for cyclists and service vehicles and have effective access for emergency vehicles.
26. *Policy T17 – General Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.

EMERGING POLICY:

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

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:

28. *Highways* – Advised the site is accessed from a narrow private lane, Fenton Well Lane, which is in a very poor substandard condition to serve new housing for both pedestrians and vehicular movements. The nearest public highway, Front Street, is located to the east of the site, and there appears to be intervening third party land from the site to the point of the public highway, which is not within the applicant's ownership. No formal footways serve the site from Front Street to the east.
29. Given the above poor unsustainable location of the site detached from the nearby settlement and the poor connectivity to the wider public network for particularly for pedestrians it would be difficult for the application to be supported from the highways aspect.
30. Following the submission of an amended red line plan, the Highways Engineer noted no objections to the proposal subject to the inclusion of an upgraded footway link and the installation of a private street light for safe pedestrian access, as well as an improved access to Fenton Well Lane for visibility reasons.

INTERNAL CONSULTEE RESPONSES:

31. *Spatial Policy* – Advise the key policy considerations of this proposal would be the potential harm to the Green Belt; quality of design; landscape impact, and whether the test set out within Paragraph 14 of the NPPF is engaged, and if so whether there are any policy related adverse impacts or benefits which should be considered.
32. Policy NE4 sets out the types of new development that would be permitted within the Green Belt. This is assessed as partially consistent with the NPPF and NPPG. Whilst the objective of this saved policy is consistent with the NPPF and NPPG, the policy wording in NPPF introduces a wider scope by virtue of the exceptions which are set out in Paragraphs 89 and 90. As such the full suite of NPPF exceptions must be given primacy.
33. The scope of exceptions in Paragraph 89 is wider than within the saved policy. It is noted that the applicant argues that the site is previously developed land rather than greenfield. Their argument is therefore that Paragraph 89 (bullet 6) of the NPPF applies and that the site is either 'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'. The proposal does not appear to fall comfortably within the scope of paragraph 89.
34. In terms of Policy NE5, whilst the objective of this policy is consistent with the NPPF and NPPG, the policy wording is inconsistent as the NPPF has a wider scope in terms of the exceptions set out within Paragraphs 89 and 90. Therefore the exceptions continue to be given primacy as a material consideration.
35. Paragraph 14 of the NPPF identifies that the 'presumption in favour of sustainable development' is the golden thread running through both plan-making and decision-taking. It further identifies that for decision making that means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent of relevant policies are out of date permission should be granted unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
 - Specific policies in the NPPF indicate that the development should be restricted.

36. The application is an application for new housing outside settlement boundaries. The Local Plan is out of date with regards to this issue and therefore the tests set out in paragraph 14 are engaged. Limb 2 of the test is also triggered as due to the nature of the proposal and its location there are restrictive policies within the NPPF on Green Belts.
37. Paragraph 88 is one such restrictive policy. It states that when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. To survive this test the decision taker would need to be convinced that the benefits of the application proposal outweigh the very clear and well established policy presumption against it.
38. *Landscape* – Advise the brownfield site is within the Northern Wear Valley AHLV beyond the edge of the settlement in an adopted Durham County Council 'Landscape Improvement Priority Area' where the spatial policy is to 'enhance'. This implies that any allowed development would be subject to substantial mitigating landscape work to reduce adverse visual impact and negative effect on landscape character. The area is in the Green Belt.
39. The site is below the plateau occupied by Lumley Village, on the upper slopes above the expansive floodplain. Most viewpoints are remote and in the western quadrant across the Wear Valley. The well-used Weardale Way long distance path adjoins the north-eastern corner of the site. The site is terraced at the higher south-eastern corner level on Fenton Well Lane. This creates circumstances where any development would be dominant and isolated as seen from the Lane in particular, just as was the former school.
40. The village is currently contained within a defined contour and footprint above the terraced site. Development of this area below and outside the village would represent some change to the rural character of the locality and would have some significant adverse landscape and visual effects.
41. *Ecology* – No ecological issues raised and no objections to the submitted Ecological Appraisal.
42. *Public Rights of Way* – Advise that vehicular access to the site is in part over public footpath no.22, Great Lumley Parish. This section of the path is also recorded as adopted highway and as such no concerns regarding the proposed access arrangements are raised. Public footpath no.1, Great Lumley Parish, passes close to the north-eastern corner of the site, but should remain unaffected by the proposal.

EXTERNAL CONSULTEE RESPONSES

43. *Coal Authority* – Advise that in accordance with the agreed risk-based approach to development management in Development High Risk Areas, the applicant need to submit a Coal Mining Risk Assessment Report as part of this application. Without such an assessment of any risks to the development proposal posed by past coal mining activity, based on up-to-date coal mining information, the Coal Authority does not consider that the Local Planning Authority (LPA) has sufficient information to determine this planning application and therefore objects to this proposal.
44. If the applicant ultimately fails to demonstrate to the LPA that the application site is safe and stable to accommodate the proposed development then the LPA may

refuse planning permission, in accordance with the NPPF, paragraphs 120-121. The Coal Authority would be very pleased to receive for further consultation and comment any subsequent Coal Mining Risk Assessment Report which is submitted in support of this planning application.

45. Following the submission of a Coal Mining Risk Assessment Report and Phase 1 Desk Top Study, the Coal Authority concurred with the recommendations of the submitted documentation and recommend a condition is imposed on any approval granted requiring site investigation works to be undertaken prior to works commencing on site, and, if required, remedial works.
46. *Northumbrian Water* – Advise that a public sewer crosses the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to their apparatus and therefore will be contacting the developer directly to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of development. For planning purposes it is noted that the presence of Northumbrian Water assets may impact upon the layout of the scheme.
47. *Durham Constabulary* – Advise that in the past five years, three incidents have been recorded on Fenton Well Lane, two of which relating to abandoned vehicles and the third not of relevance to this planning application. The Neighbourhood Policing Team are aware of youths congregating at the site and causing general nuisance, however no activity has been reported. It is noted there is a reasonable separation distance between the site and the nearest property which may assist neighbours in being more tolerant which is not to say such behaviour is acceptable.

PUBLIC RESPONSES:

48. The closest neighbouring properties to the site have been consulted, a site notice was posted close to the site access, and a press notice published in the Northern Echo. Five public responses have been received in support of the application. Reference is made to the fact the site previously housed a building, and Chester-le-Street District Council incorrectly allocated the site as Green Belt. The proposal would add value and visual amenity to the Fenton Well Lane area of the village. The proposal is not easily viewed from the village itself and is attracting anti-social behaviour from youths; this development would eradicate this problem. It would also assist in providing a deterrent to illegal activity on nearby and adjacent sites. Mr Bell has lived in Great Lumley all of his life and it would be a loss to the village if he had to look elsewhere to build his home.

APPLICANTS STATEMENT:

49. The principle of redeveloping this brownfield site complies with national and local planning policy. The design is appropriate for the scale and character of the village and will not harm its setting or lead to inappropriate development in the countryside. The proposal constitutes a sustainable development in a sustainable location.
50. The redevelopment of this brownfield site presents an excellent opportunity for the Council to support sustainable development within Great Lumley and reuse a derelict and unsightly site. The site was proposed for Green Belt removal in the now withdrawn County Durham Plan, demonstrating that in the Council's view it does not contribute to any of the five Green Belt purposes.
51. This application proposes the redevelopment of a brownfield site resulting in no harm to the purpose and function of the Green Belt. The proposal is compliant with

relevant national planning policies and it benefits from the presumption in favour of sustainable development.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

52. 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 issue in this instance relates to the principle of a new dwelling in the Green Belt.

Principle of Development

The Development Plan

53. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester-le-Street District Local Plan 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.
54. The Local Plan was adopted in 2003 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

55. 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.
56. 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.
57. 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.

58. 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

59. 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.
60. 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)
61. 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.
62. 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.
63. 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.
64. 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.
65. 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.
66. The Housing policies in the Local Plan relate to the Great Lumley settlement boundary (HP6), of which this site falls just outside. The Spatial Policy response provided indicates that although weight can be attached to Policy HP6, the impact of

the proposal in locational terms should be determined as part of the proposal rather than relying upon the boundary delineated on the Local Plan Proposals Map.

67. The proposal would be contrary to Policy NE2, which seeks to protect the countryside from encroachment. However, as Policy NE2 is considered to be partially consistent with the NPPF and NPPG, primacy should be afforded to the NPPF which outlines a wider range of circumstances in which development may be acceptable.
68. Although the above is the case, the second limb of Paragraph 14 of the NPPF indicates development should be restricted in this location by virtue of the site's Green Belt location, which will be considered in further detail below.

Development in the Green Belt

69. The restrictions on development in Green Belts are significantly greater than in the wider countryside, reflected in the length and detail of advice offered by the NPPF. The site is located within the Green Belt, therefore the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt.
 - The effect of the proposal on the openness of the Green Belt and the character and appearance of the area;
 - Whether the proposal would represent a form of sustainable development, and
 - If the development is inappropriate development, whether the harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
70. By definition, inappropriate development in the Green Belt is harmful, and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations. New buildings are considered to be inappropriate in Green Belt and the only exceptions to this are set out in the NPPF and include:
 - Buildings for agriculture and forestry; provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
 - The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
 - The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
 - Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
71. A Ministerial Statement advises that it is the 'Secretary of State's policy position that unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the Green Belt. The Secretary of State wishes to re-emphasise this policy point to both local planning authorities and planning inspectors as a material consideration in their planning decisions'. The

Chief Planner has recently written to reinforce this point, 'this statement...is to provide stronger protection for the Green Belt...(and)...sets out the government's policy that...personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'.

72. The building is not for agriculture or forestry, outdoor sport, recreation or for a cemetery. It is not the extension or alteration of an existing building, and is not the replacement of a building, given the considerable time which has elapsed since the removal of the school building. It is also not infilling in a village, affordable housing, or the redevelopment of a previously developed site which would not have a greater impact on the openness of the Green Belt, which itself will be discussed further below. The very special circumstances, as listed above, have not been defined within this proposal and it is therefore not considered any of the above criteria as set out within the exceptions are met.
73. Openness is regarded as an essential characteristic of the Green Belt and to illustrate the overriding importance of openness and the degree to which it is required protected, reference to a number of recent appeal decisions in the immediate North Durham Green Belt around Chester-le-Street is instructive:
74. In one of the Council's most recent appeal decision relating to Green Belts (Land to the East of Ravenscroft, Stoney Lane, Beamish, LPA Ref: DM/15/03625/FPA, Insp Ref: APP/X1355/W/16/3156113), also in the former Chester-le-Street area, the Planning Inspectorate noted although there is no definition of openness in the NPPF, 'it is generally held to refer to freedom from, or the absence of, development. The essential characteristics of Green Belts are their openness and their permanence and one of the purposes of the Green Belt is to keep land permanently open.' Regarding the proposal for a new dwelling and two outbuildings, 'the significant footprint of the buildings, their bulk, mass and domestic paraphernalia on land which is currently free from development would inevitably lead to a loss of openness.' That application was refused, and the Inspector gave 'substantial weight' to the harm of 'significant loss of Green Belt openness', whilst conflicting with the Green Belt purpose of safeguarding the countryside from encroachment, and it was concluded the proposal would be inappropriate development in the Green Belt, and by definition, harmful.
75. In another decision (Land at Southburn Livery and Stud, LPA Ref: DM/14/03673/FPA, Insp Ref: APP/X1355/W/15/3129652), the Planning Inspector concluded that the erection of a proposed dwelling and garage would represent a significant encroachment of the current building complex into land which is currently open and undeveloped, despite there being surrounding buildings in that example; 'Paragraph 79 of the Framework establishes that openness is one of the essential characteristics of the Green Belt. The judgement from *Timmins & Anor v Gedling Borough Council* [2014] established that openness is epitomised by a lack of buildings rather than by buildings which are unobtrusive or screened in some way. The proposed dwelling and garage would occupy land which is currently open and undeveloped, rather than replacing existing buildings. Therefore, the proposal would have a greater impact on the openness of the Green Belt than the current buildings on site'...'I conclude that the proposal would cause significant harm to the openness of the Green Belt in this location and its purpose in safeguarding the countryside to the south of Chester-le-Street from encroachment'. That application was refused, despite the Inspector accepting a functional need for the dwelling to be in the countryside and despite the presence of surrounding buildings. The mass of new buildings in the countryside by definition causes harm, even if screened or hidden by landform.

76. Even where the proposed development is within the confines of a small hamlet the Planning Inspectorate confirm that a new dwelling can be considered unacceptable in terms of compromising 'openness' when it is subject to Green Belt designation, as evidenced by the recent appeal decision for such at Plawsworth Gate (LPA Ref: DM/14/03288/FPA, Insp. Ref: APP/X1355/W/15/3028093), where a dwelling to replace an existing blight site garage was surrounded by 15 existing dwellings.
77. The degree to which the effect on openness is assessed is such that the Planning Inspectorate has found that it can be detrimentally affected by the implications of a change of use of an existing building. In the recent appeal relating to the conversion of an existing redundant small stone barn at Papermill Cottages, Beamish Woods, 0.3 miles north west of the application site (LPA Ref: Ref: 2/13/00288/FUL, Insp Ref: APP/X1355/A/14/2218827), the Inspector found, 'the use of an existing building would not in itself result in urban sprawl or a loss of openness but the creation of the proposed residential curtilage and the addition of the proposed sun room would add built form and change the character of the site. It would have an urbanising effect, encroaching into the countryside and detracting from the openness of the Green Belt. In the light of this the proposal would fail to meet the condition that openness and the purposes of including land in the Green Belt should not be harmed. It is therefore inappropriate development in the Green Belt...which is by definition harmful and weighs heavily against the proposal which should not be allowed, except in very special circumstances'.
78. As made clear above, it is an accepted tenet of the assessment of openness in relation to the Green Belt assessment that screening new buildings – or siting them within woodland or obscured by landscape features does not mitigate their harm. In this instance, the proposed position of the dwelling is considerably higher than the nearby River Wear and would also be visible from the East Coast Main Line. On this basis it is considered the proposal would have a definite presence in the countryside and clearly viewed from the west.
79. Openness would be compromised in detail and principle. By definition it therefore causes 'harm' contrary to the contention of the applicant. Even the use of the land surrounding the dwelling as residential curtilage can be considered to compromise openness and therefore cause harm.
80. It must be stressed that the openness of the Green Belt is not a visual issue. The NPPF sets out the five purposes of including land in this highly restrictive designation with the consideration of the application required to not just assess the impact on openness, but also the extent to which the development would conflict with the various purposes of including the land within the Green Belt. The five reasons are;
- to check the unrestricted sprawl of large built-up areas;
 - to prevent neighbouring towns merging into one another;
 - to assist in safeguarding the countryside from encroachment;
 - to preserve the setting and special character of historic towns; and
 - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
81. The section in the NPPF relating to this topic begins with the quote, 'Government attaches great importance to Green Belts', continuing, 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. The development represents encroachment into the countryside by built development as a matter of principle, and is therefore contrary to the purposes of

including the land in the Green Belt. It is noted that this is a specific issue that the Inspectors in the above three appeals gave specific commentary on and weight to in their decisions to refuse.

82. Paragraph 88 of the Framework establishes that substantial weight should be given to any harm to the Green Belt. Policies NE4 (Appropriate Development in the Green Belt) and NE5 (New Dwellings in the Green Belt) are consistent in respect of the relevant aspects of this application. The proposal, by virtue of it being built development on a previously long-standing vacant site from such development, is considered to impact upon the openness of the Green Belt and consequently cause harm.
83. Having established that the proposal constitutes inappropriate development in the Green Belt and would cause harm by virtue of its impact on openness, it is necessary to consider other matters, including the sustainability credentials of the scheme, implications upon highway safety, landscape and design. This is to allow all relevant planning matters to be considered to see whether there are any other grounds to restrict the develop proposal or very special circumstances that would warrant approval despite clear conflict with the Green Belt. These are considered under the various headings below.

Development beyond settlement boundaries / Locational sustainability

84. As a separate planning issue in terms of principle, the application proposes a new dwelling beyond the defined settlement boundary of Great Lumley. Policy NE2 (Development beyond settlement boundaries) notes new dwellings beyond settlement boundaries should only be approved where there is a need to support existing agricultural or forestry activity. However, it is acknowledged this policy is only partially consistent with the NPPF, which aims to boost the supply of housing and requires that housing applications are considered in the context of the presumption in favour of sustainable development. The NPPF states that everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means: increasing the supply of housing, delivering a wide choice of high quality homes that people want and need, widening opportunities for home ownership; and creating sustainable, inclusive and mixed communities, including through the regeneration and renewal of areas of poor housing.
85. Paragraph 49 of the NPPF states that housing developments should be considered in the context of the presumption in favour of sustainable development. The NPPF identifies the three dimensions of sustainable development. New development is expected to perform an economic, a social and environmental role and Paragraph 8 makes it clear that sustainable development consists of a combination of all three elements.
86. In terms of the economy whilst the construction of the dwelling would support the local economy, because of its scale the proposal brings limited benefits other than to those employed in the construction of the new dwelling and those benefits would be likely wherever the dwelling were located and they do not therefore materially weigh in favour of the development. From an environmental perspective the proposal meets one of the core planning principles of the NPPF to direct development to previously developed land. Also the proposal would be in keeping with the character of the local area as it would clearly be associated with the Great Lumley settlement. In terms of the social role of housing, the benefits arising from the proposal for the dwelling in terms of the supply of housing would be a benefit, albeit small.

87. The proposal performs well in terms of minimising the impacts of climate change. Bus stops are located immediately to the west of the site on Front Street, with four times hourly Monday-Saturday daytime services to Chester-le-Street and Sunderland, and twice hourly Monday-Saturday daytime services to Consett and Stanley. Great Lumley village contains a number of services and facilities, including a small supermarket, post office and convenience store, pharmacy, GP surgery, public house and hot food takeaways, all of which are located within approximately 600m of the site. Lumley Junior School is also located within approximately 800m of the site. Given these distances, and the frequency of bus services, the application site is considered to be a sustainable location.
88. Whilst the proposed development would bring limited economic and social benefits, and is located outwith the defined settlement boundary of Great Lumley, the fact that the proposal is on a previously developed site in a sustainable location, and as the development would be in keeping with the character and appearance of the area, it is considered that notwithstanding the significant Green Belt issue as detailed above, the proposal would accord with the broad aims of the NPPF by boosting housing supply in a sustainable location, on a previously developed site.

Landscape and design

89. Limited landscaping details have been provided, and the Landscape Officer has noted concerns in respect of adequate site screening, particularly to the site's western boundary and when viewed from the east, as the site falls within an Area of High Landscape Value. However, if the principle of the proposal is considered acceptable, a suitably worded condition requiring the submission of landscaping details and its subsequent implementation would ensure the proposal complied with Policy NE15 of the Chester-le-Street District Local Plan.
90. It is noted there is a mixture of styles and materials in properties close to the site, and the design of the proposed dwelling is considered in acceptable, as it would have the appearance of a dormer-style bungalow, with a maximum height of approximately 8 metres. It would also be set down from the closest property to the east. The property's predominant elevation will face towards the west, and the materials proposed include a mixture of stone, render, and a natural slate roof. These are considered acceptable in principle and precise specifications can be agreed via appropriately worded conditions if the proposal is considered acceptable.

Highway Safety and Public Rights of Way

91. In order for the proposed development to be acceptable in terms of highway safety amendments would be required to the proposed access point to the site, as well as the inclusion of a footpath and private streetlight. The Highways Engineer considers this to be achievable and if the principle of the proposal is considered acceptable, a suitably worded condition would ensure the proposal complied with Policy T15 of the Chester-le-Street District Local Plan.
92. It is noted a Public Right of Way runs adjacent to the site, however the proposal would not affect either the vehicular access rights of, or access to, this public footpath. Any development on the site would need to ensure that the route is unobstructed.

Amenity and privacy of neighbouring properties

93. There are no residential amenity or privacy implications associated with the proposal given the location of the proposed development.

Ecology

94. The County Ecologist has accepted the Ecology report submitted with the application, and has raised no objections to the proposal.

Coal Mining Risks

95. The Coal Authority has considered the contents of the submitted Risk Assessment Report and raised no objections subject to a suitably worded condition requiring site investigation works to be undertaken prior to works commencing on site, and, if required, remedial works, which is considered appropriate.

Other matters

96. Supporters have noted anti-social behaviour and other alleged activities taking place at the site, and consider such a proposal would eradicate such problems. Although this may be the case, it is noted Durham Constabulary have no direct complaints regarding this site, and any criminal activity should be resolved via the Police and not a planning application.
97. A supporter has inferred the former Chester-le-Street District Council were incorrect in allocating this site in the Green Belt as it is previously-developed land. It is not the role of this application to determine whether this site should or should not be included within the Green Belt. The site is within the designation and the proposal is therefore being considered against applicable local and national planning policies, as per any other application for development in the Green Belt.

CONCLUSION

98. The application has been considered in the first instance against the appropriately weighted saved policies in the Chester-le-Street District Local Plan, and concluded as contrary to Green Belt Policies NE4 and NE5.
99. In applying the advice in Paragraph 14 of the NPPF, the Green Belt issue raised clearly identifies development should be restricted at this location. Green Belt Policy protects the countryside at a significantly higher level than the standard policies designed to protect the open countryside. The building proposed affects the openness of the Green Belt and is therefore harmful. Substantial weight should be given to any harm to the Green Belt in line with paragraph 88 of the NPPF, an approach confirmed as evidenced in the quoted appeal decisions.
100. The proposal amounts to inappropriate development in the Green Belt, would fail to preserve the openness of the Green Belt and would conflict with the purposes of including land in it. National Green Belt policy establishes that substantial weight should be given to any harm to the Green Belt and inappropriate development should not be approved except in very special circumstances that must outweigh not only the harm to the Green Belt but also any other harm caused by the proposal. No case has been made for an appropriate exception and relevant 'very special circumstances' to support the proposals, with the quoted Ministerial Statement indicating that personal circumstances are unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" giving local planning authorities and planning inspectors direct instruction as to the materiality of this issue.

101. To recap the very special circumstances; the proposal is not a building for forestry and agriculture, it is not for sport or outdoor recreation, nor the extension or alteration of an existing building, it is not the provision of a replacement building with one of similar size, it is not infilling in a village and it is not the partial or complete redevelopment of brownfield land – noting the overarching requirement of these exceptions that the proposal must have no greater impact on openness of the green belt, or by definition, it is harmful. The proposal has a greater impact than the existing open land, is therefore harmful, and is therefore unacceptable.

102. It is noted in relation to the non-Green Belt issues, these are considered acceptable, or could be made acceptable with appropriate conditions. However, whilst each site is assessed on its own merits, the approval of this site would create a dangerous precedent on a significant level in relation to the Green Belt matter. The judgements and conclusions reached in the above report are supported in detail by clear evidence of consistent planning assessment, judgement and decision making by both the Council and the Planning Inspectorate that give clear precedent for the determination of the current proposal. On this basis the proposal must be recommended refused.

RECOMMENDATION

That the application be **REFUSED** for the following reason:

1. The proposed development is inappropriate development in the Green Belt. The proposed development would harm the openness of the Green Belt as a result of the physical extent of built development. The proposal would also result in some more limited harm to the visual amenity of the Green Belt. The applicant has not demonstrated that there are any very special circumstances which would outweigh the harm to the Green Belt by reason of the inappropriate development. As such the proposal is contrary to Policies NE4 and NE5 of the Chester-le-Street District Local Plan, and Part 9 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

103. The Local Planning Authority in arriving at the decision to refuse the application has actively engaged with the applicant to identify the key planning policy issues and give the applicant the best opportunity to focus on those, both through the planning process, and any subsequent planning appeal in accordance with the Local Plan and the NPPF.

BACKGROUND PAPERS

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

The National Planning Policy Framework (2012) (NPPF)

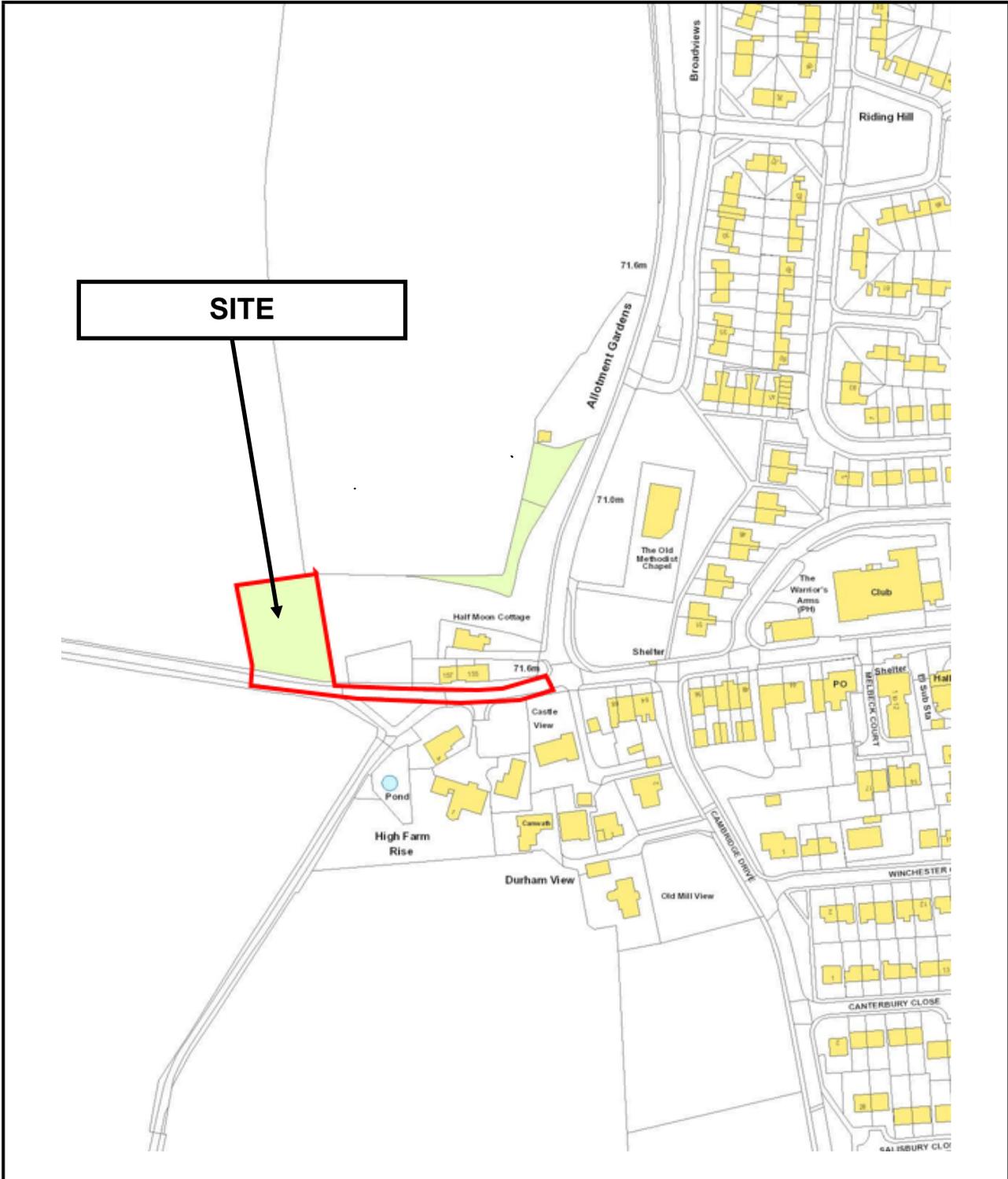
National Planning Practice Guidance Notes (NPPG)

Chester-le-Street District Local Plan (saved policies 2009)

The County Durham Strategic Housing Land Availability Assessment (SHLAA)

The County Durham Strategic Housing Market Assessment (SHMA)

Statutory, internal and public consultation responses



Planning Services

Former Site Of Lumley Boys School, Land North Of Fenton Well Lane, Great Lumley

Application Number DM/17/03144/FPA

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Comments

Date 21st December 2017 | **Scale** 1:2500

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/03413/FPA
FULL APPLICATION DESCRIPTION:	New dwelling
NAME OF APPLICANT:	Ms Bernadette Gartland
ADDRESS:	Glebe Farm Ebchester Hill Ebchester Consett DH8 6RX
ELECTORAL DIVISION:	Leadgate and Medomsley Sarah Seabury Planning Officer
CASE OFFICER:	Telephone: 03000 261 393 sarah.seabury@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

THE SITE:

1. The application site is situated on land within the Glebe Farm off the B6309 Ebchester Hill Road between Ebchester to the north and Medomsley Edge to the south. The farm comprises a 'U' shaped farm building currently undergoing conversion to four residential units, an agricultural storage barn, a rundown bungalow and rundown farm shed. To the south west is the newly built Glebe Farm Cottage which is accessed via a separate access road. The application site comprises the footprint of the existing rundown farm shed to the east of the site adjacent to the B6309 and the surrounding land.

THE PROPOSAL:

2. It is proposed to demolish the existing farm shed and construct a dormer bungalow and detached double garage on its footprint and surrounding land. The ground floor would accommodate a living room and kitchen, garden room, lobby with wheelchair charging point, a bedroom with associated dressing room and en-suite, utility, shower and cupboard. The first floor would accommodate a further 2 bedrooms, one with a balcony and a bathroom. The double garage would also be fitted with PV panels. Building materials would be facing brick and natural stone with a slate roof.
3. The site would be accessed from the existing access onto the B6309 to the south east and a small internal access road constructed to link the property to the existing internal access road.

4. The dormer bungalow and associated garage are proposed to accommodate a disabled resident who is finding it increasingly difficult in their current residence 0.2 miles away from the application site. The applicant is finding it increasingly difficult to live in her existing home due to her disabilities and therefore would like to build a specially designed property. The site on which the property is to be constructed is owned by a friend and part time carer, who lives in the adjacent farmhouse on site at Glebe Farm Cottage.
5. This application is being presented to the Committee at the request of the Local Member.

PLANNING HISTORY

6. None relevant

PLANNING POLICIES

NATIONAL POLICY:

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
9. The following elements are considered relevant to this proposal:
10. NPPF Part 1 Building a Strong, Competitive Economy. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
11. NPPF Part 7 Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. NPPF Part 11 Conserving and Enhancing the Natural Environment. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and

mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

NATIONAL PLANNING POLICY GUIDANCE:

13. *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.
14. *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.

LOCAL PLAN POLICY:

The Derwentside District Local Plan (1997):

15. *Saved 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.
16. *Saved Policy EN1 Development in the Countryside* – will only be permitted where it benefits the rural economy or helps maintain or enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
17. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.
18. *Saved Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.
Emerging Local Plan Policy

RELEVANT EMERGING POLICY:

19. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High

Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. *Highways* – No objection subject to a condition requiring the upgrade of the site access surface.

EXTERNAL CONSULTEE RESPONSES:

21. *Northumbrian Water* – No comment.
22. *Coal Authority* – No objection.

INTERNAL CONSULTEE RESPONSES:

23. *Landscape* - There are no landscape related designations on or around the site. However, the Farm and surrounding field pattern are within an adopted DCC Landscape Conservation Area where the strategy is to Conserve and Restore.
24. The site is currently occupied by a featureless steel profile sheet clad and rusted corrugated iron roofed agricultural barn of no aesthetic merit. A partially collapsed or robbed dry stone wall divides the barn from Ebchester Bank.
25. The farmland surrounding the existing or previously derelict farm buildings cluster is part of an open rural landscape within the Derwent Valley where distant views are highly rewarding. The visual amenity value and particular character of the landscape is in deep contrast to the farm.
26. *Design* - The proximity of the proposed house to the road does not acknowledge the established building line distances elsewhere on Ebchester Bank. Neither does it allow sufficient space within which to integrate a house, essentially suburban in character, into the countryside through structure planting. No reference is made to the highway boundary wall.
27. The proposals would have some significant adverse landscape and visual effects. The extent to which they would be in conflict with Policies and Clauses quoted above is a matter of judgement. My own judgement is that they would be.
28. *Ecology* - No ecological issues.
29. *Archaeology* – Views awaited.

PUBLIC RESPONSES:

30. Neighbours have been consulted by direct letter. No letters have been received.

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=summary&keyVal=OXYUPPGDHZT00>

PLANNING CONSIDERATION AND ASSESSMENT

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

Principle of the Development

32. 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 remains the statutory development plan and starting point for determining application as set out in 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.

33. The Derwentside District Local Plan was adopted in 1997 and was intended to cover the period to 2007. 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

34. 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.

35. 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.
36. 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.
37. 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 Derwentside District Local Plan absent where outlined below.

Five Year Housing Land Supply

38. 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.
39. 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)
40. 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.
41. 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.
42. 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.

43. 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.
44. 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.
45. The Derwentside District Local Plan does not have any relevant housing policies applicable to this type of application therefore the development plan is silent. The acceptability of the development, in terms of Paragraph 14 therefore rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole.
46. The NPPF seeks to boost significantly the supply of housing and requires that housing applications should be considered in the context of the presumption in favour of sustainable development. The Government's key housing objective and one which LPA's are expected to deliver is to increase significantly the delivery of new homes. The NPPF states that everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means: increasing the supply of housing, delivering a wide choice of high quality homes that people want and need, widening opportunities for home ownership; and creating sustainable, inclusive and mixed communities, based on the needs of different groups within the community, including older people.
47. The NPPF goes onto state that new development should be directed towards sites which are sustainably located, being close to services and public transport links. It identifies the three dimensions of sustainable development, new development is expected to perform an economic, a social and environmental role and paragraph 8 makes it clear that sustainable development consists of a combination of all three elements.
48. In terms of the economy whilst the construction of the dwelling would support the local economy, because of the scale the proposal it would bring limited benefits other than to those employed in the construction of the property. From a social perspective the provision of this house would contribute to the provision of a range of housing types, specifically providing a property suitable for use by someone with mobility problems.
49. The applicant's agent has stated that it is not necessary to demonstrate that the site will be accessible by public transport as the applicant is disabled and will not use public transport to access the site. In determining the application consideration needs to be given to the potential future occupiers of the dwelling. Consent is sought for a property containing three bedrooms which could, in future, be occupied by a family with different needs than the current applicant. The application site does not lend itself to being accessed other than by the private car. It is situated a seven minute walk (460m), along a busy road using a lit footpath, to the nearest bus stop

providing access to Consett and Newcastle on an hourly basis. Whilst there would be some people who would not find the distance to the bus stop when taken together with the relatively infrequent bus service undesirable it is likely that the majority of people would due to the impracticality of the journey. In addition it is a twenty minute walk from the site to either Medomsley or Ebchester, both of which contain a limited range of services. Due to the topography involved and the lack of an alternative route other than alongside a busy main road it is unlikely that occupants of the property would travel on foot to facilities and services. These distances are over the recognised acceptable walking distances to such facilities as specified in the Institution of Highways and Transportation publication '*Providing for Journeys on Foot*'. Therefore access to and from the development would be highly reliant on the private car. The site could not, therefore, be considered sustainable in terms of encouraging the use of non-car modes of travel to the closest services contrary to the NPPF. From an environmental perspective, an agricultural building does not constitute previously developed land as defined in the NPPF. As such the proposal is contrary to one of the core principles of the NPPF as the application site would be considered to be a green field site. In view of the foregoing the proposal is not considered to constitute sustainable development.

50. Paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located in areas where it will enhance or maintain the vitality of rural communities. The second part of paragraph 55 states that Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as where the proposal involves a dwelling for essential need for rural worker, where it is re-using a heritage asset, or is enabling development to secure the future of a heritage asset or where it would re-use redundant or disused buildings or where the design of the dwelling is of exceptional quality or innovative in nature. The recent High Court Decision for *R (on the application of Braintree District Council) v Secretary of State for CLG & others [2017] EWHC 2743* redefines the definition of 'isolated' and concluded that isolated should be given its ordinary, objective meaning. This is a home "far away from other places, buildings, or people; remote" (Oxford Concise English Dictionary). As the proposed building would be located in close proximity to other buildings on the farm, some of which are being converted to residential properties the special circumstances test does not apply in this instance as the property could not be considered to be 'isolated'.
51. In terms of the Local Plan, development outside of the settlements listed within Saved Policy HO5 is considered to be within the countryside and would only be permitted under the criteria within Saved Policies GDP1, EN1 and EN2 of the Derwentside Local Plan which require housing in such areas to benefit the rural economy or maintain or enhance landscape character and to not result in an encroachment into the surrounding countryside. The application site is located within an existing farm that is clearly distinct.

Benefit to the Rural Economy

52. Saved Policy EN1 requires developments in the countryside to benefit the rural economy or help to maintain or enhance landscape character. In terms of its contribution to the rural economy the dwelling would be of some, albeit minimal value to the economy during the construction phase. This however would only be a short term benefit. Furthermore, the addition of a single dwelling at this location would

make little contribution to the viability of the neighbouring settlements or the existing communities.

Impact upon the Character and Appearance of the Area

53. The NPPF and Saved Policy EN1 of the Derwentside District Local Plan state that development should only be allowed where it enhances or maintains landscape character. Saved Policy EN2 does not permit development which would result in encroachment into the surrounding countryside. The Coalfield Upland Fringe Character Area, within which the application site lies, is characterised by board ridges, gently rounded topography, pastoral use with scattered conifer plantations. The landscape officer states that the farmland surrounding the existing farm buildings form part of an open rural landscape within the Derwent Valley where distant views are highly rewarding.
54. It is acknowledged that the existing farm building to be demolished makes no contribution to the amenity of area due to its condition and appearance. However the proposed property does not sit with the established building line as it is located both closer to the road to the east and is orientated at an angle in relation to the neighbouring structure. The property would be clearly visible on approach from the north and south along the B6309 and in landscape wider views. There is little opportunity for screening of the development from wider landscape views due to its proximity to the road to the east. The proposal would result in a large dormer bungalow and associated garage out of character with neighbouring structures of a predominately agricultural character. The proposed structure would be of a modern urban character and provide two floors of accommodation, the first floor of which would not be utilised by the applicant as it would only be accessed by stairs. It is acknowledged that neighbouring farm buildings are currently undergoing conversion to domestic properties however as these units are to be converted in a sensitive manner, the agricultural character of the buildings is to be retained where possible. The conversion of this building would therefore have a positive impact upon the landscape character. Furthermore, the new build Glebe Farm Cottage to the south west of the site was approved as a replacement dwelling for the original farmhouse which was no longer fit for purpose. Neither of these circumstances apply to this proposal. It is considered that whilst the proposal would result in the removal of a building in a poor state of repair the introduction of a larger modern building of urban character at this rural location would result in a significant and adverse detrimental impact on the countryside landscape.
55. It is therefore considered that the proposal is contrary to the NPPF and Saved Policies EN1 and EN2 of the Derwentside District. The limited benefits of the proposal would not outweigh the harm of a new dwelling within the landscape and would not be considered to be a sustainable location and is therefore contrary to the NPPF and Local Plan Policies. The proposal is therefore not considered acceptable in principle.

Impact upon Neighbouring Amenity

56. Saved Policy GDP1(h) of the Derwentside District Local Plan requires new development to respect the amenity of neighbouring residential occupiers and adjoining land users. The nearest residential property is Glebe Farm Cottage 85m to the south west, however existing buildings 15m to the west of the application site are undergoing conversion to residential dwellings at the moment. Due to the positioning

of the proposed property and its orientation the proposal would not result in an impact on the existing property or those under construction in terms of privacy or overlooking. Furthermore the garden for Unit four which is closest to the application site is located to the west of the building therefore would have a separation distance in excess 30m. It is therefore considered that the proposal is in accordance with the NPPF and Saved Policies GDP1 and HO5 of the Derwentside District Local Plan.

Highways

57. Paragraph 32 of the NPPF and Saved Policy TR2 of the Derwentside District Local Plan require new development to achieve safe and suitable access to the adopted highway network for the type of use that is being proposed. In this case, access is proposed via an existing access south of the application site from the B6309 Ebchester Hill Road. A total of three car parking spaces are proposed in addition to a double garage. This is considered to be sufficient parking for the property and the Highways Development Management Officer is raising no objection to the proposal subject to a condition requiring the upgrade of the access surface. It is therefore considered that the proposal is in accordance with the NPPF and Saved Policy TR2 of the Derwentside District Local Plan.

Personal Circumstances

58. The applicant has stated that the intended use of the dwelling would be for a disabled person. The evidence provided states that the applicant requires a property specifically designed to address their needs in terms of space, light, comfort and accessibility. This is supported by a medical statement which supports that stairs cannot be managed by the applicant. There are no other specific needs outlined in the application that could not be accommodated at a different, more sustainable, location.
59. The adjacent 'U' shaped farm building is being converted to provide four new residential units, three of which are ground floor only. These ground floor only properties could feasibly be converted to accommodate the needs of a disabled resident. Furthermore to the south of the application site is a rundown bungalow which could be converted to meet the needs of the applicant. Both of these options would allow the applicant to live close to their carer as they wish. The requirements of the applicant for wheelchair accessible accommodation is not bespoke, purpose built accessible accommodation is available and adaptations can be made to existing properties to accommodate accessibility. As such accommodation could be provided elsewhere or on site in an existing building conversion and is not restricted to the provision of a new build property at this specific unsustainable location within the open countryside. The justification for a new dwelling in an unsustainable location within the countryside has not been proven. Whilst officers sympathise with the personal circumstances of the applicant Officers feel that the applicant's needs could be addressed by looking at the alternatives outlined above and these do not outweigh the sound planning reasons for recommending refusal of the proposal. The human factor is, however, always present in planning decisions but will seldom outweigh the more general planning considerations.

The Planning Balance

60. As there are no saved housing policies in the Derwentside District Local Plan that are applicable to the application and there are no restrictive policies that indicate that

development should be restricted the determination of the application reverts to the tilted balance contained within paragraph 14 of the framework.

The Benefits of the development

61. The proposal, for a single dwelling, would have very limited benefits in terms of housing supply and would result in only a small short term economic benefit from its construction.

Adverse Impacts of the development

62. Harm has been identified in relation to the unsustainable location of the site due to the distances involved in reaching the nearest settlements of Ebchester and Medomsley resulting in a significant barrier to an environmentally sustainable form of development. The separation would also lead to little economic or social benefits to these settlements, with the vitality of these settlements would experience little benefit through the proposed development. In addition the proposal would introduce a new building of suburban character into the landscape in a prominent location in close proximity to the road and out of line and character with the existing buildings of the farm steading. The personal circumstances of the applicant are recognised however these do not outweigh the more general planning considerations. It is therefore considered that the harm relating to sustainable development and landscape impact are such that they 'significantly and demonstrably' outweigh the benefits of the scheme.

CONCLUSION

63. The development plan does not contain any housing policies that are relevant to this type of application and is therefore considered to be 'silent'. The proposal has been assessed in accordance with the tilted balance test contained within 14 of the NPPF. It is considered that the adverse impacts of the development are 'significantly and demonstrable' and do not outweigh the very minor benefits of the scheme. On this basis the application is recommended for refusal.

RECOMMENDATION

That the application be **REFUSED** for the following reasons:

1. The proposal would result in the construction of a new dwelling in an unsustainable location within the open countryside. The proposal would not be considered to be environmentally sustainable and would result in little economic or social benefit to neighbouring settlements. Furthermore, it is considered that the vitality of the existing rural community would not be supported by the addition of a single dwelling in this location. The proposal would therefore be contrary to paragraphs 7 and 8 of the NPPF, and Saved Derwentside Local Plan Policies GDP1, EN1 and EN2 of the Derwentside District Local Plan.
2. The proposal would result in encroachment into the open countryside and would introduce a suburban form of development which would amount to an incongruous and prominent feature in the countryside harmful to the character of the area. The

proposal would therefore be contrary to Saved Policy EN2(c) of the Derwentside District Local Plan.

3. Whilst the application site is not considered to be isolated, it is not considered to be in a sustainable location. The proposal would be located on a green field site and is not sustainable in terms of accessibility therefore contrary to the NPPF. These adverse impacts of the development are therefore considered to significantly and demonstrably outweigh the benefits of a small contribution to the economy and the provision of a property specifically designed for the applicant.

STATEMENT OF PROACTIVE ENGAGEMENT

64. 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

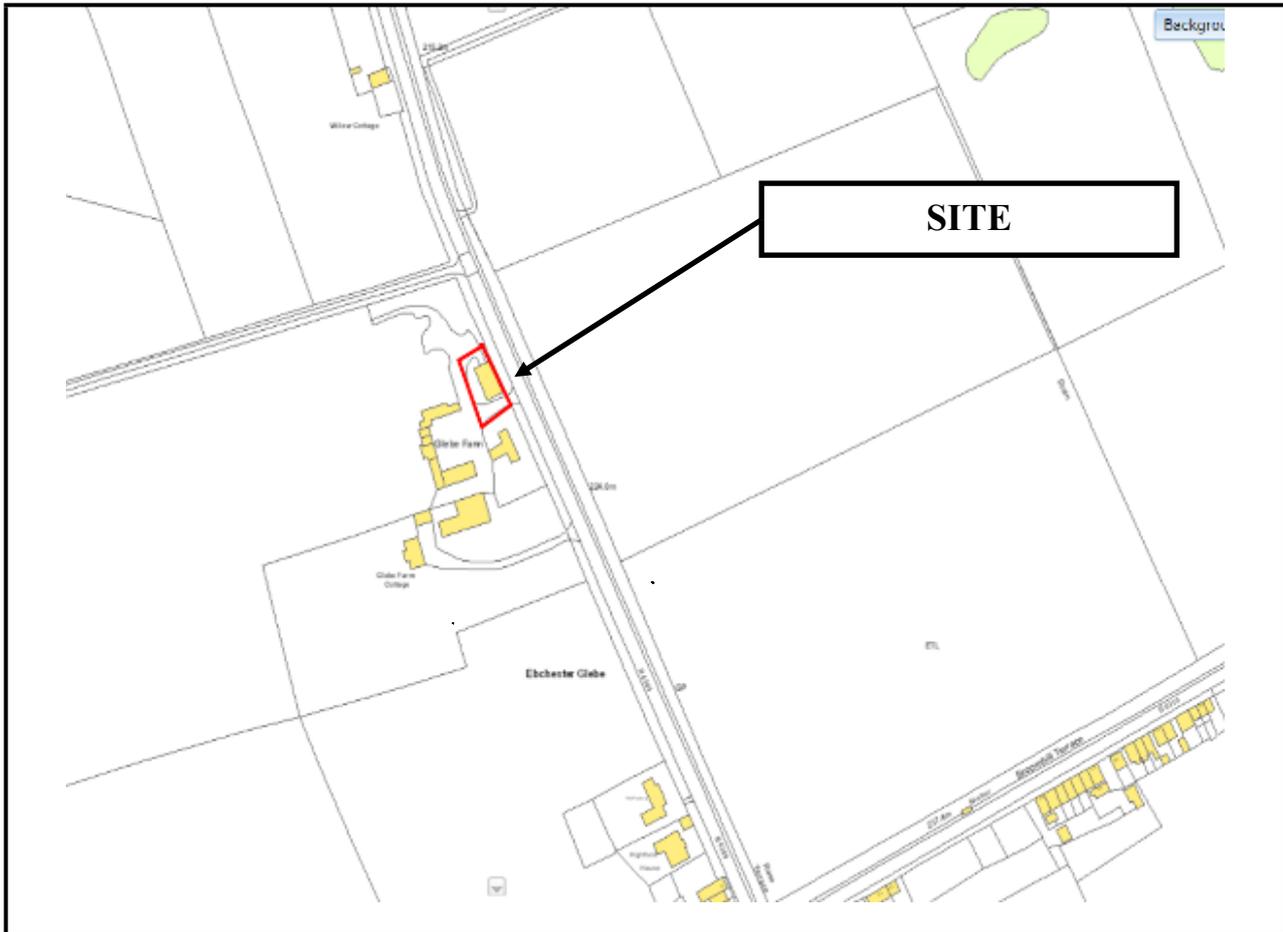
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance

Derwentside Local Plan (Saved Policies 2007)

Statutory, internal and public consultation responses



Planning Services

Glebe Farm Ebchester Hill Ebchester Consett DH8 6RX

Application Number DM/17/03413/FPA

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Comments

Date 21st December 2017

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/03152/FPA
FULL APPLICATION DESCRIPTION:	Erection of 14 two Bedroom Dwellings, including parking and associated landscaping
NAME OF APPLICANT:	Karbon Homes
ADDRESS:	Lawson Court West Pelton
ELECTORAL DIVISION:	Pelton
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 0.33 hectares of open, close mown grassed land at the centre of West Pelton, the site formerly having been occupied by a flat roofed two storey Nursing Home. Located adjacent to the crossroads at the centre of the village, the site is bounded by roads on three sides, and includes a bus stop on the north boundary. There are some sporadic trees on the two main roadside boundaries that provided a setting for the removed buildings. The road on the east boundary is the access to the Summerfield development of local authority built mid-linked houses and bungalows. The boundary to the west is shared with a residential development centred around West Pelton House.
2. West Pelton is around 2.8 miles north-east of the centre of Chester-le-Street, adjacent the A693. Village facilities include a Post Office, mini-market, Community Centre, Churches and Nursing Home.

The Proposal

3. The application proposes 'erection of 14 two Bedroom Dwellings, including parking and associated landscaping'. This gives a density of 42 dwellings per hectare. The site proposes a single cul-de-sac accessed from Summerfield. Dwellings at the head of the cul-de-sac, adjacent West Pelton House, face into the development, those on the north boundary face outwards, towards the Edenfield development of local authority built bungalows. The proposed cul-de-sac features unallocated off-road visitor parking.
4. The application is reported to Committee as a 'major' application.

PLANNING HISTORY

5. The site has no formal planning history.
6. A Dangerous Structures notice was received in 2016 by Building Control that led to the demolition and clearance of the former Nursing Home structure on the site.

PLANNING POLICY

NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
9. 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.
10. The following elements of the NPPF are considered relevant to this proposal;
11. *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.
12. 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.
13. *NPPF Part 4 – Promoting Sustainable Transport*. Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.

14. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
15. *NPPF Part 7 – Requiring Good Design* - the Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. 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.
16. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
17. *NPPF Part 10 - Meeting the challenge of climate change, flooding and coastal change* – 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.
18. *NPPF Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
19. *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:

20. 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.
21. *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.

22. *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.
23. *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.
24. *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.
25. *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.
26. *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.
27. *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:

28. The following are those saved policies in the Chester-le-Street District Local Plan relevant to the consideration of this application:
29. *Policy HP8 – Infill within settlement boundaries* – Proposals for small scale residential development will be permitted within the defined settlement boundaries of a number of

listed settlements, including West Pelton, providing it is classed as previously developed land, is within reach of services, can be sustained through existing infrastructure and meets the general criteria of Policy HP9. This Policy is too restrictive to be considered wholly NPPF compliant, but has some weight.

30. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; meet a number of criteria including: relating well to the surrounding area in character, setting, density and effect on amenity of adjacent property, provide an attractive, efficient and safe residential environment, provide adequate privacy and amenity, safe road access and retain existing landscape features.
31. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles

RELEVANT EMERGING POLICY:

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

33. *Highways* - The position of the existing bus stop and shelter on Edenfield to the north of the site is acceptable. A condition confirming engineering details should be attached to any approval.
34. *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” separating the foul and surface water drainage.
35. *The Coal Authority* – The Coal Authority does not object to the proposed development and confirms no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues..

INTERNAL CONSULTEE RESPONSES:

36. *Education* – have confirmed that no contributions are required.

37. *Design and Conservation Officers* - find no harm to the historic environment, and in urban design terms conclude the proposed scheme relates appropriately to the context and character of the site and its surroundings.
38. *Trees* – requested some of the trees proposed removed around the site and in particular adjacent to West Pelton House be retained. The design has been amended to include these.
39. *Spatial Policy* – set out those Development Plan Policies and elements of advice in the NPPF material to the consideration of the application.
40. *Drainage Officers* – require the site surface water drainage be restricted to Green-field run-off rates, ideally through on-site SuDS features, or justified through the sustainable drainage hierarchy.
41. *Ecology Officers* – ask that the location of the proposed bat boxes be identified and agreed.
42. *Contaminated Land* – agree with the applicant’s assessment that no soil remediation is required, but require a condition for ground gas monitoring.
43. *Noise* - The development is considered to fall outside of the scope of the TANS and no concerns or comments are raised. However during the construction works there may be issues with noise and dust if the developer does not introduce mitigation measures to control noise and dust emissions. A condition is suggested to minimise noise and dust from the works. This is also considered to mitigate the potential for a statutory nuisance from the development.

PUBLIC RESPONSES

44. A consultation exercise consisting of site notices posted on site, advertisement in the local press and direct mail consultations to 27 properties was undertaken. One response has been received from The Annex, one of the properties that makes up the subdivided residential use of West Pelton House.
45. The correspondent makes comment and raises objection on the following issues: The new dwellings are closer to the dwelling than the former nursing home, and will be able to look directly into kitchen and living room windows. An access is claimed along the boundary with West Pelton House. The mature trees should be retained. Whilst the proposed development is attractive, too many dwellings are proposed. Car parking is insufficient. Parking cars would disturb elderly residents. More cars passing will result in dogs barking leading to complaints. There are concerns regarding drainage and shallow mine workings.

APPLICANT’S STATEMENT:

46. The proposed development is one that will bring real benefit to the community of West Pelton and positively contribute to the built environment of the village.
47. This proposal will create a small, well designed development of 14 HCA funded rent to buy houses. The 2 bedroom properties will respond to local housing need and will significantly contribute to a sustainable community within West Pelton. The development is being undertaken by Karbon Homes, one of the largest housing associations in the North of England.

48. The architect designed development has been designed to high standards to create a strong sense of place and sense of community amongst its residents. The layout not only creates an active frontage on to the road to the north, Edenfield, but also has a family friendly central area where natural surveillance of the “cul de sac” access road will support interaction between neighbours, children’s play and enhance security of car parking and rear boundaries of properties. All rear gardens are either south or west facing to enhance the quality of the development for residents and adds benefits of natural solar gain.
49. The development preserves the privacy and amenity of adjacent residents while integrating well with its neighbours and the surrounding community, through: continuity of materials; typical pairing and short terraces of dwellings; public views and footpaths into and through the site retains a sense of connection with its surroundings. Landscape edges to the corners of the site provide areas of softened landscaping which create high quality public space for the existing and new residents. The proposals support the local ecology by retention of existing trees where practical, new native species planting and inclusion of bat boxes.

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=OWU2PZGDHM300>

PLANNING CONSIDERATIONS AND ASSESSMENT

49. 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, housing supply, highway safety, and the planning balance.

Principle of the Development

The Development Plan

50. 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 Chester-le-Street District Local Plan, 2003, 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.
51. The Plan was adopted in 2003 and was intended to cover the period to 2013. 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

52. 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.
53. 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.
54. 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.
55. 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

56. 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.
57. 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)
58. 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.
59. 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.
60. 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.

61. 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.
62. 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.
63. 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.

Housing Supply

64. The application proposes 14 new market houses, which is a potentially moderate benefit of the scheme in the planning balance. The available Policies in the Development Plan are of varying material weight in the planning assessment and are examined below. If the overall scheme is concluded sustainable and no adverse impacts are identified, the NPPF advises development should be approved, 'without delay'.

Locational Sustainability

65. The application site lies in a small village with a range of its own facilities and services. The village then exists in a hierarchy of mutually supporting small settlements that share services, which in turn rely on the larger surrounding settlements – i.e. Chester-le-Street and Stanley as larger service centres. With a bus stop on the site boundary, this issue is considered to meet the requirements of Policy HP8. This Policy is only partially NPPF consistent as it requires development to be on brownfield land and restricts development within defined settlement boundaries. That the site can be defined as brownfield, is within the settlement with access to its services and opportunity for sustainable travel to other service centres would give it positive material weight in the balance assessment

Design

66. The application proposes a potentially attractive development of architect designed houses, with detailing including head and cill and porch canopies. All dwellings have private residential amenity space. The layout incorporates a 'Secured by Design' ethos, a Police design initiative to increase developments' personal and property safety and security. A simple palette of materials is proposed, which will help the development integrate into the existing surrounding built environment.

Residential Amenity

67. Windows on the rear of the adjacent existing dwelling, The Stables, which forms part of the southern boundary of the site are obscure glazed and over 25m from the proposed facing dwellings. A footway and visitor parking is proposed alongside this elevation.

No objection has been received to this arrangement. The relationship is considered acceptable.

68. Proposed Plots 1 and 2 have an oblique view along the front of the existing dwellings to the rear of West Pelton House, namely The Annex and The Stables. The proposed upper windows of plots 1-5 are capable of overlooking these two properties' amenity areas. This is however a usual arrangement and is an improvement on the previous relationship with the Nursing Home complex. The layout has been amended during the course of the application to accommodate a claimed right of access along the site boundary – this has resulted in the plots 1–5 being moved an additional 700mm from the correspondent's dwelling. The relationship is not considered unreasonable.
69. In terms of both Design and Residential amenity, for new and existing residents, whilst the application responds well to the relevant local Plan Policy, HP9, this Policy is only partially NPPF compatible. Both The NPPF and NPPG give particular emphasis to the importance of good design, and the scheme can be considered in a positive light against this advice, this issue a benefit in the planning balance.

Open Space Provision

70. The application, as a 'major' housing proposal generates a need and an expectation for provision of public open space, with a preference that this will be provided on-site. Where the required provision is not proposed within the development the Open Space Needs Assessment provides a formula for identifying specific shortfalls of provision in an area, and an appropriate figure in mitigation. The applicant has agreed to pay the identified sum of £26,656 through a s.106 legal agreement should the application be approved. This obligation is considered to 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. As a requirement of this size of scheme, this provision is neutral in the planning balance.

Affordable Housing

71. The application is submitted by Karbon Homes, a Registered Social Landlord, who will be building their own product. The scheme however is below the threshold where provision of Affordable Housing is required, and the scheme is therefore described on the forms as Market Housing. This issue is neutral in the planning balance.

Other Issues

72. The adjacent West Pelton House development may be considered a non-designated Heritage Asset. Compared to the comparatively recent relationship between the neighbour and the former Nursing Home, the proposed arrangement is an improvement.
73. The Principal Highways Engineer raises no objection to the scheme subject to a condition requiring engineering details, ensuring compliance with Policy T15 of the Plan.
74. Drainage, and Contaminated land issues are considered capable of resolution through imposition of appropriate conditions, the wording of which, if they do not appear below, is proposed agreed through the Planning Committee Chairman in the event of a resolution to approve.
75. There are no Coal Mining Legacy issues to remediate on site.

76. No Ecology issues have been identified on this recently cleared site. Agreement over the position of bat boxes is requested.
77. As a major development closely surrounded by residential dwellings, a standard working hours condition is suggested.
78. The layout has been re-designed to accommodate a claimed right of access along the boundary of the site with West Pelton House.

The Planning Balance

79. Whilst the relevant Planning Policies identified have led to a positive conclusion, they are only partially NPPF compliant 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.
80. There are no specific policies in the Framework that indicate that development should be restricted

The Benefits of the development

81. The development would bring a residential scheme that would add to the Council's housing supply.
82. Whilst not quantified in the planning submission, the development would also bring New Homes Bonus payments to the Council, along with the creation of 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. Further benefits that reflect the three strands of sustainable development defined in the Framework include that the development will widen housing choice and redevelop brownfield land. The benefits of the proposals therefore include Environmental, Social and Economic elements.

Adverse Impacts of the development

83. The residential amenity concerns conveyed by the neighbour are not such that they fail Policy HP9 requirement for 'adequate privacy in the rooms, gardens and other outdoor areas of the proposed dwellings and adjacent properties' and are not 'significant'.

CONCLUSION

84. The application has been considered in the first instance against the appropriately weighted saved policies in the Chester-le-Street District Local Plan, and concluded as compliant with the proportionate weight given to Policies HP6, HP9 and T15 in so far as they reflect the NPPF.
85. The scheme has been considered against the three strands of 'sustainable development' as set out in the NPPF and concluded to be such.

86. In applying the advice in paragraph 14, no issues have been raised that identify development should be restricted.
87. 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. No adverse impacts have been identified that 'significantly and demonstrably' outweigh the benefits of the scheme.
88. On this basis the proposal is recommended approved.

RECOMMENDATION

89. That the application be approved subject to the completion of a legal agreement to pay £26,656 in lieu of on-site open space provision and the following conditions:

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

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

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

3474/10/02/rev.A Proposed Site Layout

3474/20/01 Proposed House Type 2B4P

3474/40/01 Proposed Site Sections and Elevations

3474/10/03 Proposed Fence Types

3474/90/01/rev.B Proposed Landscaping Plan

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies HP8, HP9 and T15 of the Derwentside District Local Plan 1997 (saved policies).

3. Notwithstanding any details of materials submitted with the application the erection of the dwellings hereby approved shall not commence without the written agreement of the Local planning authority for the proposed external walling, roofing rainwater goods, fenestration and boundary treatments. The development shall be constructed in accordance with the approved details.

Reason: To ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan 1997 (saved policies).

4. Notwithstanding any details submitted with the application, implementation of the highways layout and site access must not commence until full engineering and hard-surfacing materials details have been submitted and approved in writing by the planning authority. No dwelling hereby approved shall be occupied until the approved highways layout and site access is implemented in full, in accordance with the approved details.

Reason: To ensure that a satisfactory form of development is obtained in accordance with Policy T15 of the Derwentside District Local Plan 1997 (saved policies).

5. All retained trees must be protected during the course of development works by a scheme of protected fencing set out in accordance with BS 5837:2012 in accordance with the information set out on Landscaping Plan 3473/90/01/rev.B. Said protected fencing must be erected before development works commence and retained in situ for the full period of external building works

6. Development shall be implemented in accordance with the drainage scheme contained within the submitted document entitled "Drainage Strategy" dated "09/08/2016". The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 1904 and ensure that surface water discharges to the surface water sewer at manhole 2919. The surface water discharge rate shall be set a green-field run-off rates and shall not exceed the available capacity of 14.5 l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

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

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

Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.

(b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

(c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.

(d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 11.

8. In view of the proximity of the proposed development to nearby residential premises the applicant shall prepare and submit a Construction/Demolition Management Plan (CDMP) to the local planning authority for approval. The CDMP shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall include:
- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
 - An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 ‘Code of practice for noise and vibration control on construction sites’ 2014.
 - Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.
 - Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council’s accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
 - Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
 - Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

No works, other than site investigation works, shall be permitted to start on site until the CDMP has been submitted and approved in writing by the local planning authority. Once approved the development of the site shall be carried out in accordance with the plan.

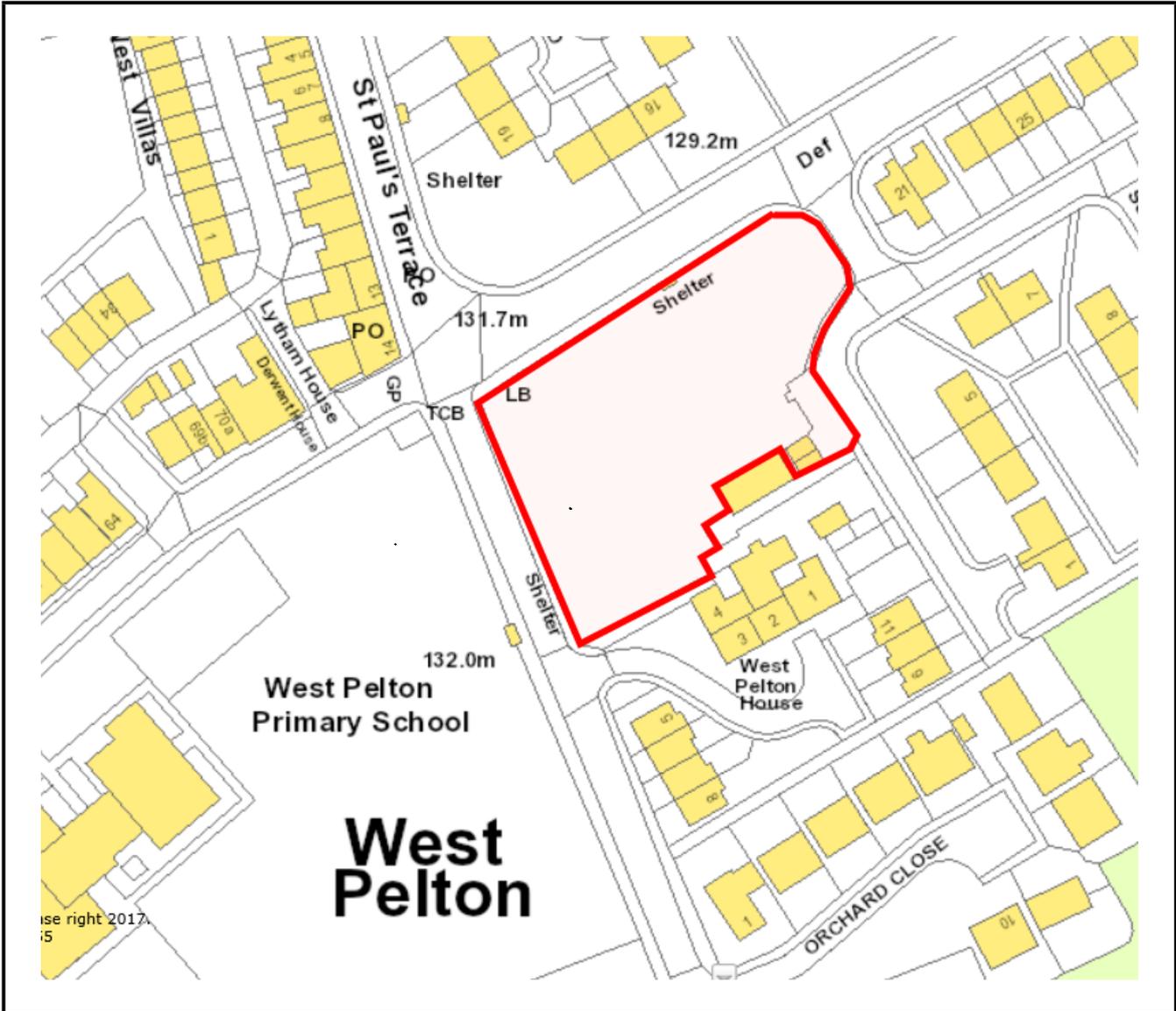
Reason: In the interests of residential amenity, to ensure compliance with Policy GDP1 of the Derwentside District Local Plan 1997 (saved policies), and the advice of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

90. 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
- Chester-le-Street District Local Plan 2003 (saved Policies 2007)
- The County Durham Strategic Housing Land Assessment
- The County Durham Strategic Housing Market Assessment
- Statutory, internal and public consultation responses



Planning Services

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Erection of 14 two Bedroom Dwellings, including parking and associated landscaping

Application Number DM/17/03152/FPA

Comments

Date 21 December 2017

Scale NTS



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 6

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against condition 7 of approval DM/16/01861/FPA restricting use of 8 holiday lodges at Land to the east of Ornsby Hill, Lanchester, Durham DH7 0QL

Approval was granted in January 2017 for the erection of 8 luxury holiday chalets and a site Management Building at Ornsby Hill, north of Lanchester. The approval was subject to a number of conditions including, at number 7:

The lodges shall be occupied for holiday purposes only and shall not be occupied as any person's sole or main place of residence. The owners/operators of the site shall maintain an up-to-date register of the names of all owner/occupiers of individual lodges on the site, their occupation of the lodges and of their main home addresses and shall submit this information annually in January to the Local planning authority. None of the lodges shall be occupied in any way between 7th January and 7th February in any calendar year.

The appellant appealed for the last sentence of the condition to be deleted as unnecessary as the Council could still monitor occupation, and the condition restricted his potential income.

The Inspector identified the main issue as to whether the condition was reasonable and necessary in the interests of supporting rural tourism in the countryside and restricting the occupation of the lodges to holiday accommodation.

I was noted that there was no disagreement that the restriction to holiday use was necessary and reasonable, and this was consistent with the Local Plan and NPPF.

However, without the disputed last sentence, the condition was not considered 'sufficiently precise' or 'enforceable'. An alternate form of wording proposed by the appellant was considered and discounted.

The Inspector dismissed the appeal.

Report prepared by Steve France, Senior Planning Officer