

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/18/02267/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Erection of 75 dwellings (resubmission of DM/17/00466/FPA)</b>
<b>NAME OF APPLICANT:</b>	<b>Gleeson Regeneration Ltd.</b>
<b>ADDRESS:</b>	<b>Site Of Former Chamberlain Phipps Coatings, Catkin Way, Bishop Auckland, DL14 9TF</b>
<b>ELECTORAL DIVISION:</b>	<b>West Auckland</b>
<b>CASE OFFICER:</b>	<b>Laura Eden Senior Planning Officer 03000 263980 <a href="mailto:laura.eden@durham.gov.uk">laura.eden@durham.gov.uk</a></b>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site consists of a roughly rectangular shaped parcel of land located within the Woodhouses area of Bishop Auckland. The site extends to approximately 2.35 hectares (ha) in area and comprises previously developed land, formally within industrial use. Concrete hardstandings are present on the site with woodland belts lying to the south and west.
2. A public right of way (Footpath No.15 (Bishop Auckland)) lies adjacent to the northern boundary of the site, along an adopted highway, which provides the sole vehicular access to the site. Existing industrial buildings are located on the northern side of this road and adjoining the development site to the east is another cleared industrial site comprising of a mixture of concrete hardstanding and grassed areas. The industrial estate road links to Greenfields Road further to the east beyond which lies the residential area of Woodhouses. To the south of the site lie the retail stores Pets at Home, Superdrug and Next. To the west lies an area of open space to the rear of Tesco's with agricultural fields beyond. There are no landscape or Heritage Asset designations within or adjacent to the site.
3. The site is located approximately 3.9km to the south east of Witton-le-Wear Site of Scientific Interest (SSSI) and 1.7km to the south of Escomb Pasture Local Wildlife Site. The Grade I listed building of Escomb Church is located 2.7km to the north of the site. Bishop Auckland Conservation Area lies 2.6km to the north west of the site containing the Grade 1 listed building of Auckland Castle. Cockton Hill Conservation Area is located 2.4km to the north west of the site which contains a number of Grade II Listed Buildings. Witton-le-Wear Conservation Area containing the Grade II\* Listed building of Witton Tower is located 5.2km to the north west of the site. The remains of the Stockton and Darlington Railway, a scheduled monument lies 1.55km to the east of the site. There are no landscape designation within or adjacent to the site.

## The Proposal

4. Full planning application is sought for the erection of 75 dwellings. The dwellings would be arranged around a series of cul-de-sacs and shared drives comprising of a mix of 2, 3 and 4 bedroomed semi-detached and detached dwellings. The properties would all benefit from off-street parking and private rear garden areas. Access into the site would be taken off Catkin Way.
5. The application is referred to Committee as the proposals constitute major development comprising of more than 10 dwellings.

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## PLANNING HISTORY

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6. In June 2018, planning permission (DM/17/00466/FPA) was refused for essentially the same development currently proposed as part of this application. The reason for refusal was on highway grounds as detailed below;

*The additional traffic generated by the development would have a severe impact on queuing and delay through the highway network in the Tindale Crescent area and as an appropriate level of contribution to address traffic dispersal has not been secured to mitigate this impact the development would result in a severe residual cumulative impact. This is contrary to WVDLP Policies GD1 (xxi) and T1 (ii) and Paragraph 32 of the NPPF, and when assessed against the development plan and the NPPF considered as a whole, it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.*

7. The applicant is currently in the process of appealing the Council's decision to refuse DM/17/00466/FPA. Whilst the Planning Inspectorate considered the appeal (APP/X1355/W/18/3203980) to be valid as 06/09/2018 an Inspector is yet to be appointed and confirmation of the start date for the production of appeal documentation and when a hearing will take place is awaited.
8. Outline planning permission was granted in 2007 on appeal and again in 2011 for a residential development up to 118 dwellings (Permission No. 3/2011/0272) on land site immediately to the east of the application site. More recently in June 2018 outline approval was granted for 101 residential dwellings with all matters reserved except access (DM/17/00244/OUT). The associated S106 Agreement secured £241,000 for offsite highway mitigation works.

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## PLANNING POLICY

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### NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them,

according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.

11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 5 – Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.
14. *NPPF Part 6 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
18. *NPPF Part 12 – Achieving well-designed places* 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.

19. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
20. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
21. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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

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

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

##### **Wear Valley District Local Plan (2007) (WVDLP)**

23. *Policy BE1 – Protection of Historic Heritage* – Sets out that the Council will seek to conserve the historic heritage by maintenance, protection and enhancement of features and areas of particular historic architectural interest or archaeology interest.
24. *Policy BE4 – Setting of a Listed Building* – Sets out that development that impact upon the setting of a listed building and adversely affects it its special architectural, historical or landscape character will not be allowed.
25. *Policy BE5 – Conservation Areas* – Identifies Conservation areas on the proposals map while seeking to protect them from inappropriate development.

26. *Policy BE8 – Setting of a Conservation Area* – Sets out that development which impacts upon the setting of a Conservation Area and which adversely affects its townscape qualities, landscape or historical character will not be allowed.
27. *Policy BE23 – Provision of Public Art*. In appropriate cases, the Council will encourage the provision of works of art as part of development. In considering planning applications the Council will have regard to the contribution which such works make to the appearance of the scheme and to the amenity of the area.
28. *Policy GD1 – General Development Criteria*. All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
29. *Policy H3 – Distribution of Development*. New development will be directed to those towns and villages best able to support it. Within the limits to development of towns and villages, as shown on the Proposals Map, development will be allowed provided it meets the criteria set down in Policy GD1 and conforms to the other policies of this plan.
30. *Policy H15 – Affordable Housing*. The Council will, where a relevant local need has been established, seek to negotiate with developers for the inclusion of an appropriate element of affordable housing
31. *Policy H24 – Residential Design Criteria*. New residential developments and/or redevelopments will be approved provided they accord with the design criteria set out in the local plan.
32. *Policy I5 – Industrial Estates* – Sets out that within designated Industrial Estates proposals for offices and business use (use class B1), general industry (use class B2) and storage and distribution (Class B8) will be permitted in principle
33. *Policy RL5 – Sport and Recreation Target*. For every 1 hectare of land developed or redeveloped for residential purposes, at least 1300 square metres of land should directly be made available on- or off-site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities, including changing rooms, by other agencies. Such land should be located and developed to accord with the provisions of proposal RL1. On sites under 1 hectare (24 dwellings) a proportion of this standard will be expected.
34. *Policy T1 – General Policy – Highways*. All developments which generate additional traffic will be required to fulfil Policy GD1 and provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.

#### **EMERGING PLAN:**

##### The County Durham Plan

35. Paragraph 48 of the NPPF states 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' stage CDP was subject to consultation in summer 2018. On the 16<sup>th</sup> January 2019, Cabinet approved the 'Pre Submission Draft' CDP for consultation. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

36. *Highway Authority* – The level of traffic generated from the site, in combination with that from other proposed developments in the area has been modelled and highway improvement works to alleviate pressures at the junction Maude Terrace/Greenfields Road are required. A contribution of £241,000 has been costed to deliver these wider capacity improvements which would need to be secured by a S106 agreement. It is however advised that residual impacts would result in increased queues and delays despite the mitigation, this would however not amount to a severe cumulative highway impact. The internal layout is considered to be acceptable. Conditions are required to be imposed to secure adoptable footpath linkages along Greenfields Road in order for future occupants to be able to access the local bus stop services and surrounding amenities.
37. *Coal Authority* – Raise no objection to the proposed development and no longer requests the inclusion of a site investigation condition on any permission issued. However, further detailed consideration of ground conditions, foundation design and gas protection measures are likely to be required as part of any subsequent Building Regulations application.
38. *Northumbrian Water Limited* – No objection subject to a condition being imposed to secure the implementation of the drainage strategy
39. *Drainage and Coastal Protection* – No objection subject to a condition being imposed to secure the implementation of the drainage strategy

### INTERNAL CONSULTEE RESPONSES:

40. *Spatial Policy* – Advise that the starting point for determining the acceptability of planning proposals is the Development Plan, in this case the WVDLP. The land is designated as a general industrial estate. The scheme would therefore conflict with Policy I5 however it is considered that this policy can be afforded reduced weight as it has previously been established through an employment land review that the land is not needed for future employment purposes. The site is located within the ‘settlement limits to development’ for Bishop Auckland as defined by Policy H3 of the Plan. The policy deals with housing development on non-allocated site within towns and villages such as Bishop Auckland and permits housing within defined ‘limits to development’ provided it accords with other relevant policies in the plan. Whilst the development would glean in principle support from this policy it is acknowledged it is not based on up-to-date evidence. On this basis, the application should be subject to the planning balance exercise outlined in Paragraph 11d of the NPPF.
41. *Landscape* – Whilst the proposals would have no significant landscape or visual impacts given the proposal relates to the redevelopment of former industrial land concerns are expressed in relation to the lack of permeability, connections to pedestrian routes and the integration of trees.
42. *Arboriculture* – The woodland belt around the southern boundaries will be incorporated into gardens. There are concerns that this is unrealistic and that post development these trees will be removed. The applicant is requested to reconsider the design.
43. *Archaeology* - Raise no objection due to the previously developed nature of the site.

44. *Design and Conservation* – Raise no objection on heritage grounds however offer some comments in relation in the lack of distinctive design and potential loss of the strong green edge to the southern boundaries.
45. *Ecology* – The submitted Preliminary Ecological Appraisal report is sufficient to inform the application and that no further surveys are required. No objection is raised on the basis of the information submitted.
46. *Environment, Health and Consumer Protection (Air Quality)* – No objections are raised subject to a condition relating to a dust action plan. The development will not have a significant effect on air quality and there is no requirement to undertake further assessment.
47. *Environment, Health and Consumer Protection (Pollution Control)* – No objections subject to a condition to secure a construction management plan.
48. *Environment, Health and Consumer Protection (Contaminated Land)* – No objection subject to the imposition of a condition.
49. *Housing Delivery* – Identify that 15% affordable housing should be provided on the site with an appropriate mix of affordable (social) rent and intermediate tenure. There is also a requirement for 10% of all the private and intermediate properties to be for older people.
50. *Public Rights of Way* – Identify that a public right of way passes the north part of the site within the adopted highway (Footpath No.15 Bishop Auckland) and another follows the field edge towards the commercial and retail area of St Helen Auckland (Footpath No.14 Bishop Auckland). Whilst the proposal would have no direct effect on the public footpaths the development will place additional pressure on the network therefore a contribution of £16,500 is sought.
51. *School Places Manager* – It is considered that the development is likely to produce 23 primary pupils and 9 secondary pupils. There is sufficient capacity at both the local primary and secondary schools to accommodate the pupils generated by the development.

#### **EXTERNAL CONSULTEE RESPONSES:**

52. *Durham Dales, Easington and Sedgfield Clinical Commissioning Group* – No comments received
53. *Police Architectural Liaison Officer* – There are no issues with the overall layout of the site from a 'Design out Crime' perspective. However, there is concern that there is no public open space or children's play space and that the driveways are largely comprised of loose aggregate.

#### **PUBLIC RESPONSES:**

54. The application has been publicised by way of press notice, site notice, and individual notification letters. No representations have been received.

*The above is not intended to repeat 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=OSZ6MMGDGGL00>

## **APPLICANTS STATEMENT:**

55. The Site provides a sustainable development opportunity and would contribute to the provision of a mix of housing size, types and affordability in the area, particularly promoting family housing and appropriate dwellings which allow people to stay in their local community. The site provides ready access to local amenities, schools and employment sites and is considered sustainable.
56. The development of this site for residential development would see significant regeneration on a site that has sat vacant for many years and has become a haven for antisocial behaviour and fly-tipping. It is a brownfield site with significant abnormal costs associated with its development, however once completed it will transform the area and provide a choice of family homes for local purchasers.
57. This planning application has considered all relevant planning policy matters in respect of the proposal bringing forward residential development. At a national, regional and local planning policy level, there remains a priority for development in urban areas to which this site would accord. The site lies within a residential area in close proximity to services and facilities including access to sustainable travel options including bus services. The viability of the site has been scrutinised and it has been determined by both a Gleeson viability assessment and further Council assessment that no affordable housing or open space contributions can be provided due to the associated abnormal costs of developing the site. The proposal will integrate well into the locality through the design proposals and density accords with National Planning Policy.
58. All criteria required to be complied with in Policy requirements have been taken into account through the evolution of the scheme, resulting in a well-designed proposal that responds to the specifics of the site, both in terms of layout but also the design of the elevational treatment. It must also be noted that the proposals aim to deliver quality new homes to local people in addition to providing much needed new housing in this location. The applicants have undertaken considerable dialogue with architects, local residents, consultants and relevant officers at the Council to ensure that the scheme not only delivers high quality design, but also responds to the aspirations of the local community. Indeed, the proposals have been amended several times during the planning submission, to take into account the comments made.
59. Development of this site will bring a number of benefits to Bishop Auckland including around £90K of additional Council Tax per annum and New Homes bonus payment to the Council of around £523K over a 6 year period. The scheme will also provide a number of jobs and apprenticeships to local people, as well as safeguarding many current jobs.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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60. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, highway safety and access, infrastructure and open space provision, affordable and accessible/adapted housing, impact on the character and appearance of the surrounding area, layout and design,

ecology, residential amenity, flooding and drainage, heritage and archaeology, other considerations, viability and planning obligations.

## The Principle of the Development

### The Development Plan

61. 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 Wear Valley Local Plan (WVDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF.
62. The WVDLP was adopted in 1997 and was intended to cover the period to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. However due weight should be given to them, according to their degree of consistency with the NPPF.
63. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-
  - c) approving development proposals that accord with an up to date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
    - ii) 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.
64. WVDLP Policy I5 designates the site as an industrial estate (Greenfields Industrial Estate). Within the estate, Policy I5 sets out that proposals for offices and business use (use class B1), general industry (use class B2) and storage and distribution (Class B8) will be permitted in principle. The proposed residential use would therefore not conform to the allocation in the WVDLP.
65. However, in accordance with advice in paragraph 120 of the NPPF, the appropriateness of retaining sites for employment uses within the County has been tested through Employment Land Reviews (ELRs) with the most recent version published in 2018. The document concluded that there was a significant oversupply of employment land across the County albeit noting that in Bishop Auckland and the surrounding areas the overall vacancy rate of 4.9% indicated a tightening supply. Greenfields Industrial Estate, of which the application forms a part, is identified as being mainly made up of vacant properties and cleared land with alternatives uses already permitted in the form of a Tesco store on the southern portion of the local plan allocation and housing on the land immediately to the east of the application site. The ELR recommended that the site be removed from the employment land portfolio. This has informed the emerging Local Plan and the County Durham Plan Preferred Options (CDP), does not propose to allocate the site for employment purposes. Whilst this cannot currently be given any

weight as the site remains available to be redeveloped for employment uses, the position as evidenced in the ELR 2018 and from consented alternatives uses within the allocation means there are grounds for considering alternative uses on the site on their individual merits. In addition, given the recommendations of the ELR and the more flexible approach promoted in the NPPF it is considered that Policy I5 of the WVDLP does not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to the policy reduced as a result.

66. WVDLP Policy H3 sets out that new housing development should be located in the towns and villages best able to support it, setting out limits of development. The approach of directing housing to the most sustainable settlements that can support it, while seeking to protect the open countryside, is consistent with the NPPF. The NPPF does not prevent a local planning authority from defining settlement boundaries; however, these would need to be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. As Policy H3 is not based on up-to-date evidence of this nature, it is therefore considered out of date for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to the policy reduced as a result.
67. Remaining policies within the WVDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development. As a result the application must be considered in the context of the planning balance at NPPF paragraph 11d.

#### Housing Land Supply

68. Paragraph 73 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
69. Within County Durham all the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Pre Submission Draft' (Jan 2019) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). At this time, the Council is able to demonstrate 5.9 years supply (8,404 dwellings) of deliverable housing land against this figure. The Council also has commitments of an additional supply of 15,946 dwellings beyond the deliverable 5-year supply period.
70. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal.
71. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS

is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

72. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and, as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply of 5.96 years of deliverable housing can be demonstrated. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated.

#### Locational Sustainability of the Site

73. WVDLP Policy GD1 amongst its advice states that developments should be located where possible to conserve energy, adequate links to public transport are provided and priority is given to pedestrian and cyclists within the development with links to the network provided where possible. These policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods therefore can be given full weight in considering the application. Specifically, the NPPF sets out at Paragraph 103 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. At paragraph 108 the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst paragraph 110 seeks to facilitate access to high quality public transport.
74. The County Durham Settlement Study 2018 is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. The Bishop Auckland Cluster (comprising Auckland Park, Bishop Auckland, Etherley Dene, St Helen Auckland, Tindale Crescent, West Auckland and Woodhouse Close) has a score of 732.5 therefore is ranked as one of the main towns within the County. Bishop Auckland provides a range of facilities and services including primary and secondary schools, community centres, social/leisure clubs and opportunities, medical care employment areas and local stores/supermarkets and other extensive retail offers.
75. In relation to distances to services and amenities, the site lies within approximately 0.5km of Tindale Crescent retail and employment sites, 0.8km of Woodhouse Community Primary School, 1.3km of Bishop Barrington School (secondary), 2.1km of a GP's surgery, 2.8km from the town centre. When considering these figures, it is noted that the majority of distances are either within 'Preferred Maximum' or 'beyond Preferred Maximum', of the Institution of Highways and Transportation (CIHT) "Providing for Journeys" document and are therefore towards the higher end of distances or beyond, that residents may reasonably be expected to walk. The walking routes into Bishop Auckland are also on adopted well-lit highways with no significant topographical restrictions. In terms of cycle access, the site does perform better, with services in the town centre within a 5 minute cycle ride.
76. The closest bus stop to the development is located on Greenfields Road approximately 230m from the nearest part of the site boundary. Whilst a large proportion of the site would lie within the recommended 400m walking distance criteria to bus stops more southern parts of the site would not. The no.18 service that operates from these stops is relatively weak being a daytime service, running Monday to Saturday on a half hourly basis between Coundon and Bishop Auckland. The services that operate along Maude Terrace C42 and the C130 to the south in the Tindale Crescent area are significantly better however these stops are located in excess of 600m from the site entrance and

therefore a considerable distance away and well outside of the recommended distances.

77. In order to access the bus stop services and surrounding amenities adoptable footway links would be required along the complete eastern site boundary of the adjacent development (DM/17/00244/OUT) with Greenfields Road. A link from Greenfields Road/Catkin Way junction to Greenfields Road bus stop to the north of the site would also be required to prevent pedestrians walking on the carriageway between the stop and the development site. These improvements can be secured by conditions.
78. Two Public Rights of Way (PROW) lie within the vicinity of the site. Footpath no.15 (Bishop Auckland) lies to the north of the site and is within the adopted highway (Catkin Way). It leads onto Footpath no.14 (Bishop Auckland) to the west of the site, the route of which runs through the field before following its edge and provides links towards retail and employment sites within Tindale Crescent. It is not considered that the development would directly affect either of these footpaths although it would lead to increased use.
79. Paragraph 98 of the NPPF outlines that decisions should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users. In order to improve connectivity to local amenities, employment opportunities and better bus service routes and mitigate the impacts arising from increased usage of Public Rights of Way, officers consider Footpath no.14 should be improved. It is suggested that part of the recorded route should be diverted so that it follows the field edge as this would provide more direct routes to the south. An improvement to the surface is also desirable particularly to the southern section of the path. A contribution of £16,500 is required to carry out these routes. However, the applicant has presented a case setting out that the development would not be viable with these obligations imposed.

#### Highway Safety and Access

80. WVDLP Policies GD1, H24 and T1 set out that developments should be served by a safe means of access and development should not create unacceptable levels of traffic which exceed the capacity of the local road network. This policy is considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application. Specifically, the NPPF sets out at Paragraphs 108 that safe and suitable access should be achieved for all people. In addition, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
81. The development site sits close to the saturated highways network junction at Tindale Crescent in Bishop Auckland. This development is predicted to send 60 additional two-way traffic movements through Tindale Crescent at the am peak hour, which the Highway Authority advises would be a significant number of vehicles given the over saturation of the junction currently. The resultant loading of more development traffic onto this junction would increase exponentially the queues and delay already experienced to the extent that it would be regarded as a severe impact.
82. It is therefore necessary for the scheme to address capacity limitations at this junction. The mitigation required is in the form of road widening along and layout changes with the traffic light reconfigurations at Maude Terrace/Greenfields Road, at an estimated cost of £241,715.49. 90. There are a number of other housing permissions pending in the nearby area (land to the North of Etherley Moor DM/16/04062/OUT, land at the North of Woodhouses Farm DM/17/01765/FPA; Catkin Way DM/17/00244/OUT) which have all committed to address the operational capacity at Tindale Crescent junction and

other residual impacts on the wider highway network. However, there is no guarantee of the timing of these developments and that any would come forward before this application proposal. Furthermore, even if improvements are made to Tindale Crescent traffic signals through other developments, the Highway Authority advises that there will be both a geographical and temporal dispersion of peak traffic as traffic chooses to redistribute to avoid the signals. Funding will therefore still be necessary to address any cumulative residual issues on the rest of the highway network. The highway contributions secured under individual planning applications would be combined (whilst still complying with The Community Infrastructure Levy Regulations 2010) for the Highways Authority to detail up and deliver appropriate schemes where it considers appropriate.

83. This issue of cumulative impact was fully considered as part of the previous application (DM/17/00466/FPA). The developer put forward a case for a lesser improvement scheme at the junction (approximately £40,000-60,000), but the Highway Authority asserted this would not sufficiently address the overcapacity issues and there would be a severe impact on queuing and delay through the highway network in the Tindale Crescent area. The application was therefore refused and the developer is in the process of appealing this decision.
84. A further Transport Assessment (by a different consultant) supported by data and technical notes has been submitted in support of the current application. This has been fully considered by Highway Authority including the Strategic Traffic Manager, the Highway Development Manager and the Traffic Signals Manager. There is a significant difference in opinion between the Highway and Authority and the Transport Consultant in regard to the base flow data on which analysis has previously been undertaken and secondly the current operation of the junction and its ability to accommodate consented developments following mitigation proposed by the developer.
85. There have been six separate studies of the junction. Notwithstanding the most recent assessment (A. Thompson), the five earlier studies indicate the junction is presently saturated and the addition of any development traffic would require mitigation. Indeed, the developer's initial study (Tim Speed) submitted in support of DM/17/00466/FPA came to the same conclusion. The Highway Authority agree with the conclusion reached, that the junction is saturated and requires mitigation.
86. The most recent assessment (A. Thompson) submitted in support of the current applications suggests the previous five studies were incorrect as base flow data has changed and therefore the mitigation previously identified is no longer required and a lesser scheme can be accepted. The TA states *'the surveys show that there are no longer capacity constraints at the junction'*. The site sits adjacent to a large retail and commercial centre and the Highways Authority have a wealth of evidence to confirm queuing and delay is significant at retail peaks. Local opinion including that of local Council members, The Police and Public transport also confirm this is the case.
87. The lesser improvement scheme has again been considered and there continues to be a difference in opinion regarding the modelling approach. A significant factor which impacts on capacity is the demand from pedestrians through the junction and the lost time to traffic flow created as a result of this demand. The occurrence of this demand and frequency of the call of pedestrian phases clearly impacts on model output. The Transport Consultant has modelled the junction with a less frequent demand than what is considered to take place at peak hours or is likely to take place with future development in place. When the Highway Authority has modelled the junction with the correct pedestrian demand it is shown again to lack sufficient capacity to operate under stable conditions.

88. The Highway Authority consider that the lesser mitigation proposed by the applicant could not accommodate current and committed demands and there would be a severe impact on queuing and delay through the highway network in the Tindale Crescent area. They maintain the Council's previous position to refuse the application on the basis that the lesser mitigation scheme is inadequate.
89. In respect of other highways issues, the Highways Authority is satisfied that the site access arrangements, layout and parking are generally acceptable. There is a need for a new pedestrian footpath along the Greenfields Road boundary, but that could be secured by condition.
90. The developer has reluctantly agreed to move the application forward on the basis of the requested off-site contribution of £241,000 for highway mitigation works. However, it has been advised this decision has been taken purely for contractual reasons, the developer continues to strongly dispute the viability of the contribution or whether it is actually required in light of their additional survey work. As such it is intended to continue to progress the appeal against the Council's decision to refuse DM/17/00466/FPA. The Council will obviously look to defend its position which in light of the above is considered to be reasonable and justified.
91. Overall, on the advice of the Highway Authority, a satisfactory means of access would be created, and while the development would have some impact on the wider highway network, this would not be at a severe level, subject to securing the full mitigation proposed. This residual impact should be taken in to account in the planning balance. The scheme is considered to accord with WVDLP Policies GD1, H24 and T1 in this respect and Part 4 of the NPPF.

#### Infrastructure and Open Space Provision

92. Paragraph 94 of NPPF confirms it is important to ensure that a sufficient choice of school places is available to meet the needs of existing and new communities. The School Places Manager has advised that the proposed development is likely to generate an additional 23 primary age school pupils and 9 secondary age school pupils. There is sufficient capacity at both the local primary schools (Cockton Hill Infant School, Cockton Hill Junior School, St. Andrew's Primary School and Woodhouse Community Primary School) and secondary schools (Bishop Barrington School and King James I Academy) to accommodate this need.
93. WVDLP Policy RL5 sets out targets for sporting and/or recreational land as part of the development or alternatively developers are expected to make a contribution to the provision of such facilities. This policy is considered only partially NPPF compliant as the evidence base has now been updated within the Open Space Needs Assessment (OSNA 2018) which is now considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for five typologies, either within the site, or through a financial contribution towards offsite provision, in lieu.
94. Having regard to the scale of the development it is considered that non-equipped children's play space (82.5sqm), amenity open space and natural green space (2,475sqm) should be provided on-site. The submitted layout does not include any open space provision. The development would generate a required contribution of £136,620 for those typologies not provided on site including a payment to address the shortfall in provision which would normally be expected to be provided on-site. The applicant has sets out that the development would not be viable with this obligation.

95. In terms of existing open space provision it is noted that amenity open space lies within 200m of the site boundary off Greenfields Road, allotments within 650m, parks and gardens within 850m, junior play space within 950m and children's equipped play within 1km which all lie to the north of C130. With the exception of amenity open space all other typologies fall outside the recommended access distance standards. This matter would need to be considered as part of the planning balance exercise.
96. Paragraph 92 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal. The Durham Dales, Easington and Sedgefield Clinical Commissioning Group (DDES CCG) has been contacted in this regard however no response has been received.

#### Affordable and Accessible/Adapted Housing

97. In order to widen the choice of high-quality homes and opportunities for home ownership, Paragraph 64 of the NPPF encourages the provision of affordable housing based on evidenced need. WVLLP Policy H15 also encourages developers to provide an element of affordable housing on specific allocated sites. This site is not identified as being one of those sites, and the policy is only considered to be partially consistent with NPPF. Accordingly, advice within the NPPF should be afforded significant weight with regards to this issue.
98. The evidence base has now been updated within the Council's Strategic Housing Market Assessment (SMHA 2019) which defines the type, tenure and quantity of housing required including that for affordable purposes and older people. It suggests that a proportion of affordable housing of 15% would be required on this site, amounting to 11 units in this case, with a tenure mix of 70% affordable rent and 30% intermediate tenure. It also demonstrates a need to provide 10% of the private and intermediate properties for older person including level access bungalows or Building for Life provision. However, the applicant has presented a case setting out that the development would not be viable with these obligations imposed.

#### Impact on the Character and Appearance of the Surrounding Area, Layout and Design

99. WVDLP Policies GD1 and H24 require development to be designed and built to a high standard and should contribute to the quality and built of the surrounding area. Furthermore, development should be in keeping with the character and appearance of the area, and be appropriate in terms of form, scale, mass, density and layout, to its location. Policy GD1 outlines existing landscape features should be retained and incorporated the design and layout. These policies are considered consistent with the Part 12 of the NPPF which outlines the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and good design is a key aspect of sustainable development. It should be ensured that developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, establish a strong sense of place, optimise the potential of the site to accommodate an appropriate mix of development including green and public open space as well as creating accessible development.
100. Concrete hard standings and remnants of the former industrial use occupy most of the site and its present condition the site has an adverse impact on the character and appearance of the surrounding area. Paragraph 118 of the NPPF indicates that substantial weight should be given to the value of using suitable brownfield land within

settlements for homes. The proposal meets these criteria being located within Bishop Auckland and the site is listed on the Council's Brownfield register. The proposals entail the re-development of previously developed land and would result in significant environmental improvement in terms of the overall appearance of the site. These benefits should be afforded substantial weight in the planning balance.

101. An existing woodland belt lies to the southern boundaries of the site and there is a group of young sycamores at the site entrance. The woodland belt makes a positive contribution to the amenity of the surrounding area by creating a green settlement edge and buffer between the retail site to the south. This is intended to be retained as part of the development and a tree protection plan has been submitted in support of the application. Notwithstanding this both the Council's landscape and arboricultural officers have expressed concerns that without adequate management of the woodland belt there is likely to be future conflict with residents as these trees will fall within rear gardens, leading to concerns that they would be removed or damaged post development. Both recommend that the layout is reconsidered to provide a more realistic opportunity for retention of the trees going forward by either keeping them within the public realm or alternatively thinning the tree groups and creating a wider buffer between the trees and properties.
102. The Council's Urban Design officer has expressed some concerns regarding the proposed site layout including the development turning its back on the main vehicular route into Catkin Way, there is a lack of a strong frontage and sense of arrival at the site entrance and more generally that it fails to establish a strong sense of place. The layout is however typical of many modern housing estates and the proposed dwellings would be commensurate in scale and design with the surrounding area. Whilst it is recognised that the incorporation of public open space and the possibility of connections could have improved the layout the developer has sought to maximise the development potential of the site given viability has been sited. Overall it is considered that the internal layout would create a reasonable residential environment.
103. WVDLP Policy BE23 states that the Council will encourage the provision of works of art as part of development. Although the NPPF is silent on public art, it is supportive of ensuring that development is well designed, creates a strong sense of place and responds to local character therefore mirroring the aims of the WVDLP policy. The policy is considered partially consistent with the NPPF and can be afforded weight. Due to the absence of public open space within the development it would not be possible to deliver public art within the development.
104. Overall, it is considered that the layout and overall design could be improved to more successfully incorporate the existing tree belt into the development, create a strong sense of place, a better mix of development so public open space is included as well as improving and maximising connections. It is however recognised that the site in its present condition has an adverse impact on the character and appearance of the surrounding area, with a derelict untidy appearance and the redevelopment of the site would result in a significant improvement to its appearance. A condition can be imposed to protect the existing trees on site during the construction process. Therefore, on balance it is considered that the scheme would be in general accordance with WVDLP Policies GD1 and H24 as well as Part 12 of the NPPF.

#### Residential Amenity

105. WVDLP Policies GD1 and H24 require the design and layout of development to have regard to the amenity of those living or working in the vicinity of the development site. Policy H24 establishes minimum separation guidelines of 21m between walls containing windows to habitable rooms and 15m between windowed elevations and opposing

gable end walls. These policies are considered to be compliant with Paragraph 127 of the NPPF which states that planning decisions should always seek to secure a good standard of amenity for existing and future occupants of land and buildings therefore can be afforded full weight. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Part 15 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.

106. Whilst external privacy distances are met, the internal layout falls short in some instances with distances between opposing front elevations being as low as 16m in some cases. However, and overall it is not considered that this would lead to any significant issues in terms of overlooking, overshadowing or overbearing impact.
107. The development would be located in proximity of a number of noise sources including commercial/industrial uses within Greenfield Industrial Estate and at Tindle Crescent. The application is supported by a noise impact assessment which sets out the noise mitigation measures in the form of improved glazing and acoustic boundary treatments for a number of properties within the development closest to these noise sources in order to safeguard the amenity of future residents. Environment, Health and Consumer Protection officers advise that the methodology and conclusions of the report are sound and that subject to implementation of the sound attenuation measures outlined in the report adequate levels of residential amenity would be achieved.
108. The submitted noise report has assessed the impact of the development against the existing noise climate, which includes the two large commercial/industrial buildings to the north of the site which currently operate at a low intensity. Should the intensity of these uses increase or be brought back into use a conflict could potentially rise with the new housing. The buildings have an unrestricted B2/B8 use there would be no planning restriction on the future activities and therefore they would be at risk of restrictions placed upon them through the Environmental Protection Act 1990 (Statutory Nuisance) which Paragraph 128 of the NPPF seeks to avoid. However, as set out above a recently undertaken Employment Land Review proposes to deallocate the site for industrial/commercial purposes and therefore the potential loss/restriction of employment land would not have a wider impact on the provision across the County, although this is still considered an adverse impact in the planning balance.
109. Environment, Health and Consumer Protection officers note the potential for disturbance during the construction period. It is considered that conditions relating to a Construction Management Plan (CMP) and hours of working would provide sufficient mitigation in this case. Whilst a CMP was submitted in support of the application it was not considered sufficient to inform the application.
110. Similarly, they do not consider that the development will have a significant effect on air quality and there is no requirement to undertake further assessment. There would not be an adverse impact on the environment having regard to paragraph 181 of the NPPF.
111. Overall, it is considered that the development would not cause any adverse impact upon the amenity of those living in the vicinity of the development site, and adequate levels of amenity for prospective occupiers can be secured through the imposition of conditions. The development is therefore considered compliant with WVDLP Policies GDP1 and H24 in this respect and Parts 8 and 15 of the NPPF.

## Ecology

112. The site is located approximately 3.9km to the south east of Witton-le-Wear Site of Scientific Interest (SSSI) and 1.7km to the south of Escombe Pasture Local Wildlife Site. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. WVDLP GD1 advises that development proposals should not endanger or damage important national and local wildlife habitats or have a detrimental impact on the ecology.
113. An ecology survey has been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The report indicates that the development is unlikely to result in negative ecological impacts due to the majority of the site being hardstanding therefore of negligible ecological value with the higher value woodland belt being retained as part of the development albeit it now falling within rear gardens.
114. Policy 170 of the NPPF advises decisions should contribute and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The development has not been considered through a biodiversity impact assessment calculator which would have provided an objective assessment of the likely losses, and hence what is likely to be required to offset this. Mitigation/compensation can be provided on or off site, or a combination of the two. In the absence of this assessment it is difficult to conclusively determine whether net gains would be achieved however the Council's Ecology Section considers the impact is more likely to be neutral. Whilst nothing their disappointed that further ecological enhancements have not been included within the overall site design in accordance with paragraph 170 of the NPPF they concur that the development is unlikely to have negative ecological impacts especially considering the site context and subject to adherence to a sensitive lighting strategy. On this basis the proposal does not conflict with WVDLP Policy GD1 and NPPF Part 15. The apparent lack of net gains is a factor to be considered in the planning balance.

## Flooding and drainage

115. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
116. The application is accompanied by a Flood Risk Assessment which highlights that the application site is within Flood Zone 1 with a low flood risk probability. The surface water drainage hierarchy has been reviewed and a discharge to infiltration is unsuitable. It is proposed to discharge surface water to surface water public sewer/watercourse on the western boundary. The Council's Drainage and Coastal Protection officers offer no objections to the development or the overall drainage strategy. Northumbrian Water similarly raises no objections.
117. In relation to foul water, it is proposed to connect to the existing sewerage network, to which Northumbrian Water raise no objections.
118. No objections to the development on the grounds of flood risk or drainage are raised having regards to Part 14 of the NPPF.

## Heritage and Archaeology

119. In terms of archaeology, the NPPF sets out the requirements for an appropriate programme of archaeological investigation, recording and publication to be made. However, given the previously developed nature of the site the Council's Archaeology officers advise that there would unlikely to be any remains of any significant on the site and therefore no further mitigation is required in this respect.
120. The application site is not within, nor contains any heritage assets. The closest asset to the development is the remains of the Stockton and Darlington Railway, a scheduled monument lies 1.6km to the east of the site. Cockton Hill Conservation Area is located 2.4km to the north west of the site which contains a number of Grade II Listed Buildings. Bishop Auckland Conservation Area lies 2.6km to the north west of the site containing the Grade I listed building of Auckland Castle. The Grade I listed building of Escombe Church is located 2.7km to the north of the site. Witton-le-Wear Conservation Area containing the Grade II\* Listed building of Witton Tower is located 5.2km to the north west of the site.
121. It is not considered that there would be any intervisibility between the application site and the aforementioned heritage assets due to the intervening topography, landscaping and existing buildings. As such there would be no direct visual relationship between the site and the proposal would not adversely impact upon their setting or from the significance of these assets. Design and Conservation officers have raised no objections to the proposal. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case it is considered that there would be no harm. This approach reflects the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard must be paid to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
122. It is therefore considered that the proposal would have no adverse impact on heritage assets within the vicinity of the site. The proposals would therefore accord with Part 16 of the NPPF.

## Other Issues

123. Given the sensitive end use of the site a geo-environmental appraisal, remediation strategy and ground gas protection verification plan have been submitted in support of the application. Environmental Health Officers agree with the proposed remediation and gas protection measures, recommendations and additional works. A condition is recommended to secure these works, and updated remediation in the event that unexpected contamination is found and the submission of a Phase 4 verification report. This will ensure that the site is suitable for its intended use taking account of any risks arising from contamination. The proposal would accord with Paragraph 178 of the NPPF.
124. The application site lies with the Coal Authority's Coalfield Area of high risk. Paragraph 170 of the NPPF sets out that unstable land should be remediated and mitigated where appropriate. In this instance, the Coal Authority have raised no objection to the current resubmission directing the Planning Authority to their consultation response (21/12/2017) in respect of application DM/17/00466/FPA. This response confirms that the applicant's technical consultant provided additional information to The Coal Authority confirming that the site is safe and stable subject to the site being constructed with a piled foundation solution and that no further intrusive site investigations are

required. The Coal Authority are satisfied with these recommendations however note that further, more detailed considerations of ground conditions, foundation design and gas protection measures are likely to be required as part of any subsequent Building Regulations application.

## Viability and Planning Obligations

125. Paragraph 57 of the NPPF advises that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker. The viability of the scheme is questioned with an appraisal having been submitted to consider this. In these circumstances the developer will be required to demonstrate to the Council's satisfaction that this is the case.
126. Advice has been sought on this matter from the Council's Assets and Spatial Policy officers, who have considered in detail the submitted development appraisal for the site, including baseline costs against industry standards and reviewing the likely income generated from the development. Having tested these assumptions, once the amount paid for the site and development costs are taken from expected sale values, excluding any affordable housing provision, the viability of the site is considered marginal, and well below the 17-20% acceptable range of return. Having regard to the advice within the NPPF, it is accepted that the development could not mitigate its impact in relation to open space and recreation provision, enhance public rights of way and access including taking opportunities to provide better facilities for users or deliver affordable housing provision whilst remaining viable.
127. The failure of the development to mitigate its impacts in relation to open space and recreation facilities in addition to public rights of way are considered adverse impacts which need to be weighed in the planning balance. The lack of affordable housing would fail to address an identified need for affordable housing and accessible/adapted housing.

## Planning Balance

128. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. No NPPF policies that protect areas or assets of particular importance provide a clear reason to refuse the application and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

## *Benefits*

129. The development would assist in maintaining housing land supply however this at a time when the Council can demonstrate 5.96 years of deliverable housing land supply (8,404 dwellings) against an objectively assessed need and a further 15,946 committed dwellings beyond the five-year period. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced.
130. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area.
131. The development would result in the positive re-use of previously developed land which is listed on the Council's Brownfield register. In its current form the site has an adverse

impact on the character and appearance of the surrounding area and it is unlikely to come forward for any alternative employment use. The development of the site would result in significant environmental improvement, this benefit and the reuse of brownfield land should be afforded substantial weight in the planning balance.

### *Adverse Impacts*

132. The development would increase pressures on existing open space and recreational facilities in the area, in conflict with the OSNA and the NPPF.
133. It fails to take opportunities to mitigate the impact to or enhance existing public rights of way and access including taking opportunities to provide better facilities for users in conflict with the NPPF.
134. The proposal would fail to address an identified need for affordable housing and accessible/adapted housing in conflict with the NPPF.
135. Notwithstanding the above, and mindful of the significant highways contributions required in this instance, the scheme could not bear the costs of additional contributions required to mitigate the impact of the development.
136. The development would result in a residual impact on the wider highway network through the increase in traffic, however, financial contributions to provide highway improvements as mitigation would reduce this impact and a severe cumulative highway impact would not arise.
137. The development could prejudice the use of the adjacent industrial units should their use intensify. However, it is proposed in a recent employment land review to deallocate these sites for employment purposes.
138. In the absence of a biodiversity impact assessment it is difficult to conclusively determine whether net gains would be achieved. The Council's Ecology Section considers the impact is more likely to be neutral.

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## **CONCLUSION**

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139. The development plan policies which are most important for determining the application are out-of-date therefore the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF.
140. It is identified that the development would result in harm through increase pressures on open space and recreational facilities in the area in addition to the public right of way network, it fails to address an identified need for affordable housing and accessible/adapted housing, would result in a residual impact on the highway network, could prejudice the future use of two existing industrial units and is unlikely to have resulted in neutral rather than net gains in biodiversity. However, due to the viability position of the site and the benefits of the development including the re use of brownfield land in a sustainable location that would result in a significant environmental improvement for the purposes of Paragraph 11d ii, this harm would not significantly and demonstrably outweigh the recognised, social and economic benefits of new housing even when considering the Council's housing land supply position. The NPPF policy presumption in favour is a material consideration of sufficient weight to outweigh the conflict with relevant WVDLP policies.

141. Paragraph 56 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contribution towards offsite highway mitigation works is considered to be in accordance with these tests.
142. The proposal has generated no public interest, with no representations having been received.

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## RECOMMENDATION

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

- £241,000 for offsite highway mitigation works

And subject to the following conditions:

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

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

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

Plan	Drawing No.	Date Received
SURFACE FINISHES PLAN	16197-C801	26/07/18
201 DWELLING TYPE	201/1F	26/07/18
202 DWELLING TYPE	202/1F	26/07/18
301 DWELLING TYPE	301/1G	26/07/18
304 DWELLING TYPE	304/1E	26/07/18
307 DWELLING TYPE	307/1B	26/07/18
309 DWELLING TYPE	309/1E	26/07/18
310 DWELLING TYPE	310/1D	26/07/18
311 DWELLING TYPE	311/1A	26/07/18
313 DWELLING TYPE	313/1	26/07/18
314 DWELLING TYPE	314/1	26/07/18
403 DWELLING TYPE	403/1H	26/07/18
PLANNING LAYOUT	GH21:L:01D	26/07/18
LOCATION PLAN	GH21:L:02	26/07/18
SOFT LANDSCAPING LAYOUT	GH21:L:03C	26/07/18
BOUNDARY TREATMENT LAYOUT	GH21:L:04D	26/07/18
TIMBER FENCE	SD100-D	26/07/18
POST AND WIRE FENCE	SD103-B	26/07/18
STANDARD SINGLE GARAGE	SD700-A	26/07/18
STANDARD DOUBLED GARAGES	SD701-B	26/07/18
STANDARD TERRACED GARAGES	SD703-B	26/07/18
GARAGE DRIVE DETAILS	SD712-G	26/07/18
Engineering Plan	16197-C001-B	09/08/18

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies BE1, BE4, BE5, BE8, GD1, H24 and T1 of Wear Valley Local Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. Prior to the commencement of any works of demolition, remediation or construction hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority.
  1. Dust Action Plan including measures to control the emission of dust and dirt during construction;
  2. Details of methods and means of noise reduction;
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration. The use of vibrating rollers during construction of roads and piling mats should also be included in these details;
  4. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
  5. Designation, layout and design of construction access and egress points;
  6. Details for the provision of directional signage (on and off site);
  7. Details of contractor compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials;
  9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
  10. Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works;
  13. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policy GDP1 of the Wear Valley District Local Plan Part 15 of the National Planning Policy Framework. This is required as a pre-commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

4. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, have been protected in accordance with the details contained within the Tree Survey ref. EES16-198 by Elliott Environmental Surveyors Ltd dated 8<sup>th</sup> March 2017 and BS 5837:2012. Protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area having regards to Policy GD1 of Wear Valley Local Plan and Part 12 of the National Planning Policy Framework.

5. Prior to the commencement of construction at damp proof course or above, samples of the external walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: To ensure high quality design to comply with Policy GD1 and H24 of the Wear Valley District Local Plan and Part 12 of the National Planning Policy Framework.

6. Prior to the occupation of the first dwelling hereby approved, full engineering details of a new adoptable standard pedestrian footway extending south from the Catkin Way junction, along the full length of Greenfields Road to where the footpath commences outside no.49 Greenfields Road shall be submitted to and approved in writing by the Local Planning Authority. The footpath shall thereafter be completed in accordance with the approved details prior to the occupation of the 30th dwelling hereby approved.

Reason: In the interests of highway safety and accessibility in accordance with Policies GD1, H24 and T1 of the Wear Valley District Local Plan and Part 9 of the National Planning Policy Framework.

7. Prior to the occupation of the first dwelling hereby approved, full engineering details of a new adoptable standard pedestrian footway extending 45m from Catkin Way to the north bound bus on Greenfields Road shall be submitted to and approved in writing by the Local Planning Authority. The footpath shall thereafter be completed in accordance with the approved details prior to the occupation of the 30th dwelling hereby approved.

Reason: In the interests of highway safety and accessibility in accordance with Policies GD1, H24 and T1 of the Wear Valley District Local Plan and Part 9 of the National Planning Policy Framework.

8. All sound attenuation measures detailed in the noise assessment by LA Environmental Consultants reference GH/CW/002 dated 18th July 2017 shall fully implemented prior to the first occupation of any of the dwellings and permanently retained thereafter.

Reason: To protect the residential amenity of future residents from the adjacent noise sources to comply with Policy GD1 of the Wear Valley Local Plan and Part 15 of the NPPF.

9. The development shall be carried out in line with the drainage scheme detailed in the Flood Risk Assessment Reference: RO/FRA/16197.1 Version 2 dated January 2016 and drg. no. C801 (surface finishes plan).

Reason: To prevent the increased risk of flooding from any sources in accordance with Part 14 of the NPPF.

10. The development shall take place in accordance with the ecological enhancement recommendations detailed within the Preliminary Ecological Appraisal, Ref EES16-198 Version no.1 v.1 dated 26<sup>th</sup> January 2017.

Reason: To minimise impacts on biodiversity and to preserve nature conservation interests in accordance with Part 15 of the National Planning Policy Framework.

11. The development shall be carried out in line with the lighting scheme detailed in the Outdoor Lighting Report Reference: OP87646-LD9116 dated 13<sup>th</sup> September 2017.

Reason: To conserve protected species and their habitat in accordance with part 15 of the National Planning Policy Framework.

12. The full scheme, including completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a or b are not required.

Throughout the completion phases of the development all documents submitted relating to Phase 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.

#### Completion

- (a) During the implementation of the remedial works as detailed in Sirius remediation strategy C4961B Rev A dated July 2017 and the Sirius letter on ground gas protection verification plan dated 8th November 2017 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 revised Phase 3 Remediation Strategy shall be prepared. The development shall be completed in accordance with any amended specification of works.
- (b) Upon completion of the remedial works, 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 Part 14 of the National Planning Policy Framework.

13. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policy GDP1 of the Wear Valley District Local Plan Part 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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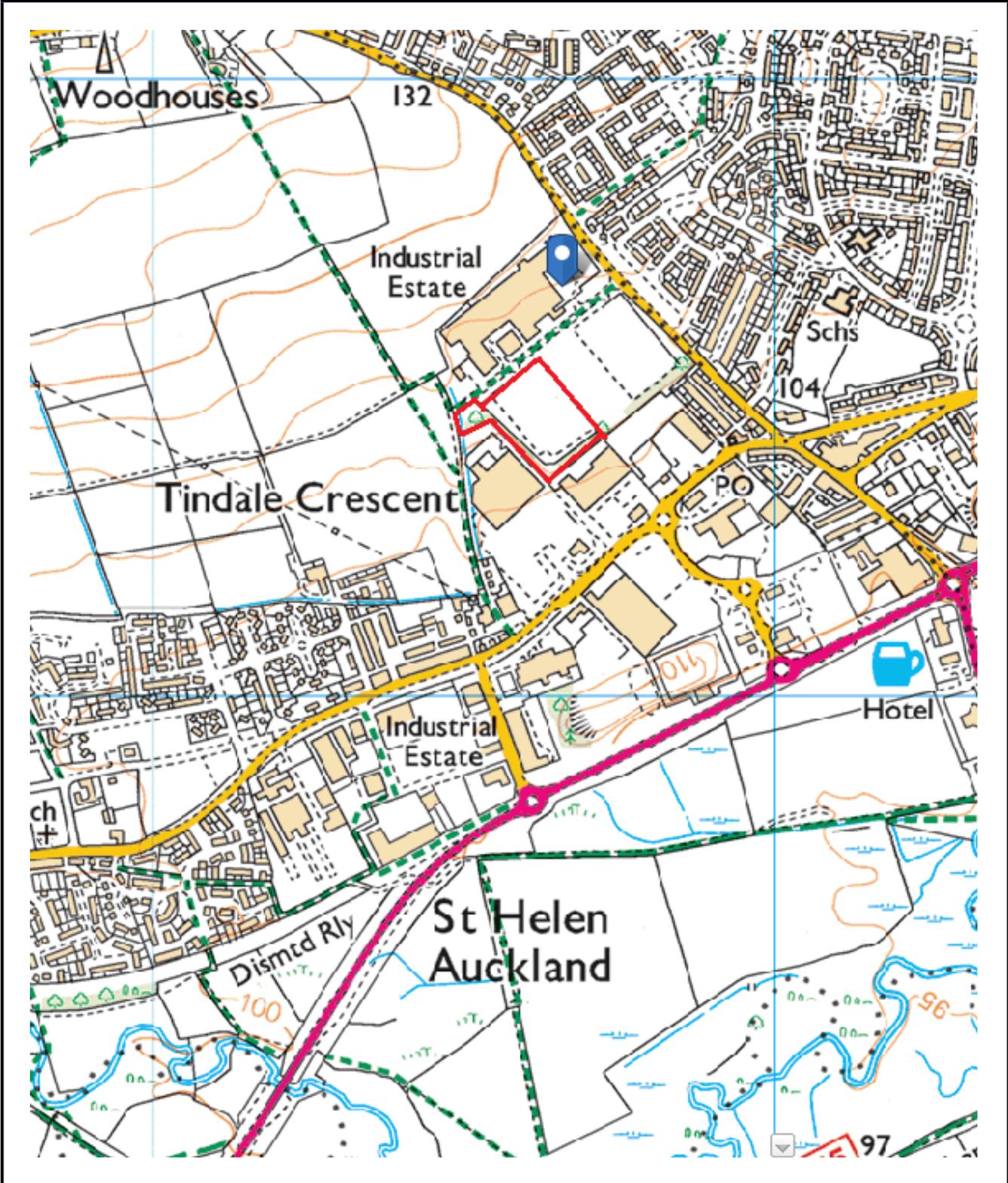
The Local Planning Authority in arriving at its recommendation to approve this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2018)
- National Planning Practice Guidance notes.
- Wear Valley District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMA, County Durham Settlement Study and OSNA
- DCC Sustainable Urban Drainage Systems Adoption Guide 2016
- Statutory, internal and public consultation responses



**Planning Services**

Ref: DM/18/02267/FPA  
 Erection of 75 dwellings (resubmission of DM/17/00466/FPA)  
 Gleeson Regeneration Ltd.  
 Site Of Former Chamberlain Phipps Coatings,  
 Catkin Way, Bishop Auckland, DL14 9TF

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**Comments**

**Date** 18<sup>th</sup> April 2019

**Scale** Not to Scale