

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/18/03277/OUT
FULL APPLICATION DESCRIPTION:	Outline planning application for the development of up to 74 dwellings including access, open space, SUDS and associated infrastructure with all matters reserved except for access (amended 1st February 2019).
NAME OF APPLICANT:	Dere Street Homes Ltd
ADDRESS:	Land To The West Of Davis Crescent, Langley Park, DH7 9UP
ELECTORAL DIVISION:	Esh and Witton Gilbert
CASE OFFICER:	Graham Blakey, Senior Planning Officer, 03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site consists of one half of an agricultural field to the western edge of Langley Park, north west of Durham. The site extends to approximately 4.6 hectares (ha) in area and comprises open agricultural fields. There is a level change across the site, with the land falling approximately 15m from Low Moor Road north towards the Blackburn Beck and the Lanchester Valley Railway Path (LVRP). The site is bound by the highway Low Moor Road to its southern most point but sits mostly to the north of Langley Park Cemetery and west of the rears of Davis Crescent to the east. The remainder of the larger agricultural field separates the site from Blackburn Farm to the west and its access track from Low Moor Road (as well as a single property, 'Lime Garth'). Finally, to the north is the LVRP which sits atop an embankment linked with sporadic and mature vegetation. Agricultural fields are located further west and north and to the opposite side of Low Moor Road from the proposed access.
2. The cemetery features a matured tree planting line to its western boundary, with a traditional agricultural hedgerow lining the application site to its boundary with Low Moor Road. Currently, vehicular access to the site would have to be achieved from the access track serving Blackburn Farm. A culverted water course / drain runs across the larger field from south to north within the site to its western extreme, with a high pressure water main just beyond the site boundary to the west within the agricultural field.
3. The Site is located approximately 1.8 km (or just over 1 mile) east of the Malton Local Wildlife Site, accessibly via the LVRP, with Hedley's Wood Ancient Woodland located

350 metres to the north of the site across both the LVRP and the River Browney. The access track to Blackburn Farm also forms a Public Footpath (no. 65 Esh) which runs from Low Moor Road North to join the LVRP. The LVRP is a Council owned and maintained recreational route which runs from Durham to the east up to Consett via Lanchester to the north west.

The Proposal

4. This planning application seeks outline planning permission including the means of access (all other matters reserved) for the erection of up to 74 dwellings and the provision of open space, landscaping and sustainable drainage system (SuDS). An indicative site layout has been submitted with the application indicating that the site would take access from the south via Low Moor Road to the west of the cemetery, taking an access road north whereby all of the proposed dwellings would be located between the northern boundary of the cemetery and the LVRP embankment. Structure landscape planting would feature to the western boundary of the application site, with further areas of open space and SuDS Drainage would be provided within and to the north west of the site. Pedestrian access would also be provided up to the LVRP. 15% of the dwellings would be offered on an affordable basis.
5. This planning application is being reported to County Planning Committee because it is a residential development with a site area in excess of 4 hectares.

PLANNING HISTORY

6. There is no relevant planning history to the site.

PLANNING POLICY

NATIONAL POLICY

7. A revised National Planning Policy Framework (NPPF) was published in February 2019. 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.
8. 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.
9. 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.

10. 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.
11. 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, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.

19. 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>

20. 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; determining a planning application; design; flood risk; land stability; light pollution; natural environment;; 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:

Derwentside District Local Plan (1997) (DDLDP)

21. *Policy GDP1 – General Development Principles.* This policy aims to ensure that all developments incorporate a high standard of design, are energy efficient, protect landscape, natural and historic features, protect and manage ecology, protect valuable open land, provide adequate landscaping, incorporate crime prevention measures and improve personal safety, protect amenity and provide adequate drainage.
22. *Policy EN1 – Development in the Countryside.* States that development 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.
23. *Policy EN2 – Preventing Urban Sprawl.* Advises that development outside existing built up areas will not be permitted if it results in; the merging or coalescence of neighbouring settlements; or ribbon development; or an encroachment into the surrounding countryside.
24. *Policy EN6 – Development Within Areas of High Landscape Value.* States that development will be permitted where it pays particular attention to the landscape qualities of the area through siting and design of buildings and the context of any landscaping.
25. *Policy EN11 – Trees and Development.* States that throughout the district existing trees should be retained where possible. Consideration will be given to the effect of development on any affected trees, taking into account; landscape diversity, the setting of existing or proposed buildings, wildlife habitat and visual amenity.

26. *Policy EN19 – Protection of Ancient Monuments and Archaeological Features.* Where nationally important archaeological remains, whether scheduled ancient monuments or not, and their settings, would be affected by a proposed development, there will be a presumption in favour of their physical preservation in situ. Other known archaeological remains of more local importance will be protected from damage to their features of archaeological interest. Appropriate assessments are carried out on sites that could affect a site of archaeological interest.
27. *Policy EN22 – Protection of Sites of Nature Conservation Importance –* Sets out that development will only be permitted which would not lead to the loss of or cause significant harm to sites of nature conservation importance.
28. *Policy EN25 – Development Affected by Pollution.* States that residential or other sensitive development will not be permitted on sites affected by unacceptable levels of pollution from adjoining land uses.
29. *Policy EN26 – Control of Development Causing Pollution.* States that planning permission will only be granted for development which is not likely to have an adverse impact on the environment having regard to likely levels of air, noise, soil or water pollution.
30. *Policy H05 – Development on Small Sites –* Sets out that housing development on small sites will only be permitted in specific settlements where the development is appropriate to the existing pattern of development, does not extend beyond the existing built up area and represents acceptable back land or tandem development and does not exceed 0.4ha in size.
31. *Policy AG1 – Protection of Better Quality Agricultural Land –* Sets out that development of grades 2 or 3A agricultural quality land will only be permitted if it is demonstrated that there is no irreversible loss of agricultural land or no other site on lower grade land exists which the development could be reasonably be located.
32. *Policy HO22 – Recreational Public Open Space within Housing Sites.* Requires new housing developments to include public open space and play areas, in appropriate locations. Approval may be subject to condition or planning obligation to ensure that the area(s) will be set out and then maintained; or the developer agrees to make a financial payment in lieu of provision, where provision cannot be made on site.
33. *Policy TR2 – Development and Highways Safety.* Requires developments to make satisfactory and safe provision for access to the site, road and public transport network and parking provision in compliance with car parking standards.
34. *Policy TR3 – Cycling.* States that when considering proposals for new developments, the Council will ensure that the needs of cyclists are taken into account.
35. *Policy RE4 – Protection of Public Footpaths.* States that development directly affecting a public right of way, or other recreational route, will only be permitted if an acceptable route is provided.

RELEVANT EMERGING POLICY:

The County Durham Plan

36. 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 16th 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.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can 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:

37. *Highways Authority* – A trip distribution exercise demonstrates that at peak 26 vehicles would travel easterly through Langley Park during the am peak with 24 travelling west at the pm peak. These have then been factored together with other committed development in the area, including the proposed signalised junction at Wallnook Lane, and to the predicted growth in traffic levels to 2028. When modelled, the results indicate that the impact upon the revised Wallnook Lane junction and the remaining local highway network would be minimal and no additional mitigation would be needed.
38. In terms of access to services, it can be argued that the proposed development is on the wrong side of the village in relation to permeable links to local shops and facilities, the site access is detached from the settlement and is only linked by the proposed vehicular access junction and associated footways (although a link to the LVRP has been added to the proposals at a later date). Sustainable transport options would need to be thoroughly examined to ensure a prospect of realistic uptake as at the current distances and a highways objection solely on this basis would be difficult to raise.
39. Safe and suitable access to the site for vehicular traffic needs to be demonstrated. Access is taken from Low Moor Road via a 4.8m wide access, 10m side radii and to the required visibility distances in both directions. 1.8m wide footpaths are also proposed. Full engineering details should be provided prior to the commencement of the development.
40. *Drainage and Costal Protection* – Advise that the Councils Adopted SuDS Adoption Guide, sets out that development proposals should include a preliminary layout plan identifying surface water drainage runs and locations of swales, basis, filter strips and drains. A detailed flood risk assessment has been submitted which indicates the adoption of SuDs and a further revised drainage philosophy has been submitted which adheres more closely to the SuDs guidance than that originally submitted with the application. Subject to details being secured by condition, the proposed drainage philosophy is considered suitable.
41. *Environment Agency* – Raise no objections to the application, advising that the site lies within Flood Zone 1 (least risk). The proposed SuDs just skirt the floodplain of the Blackburn Beck, however the submitted flood risk assessment confirms there is no issues with this proximity.

INTERNAL CONSULTEE RESPONSES:

42. *Spatial Policy* – Advise that DDLP Policies EN1 and EN2, alongside housing policy HO5, indicate that the scheme should be resisted. While officers consider that a five-

year housing land supply can be demonstrated, it is nevertheless considered that the housing policy framework in the Local Plan is out of date, as it was based upon allocations and a housing strategy period which has now expired. A conservative approach informs that Paragraph 11 of the NPPF comes into play. This directs the decision-maker to consider in the first instance whether there are policies in the Framework that protect areas or assets of particular importance which provide a clear reason for refusal. Footnote 6 identifies specific policies of restriction (in principle) in the Framework.

43. Should this test be passed, then the decision maker is directed to grant planning permission unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits of the proposal. This requires a planning balance assessment to weigh up any 'adverse impacts' and 'benefits'. Compliance or otherwise with 'Saved' local plan policies may be included within the planning balance assessment. The Local Plan clearly aims to avoid development in locations outside of the built up settlement area in accordance with Policies EN1 and EN2 in particular. While it is for the decision taker to determine the level of weight that should be afforded to these policies, in accordance with their status, they remain relevant to the consideration of this scheme (as highlighted). Consultation with relevant specialist teams will identify whether there are any additional concerns to consider under the second limb of the NPPF Paragraph 11 test in addition to those highlighted in this report.
44. In relation to potential benefits, these may include economic gains linked to the delivery of new dwellings, both during their construction and in terms of new residents supporting local services (albeit this is likely to be limited given the isolated nature of the site). If the scheme provides affordable and specialist dwellings, these could also be added into the benefit column.
45. *Landscape* – Advise that the application site forms part of a wide field that is positioned in the low reaches of the scenic Browney Valley and part of an Area of High Landscape Value. The lower northern part of the field and site is a Council adopted Landscape Conservation Priority Area where the spatial strategy is to conserve and enhance. The southern part of the field and site is part of a Landscape Improvement Priority Area with a restore or enhance strategy. Low Moor Road is considered to be a primary visual receptor as well as Public Footpath (no.65, Esh) and the LVRP.
46. The site and its immediate surroundings are assessed as of moderate to high sensitivity to the effects of built development. The effect of development of this scale on the locality would be transformative in the absence of existing visual containment. Development would have a significant adverse effect on the character of the local landscape and the AHLV.
47. The LVIA identifies constraints, key issues and a mitigation strategy and despite several positive design features included within the landscape proposals and the presence of a 15m wide structure planting strip, any proposed layout in this location cannot fully mitigate for the loss of visual amenity value and negative effect upon landscape character. A degree of visual exposure, the scale of proposed development, the sensitivity of the location at this western gateway to the village, and the area's AHLV status, are all factors in these predictable outcomes.
48. In the short term (0 to 5 years) and medium term (5 to 10 years), the effect of the structure planting would be negligible. In the long term (10 to 25 years) structure planting could represent an increasingly significant improvement in the extent of visual impact and challenge to landscape character that a development of such scale in this sensitive location represents.

49. *Landscape (Arboriculture)* – Proposed species of plants and trees are satisfactory. Advice provided regarding the planting of trees in proximity to hard surfacing and for the setting out that protective fencing should be installed to trees to be retained.
50. *Design and Conservation* – Raises no objections to the revised indicative layout subject to low level tweaks to the positions of the properties and open space. With regard to designated heritage assets, the Esh Conservation Area is located 850m to the south atop a high ridge that affords panoramic views across the application site. Within the conservation area is the Church of St Michael (Grade II listed). The LVRP appears first edition OS map circa 1860 and is considered a non-designated heritage asset having communal value as a well-used public route. Some buildings within the complex at Blackburn Farm, 250 metres to the north west, also appear on the first edition OS map but are surrounded by large late-20th century buildings.
51. The site is highly visible from the Esh Conservation Area. Esh is an ancient hilltop village, situated on a ridge that separates the valley of the River Browney and the River Deerness. The applicant has successfully demonstrated that there will be no harm to the setting of the Esh Conservation Area or other non-designated heritage assets.
52. *School Places and Admissions Manager* – Raises no objections. There is sufficient capacity to accommodate pupils from development at both primary and secondary school levels.
53. *Housing Delivery* – The Council's Strategic Housing Market Assessment is the evidence base used to inform the need for affordable housing. This document confirms that there is a net shortfall of affordable homes per annum and also provides evidence to inform the tenure split for affordable housing. In terms of the split between social/affordable rented and intermediate tenure products, the SHMA outlines a tenure split of 76.5% affordable (social) rented and 23.5% intermediate tenure. For the purposes of implementation, as part of a planning application the tenure split as set out in the SHMA is rounded to an 80:20 ratio (Affordable (social) rented : intermediate tenure).
54. The site falls within a medium viability area, this means that 15% of properties on the scheme would need to be affordable, this equates to 11 units if the site delivered 74 units. It is indicated that required 15% would be delivered on site. There is a requirement to provide 10% of the private and intermediate properties for older people. Where the affordable housing is secured via a Section 106 agreement consideration should be given to the eligibility of people in relation to their local connection, income and ability to secure property on the open market.
55. *Ecology* – Advise that the development would meet the requirements of the NPPF through the provision of onsite ecology enhancements, in particular through hedgerow improvements and provision.
56. *Environmental Health and Consumer Protection (Air Quality)* – Advise that an air quality impact assessment (as amended) has been submitted assessing the impact of the development. It is advised that the modelled levels of air quality are well below the national air quality objectives and therefore no objections to the application are made. It is advised that a dust action management plan would be necessary under condition for the construction phase of the development.
57. *Environmental Health and Consumer Protection (Contaminated Land)* – No objections are raised. Officers advise a conditional approach in relation to land contamination to secure a phase 2 assessment and mitigation where required.

58. *Environmental Health and Consumer Protection (Pollution Control)* – Advise that the submitted noise assessment has been carried out to appropriate methodologies. Mitigation measures will be required to be adopted in relation to adjacent road noise, this would not however prevent development of any specific area of the site. A conditional approach requiring the submission of a construction methodology and restricting working hours on site is recommended.
59. A submitted odour assessment has also concluded a slight adverse risk of odour to the future occupiers of the site. Upon clarification of some points and the re-orientation of those properties nearest Blackburn Farm, no concerns are raised.
60. *Archaeology* – Advise that a geophysical survey has been submitted in support of the application to which the conclusions are agreed. It is agreed in this instance that trial trenching should be undertaken prior to the submission of reserved matters and is controlled by way of condition.
61. *Access and Rights of Way* – Advise that the Lanchester Valley Railway Path (LVRP), which abuts the site, is managed by the Council's Parks and Countryside Team. Public footpath (no.65 Esh) runs to the farm access track to the west of the application site and is unaffected by these proposals. Original plans to create a 'public footpath' to the rears of Davis Crescent, that acknowledged historical use by those properties to gain access to the LVRP, has been omitted from the proposals. Therefore, no objections are raised.
62. *Parks and Countryside* – Lanchester Valley Railway Path (LVRP) is owned and maintained by the Council. Formal access to the LVRP is noted and welcomed, with an indicative drawing showing the proposed pedestrian-only access is suitable subject to engineering details being provided by condition. Increased numbers of housing will no doubt increase the number of users of the LVRP, therefore associated infrastructure costs in the form of dog waste bins and future maintenance funding for the next 25 years will be required.
63. *Sustainable Transport* – Advise that no travel plan is required for a development of this scale. The majority of bus services in the area currently terminate at Langley Park turning circle (Stringer Terrace). These provide a suitable frequency and good direct links to Durham City. The current site layout means that those nearest suitably served bus stops are outside of the adopted 400m walking distance from the majority of the site. There is very little opportunity to change vehicular or pedestrian access due to the location of the cemetery.
64. A package of improvements to the public highway and bus infrastructure to Stringer Terrace has been put forward by the applicant. These include streetlighting between the proposed access point on Low Moor Road to the bus stops and installation of renewed bus shelters and live transport information. Should this be provided, the detail of which should be agreed by condition, an objection would be difficult to sustain for a development of this scale.
65. *Bereavement Services* – Application site is adjacent to a Council maintained cemetery site (Langley Park Cemetery). The service is in the process of developing the 'extension' to the cemetery and drainage is a key area of concern. Issues exist with regard to rainwater drainage from the site and this proposed housing development could accommodate some form of drainage solution to enable the use of the 'extension' land.

NON-STATUTORY RESPONSES:

66. *Police Architectural Liaison Officer* – Advises that the access from the housing estate to the LVRP needs to be carefully designed to ensure off-road vehicles, including motorcycles, cannot access the development. Surveillance of the access is a must and housing in the vicinity should front on to the path and link making it a feature of the development. Removal of the footpath link to the rear of Davis Crescent is welcomed as it raised a significant crime risk to those properties adjoining.
67. *NHS* – No response received.
68. *The Coal Authority* – Advise that there is past Coal Mining Activity which poses a risk to the development site, therefore in order to verify the ground, intrusive ground investigation works, including a gas monitoring programme are required in order to determine the exact situation in respect of coal mining legacy issues within the site. A conditional approach is recommended.
69. *Northumbrian Water* – Advise that no contact with regard to a Point of Connection enquiry has yet been made and so details of the proposed foul water drainage scheme should be controlled by way of condition to ensure a suitable outcome.

PUBLIC RESPONSES:

70. The application has been publicised by way of press notice, site notice, and individual notification letters to neighbouring residents. Nine letters of objection has been submitted highlighting the following concerns

Principle

- Extension of the village into the countryside is inappropriate.
- Impact upon the Browney Valley, a particularly stunning vista, would be further eroded by this development and would be a serious loss.
- Why accept an application for 74 new houses in Langley Park when around 90 are up for sale in the village?
- Ample land already available for development in the village and remain undeveloped.
- Doubtful that there are enough services in the village to sustain more families.

Amenity

- Proximity to cemetery, an area of quiet contemplation would be highly intrusive. New housing towering over the cemetery would harm this setting.
- Impact from new houses upon existing houses of Davis Crescent along the eastern boundary in terms of outlook and privacy.
- Perimeter access pathway to rear of David Crescent properties would be unsafe and lead to a crime risk.

Highways

- Road infrastructure in the village cannot cope with yet more residents, also previous building work in the village caused serious delays to traffic for months on end.
- Another access on to Low Moor Road would compromise highway safety and increase traffic, including when large funerals take place.
- Parking in the village is a nightmare when accessing the local shops.

Drainage

- There should be no SuDs located near to the properties of Davis Crescent with associated risk of flooding to residents' homes.
- Drainage from the cemetery had historically been through the application site, with previous DCC work having to be undertaken when the field which makes up the application site was reconfigured in the past. These works have since failed and the cemetery is prone to flooding.

Others

- Schools are full: no places in Esh, Langley Park and Witton Gilbert.
- Already difficult to get doctors' appointments now, without this proposal.
- Decline in wildlife as a result of the new building works in the countryside, with users of the Lanchester Valley Walk enjoying the nature walk that is publicised.

71. *CPRE* – Application site is located within the Area of High Landscape Value (AHLV), adjacent to a popular walk and cycleway and wildlife corridor. The site is an intrusion into the open countryside contrary to Policies EN1 and EN2 of Derwentside Local Plan (DDL P), in that it neither benefits the rural economy or helps to maintain or enhance the landscape character of the area. They disagree with the Landscape Assessment in that the scheme does impact upon the AHLV, contrary to DDL P Policy EN6. Just because some development has taken place in the AHLV does not mean that further development should be allowed. DDL P Policy EN23 sees a wildlife corridor running alongside the site to the north. While the development does not physically interact with it, there is likely to be impacts from future residents and so compensation should be sought. It is highlighted that where a policy to protect the countryside is in place it should be considered up to date, irrespective of the date of the Local Plan. It is represented that the Council can demonstrate a five supply of housing land which would not engage paragraph 11(d) of the NPPF.

APPLICANTS STATEMENT:

72. Dere Street Homes is a North Durham housebuilder with a commitment to delivering high quality homes for local people. This application provides significant benefits to Langley Park:
- High quality homes in a attractively responding to comments from residents and the Parish Council; surpassing the Council's policy for older-person's housing;
 - c.£155,000 towards improvements to open space in the Parish and the maintenance of the Lanchester Way Railway Footpath (LWRF);
 - Net ecological improvements;
 - Public transport and footpath improvements along Low Moor Road;
 - 25 construction jobs and 27 jobs spin-off jobs (during build);
 - c.£1m each year in retail spending by residents;
 - An improved drainage connection for the cemetery; and
 - c.£360,000 each year in Council Tax and £96,000 in New Homes Bonus.
73. This planning application was submitted in October 2018 and Dere Street Homes has worked tirelessly with officers, ward members and parish councillors to maximise the benefits of the scheme for Langley Park. This work has paid off. Over the six months since the application was submitted, it has received only nine objections (despite there being 20 households that overlook the site) and there is no objection from the Parish Council. Furthermore, there are no objections to the development from the following council departments; highways, housing, drainage, design, ecology, heritage, contamination, air-

quality, rights of way, open space and bereavement services. Indeed there are no technical objections to the application other than from the Council's landscape officer.

74. We have been advised by officers that the decision on the application is 'finely balanced'. The only identified harm in the Committee Report is to the landscape character of the Area of High Landscape Value (AHLV). However, the position of the Council's landscape officers is that in the long-term, once the landscape buffer has matured, the visual impact will be less than significant. It is clear from the photomontages that this is the case. The AHLV covers a large area. It is evident that since the Derwentside Local Plan was adopted (1997) development has taken place within the AHLV, on the edge of the settlements. This confirms that some parts of the AHLV, in close proximity to existing settlements, are less sensitive to development and have capacity to accommodate development. Given the location of the site on the edge of the settlement and to the north of the cemetery, our view is that sensitivity of this part of the AHLV is much lower than the wider AHLV and no precedent will be set. Furthermore, it is clear that in the long-term the visual impact will not be significant. We urge Members to view the photomontages.
75. There is a presumption in favour that this planning application is approved, set by national policy. A decision on the application rests solely on planning balance and judgement. Officers have confirmed that the recommendation is 'finely balanced'. In our view the benefits of the development to Langley Park overwhelmingly outweigh the time-limited landscape harm which will be mitigated by substantial new tree planting. We therefore respectfully urge Members to approve this application.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/>

PLANNING CONSIDERATIONS AND ASSESSMENT

76. 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, Housing land supply, locational sustainability of the site, landscape and visual impact, layout and design, highway safety and access, heritage impact, residential amenity and pollution, ecology, flooding and drainage, ground conditions, planning obligations and other issues.

Principle of Development

77. 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 (DDL) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF.
78. The DDL 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. 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. Paragraph 213 also sets out that due weight should be given to existing policies, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

79. DDLP Policy EN1 sets out that development within the countryside will only be permitted where it benefits the rural economy or helps to maintain or enhance landscape character setting out that proposals should be sensitively related to the existing settlement pattern. DDLP Policy EN2 sets out that except where specific provision has been made in the DDLP, development outside existing built up areas will not be permitted where it results in the merging or coalescence of settlements, ribbon development or an encroachment into the surrounding countryside. DDLP Policy EN6 sets out special landscape protection to designated areas from inappropriate development that could easily damage the high quality of the landscape character (Areas of High Landscape Value or AHLV).
80. It is considered that the principle of protecting the countryside and the provision of a framework on how to assess development proposals in such locations is consistent with the NPPF. However, it is considered that the definition of the countryside is based on the development needs of the time and is, therefore, time limited. By reason of the out of date evidence base which informs, policies EN1, EN2 and EN6 they are considered out of date and paragraph 11 of the NPPF is engaged. The development would conflict with DDLP Policies EN1 and EN2 of the DDLP representing an encroachment and development into the countryside and beyond existing built up area. There would also be a potential conflict with DDLP Policy EN6 through development in the AHLV, which will be assessed in the Landscape and Visual Impact section later in this report.
81. In addition to the above policies, Policy GD1 of the DDLP sets overarching principles that all development should comply with, including locational characteristics to ensure that development relates well to existing settlement patterns and is located to reduce the need for additional car journeys. Policy GD1 is considered consistent with the NPPF in this respect and up to date, as it is not based on time-limited evidence.
82. Saved DDLP Policy HO5 specifically relates to development of small housing sites (less than 0.4ha) and is not, therefore, applicable to this application.
83. 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.

84. As set out above it is considered that there are saved policies within the DDLP which provide a framework to assess the principle of the development, with which the development would conflict. For the purposes of Paragraph 11(d), Policies EN1, EN2 and EN6 are considered policies most important for determining the application. However, these policies are considered to be out of date and, therefore, the acceptability of the development must be considered in the context of Paragraph 11(d) of the NPPF, as above. However, although out of date, these policies are consistent with the NPPF and weight can still be afforded to them, this is discussed in more detail later in this report.

Housing Land Supply

85. 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.
86. 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 identifying local housing need by using the Government's standard methodology. The 'Pre Submission Draft' stage (Jan 2019) 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.
87. 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 it 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. In addition, in three further, more recent, written representation appeals, 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.
88. 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

89. DDLP Policy GDP1 amongst its advice states that the form of development should be appropriate to the sites location and located to conserve energy. The justification to the policy states that development should be carefully located to reduce the need for additional car journeys and should be easily accessible and capable of being served

by public transport. DDLP Policy TR2 requires that development proposals would have satisfactory access to the public transport network. DDLP Policy TR3 requires that the needs of cyclists are taken into account as part of new developments and Policy RE4 seeks the protection of public footpaths. These policies are considered consistent with the NPPF, which also seeks to promote accessibility by a range of methods, and accordingly, they can be given full weight in considering the application. Specifically, the NPPF at Paragraph 103, sets out that the planning system should actively manage patterns of growth including, to promote walking, cycling and public transport use. Significant development should be focused in locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Further to this, Paragraph 110 of the NPPF sets out that applications for development should give priority to pedestrian and cycle movements and facilitate access to high quality public transport. Decisions should address the connections between people and places and the integration of new development into the natural and built environment.

90. 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 village of Langley Park contains a number of services, and within the study was found to be ranked 26th in the County for access to services and facilities, on par with other settlements of similar size. Modest housing growth could as a result be accommodated by the settlement.
91. However, Langley Park is relatively close to the City of Durham which contains a significant source of services, facilities and amenities. Access to those facilities therefore is key and consideration is required to be given as to the ability of future occupiers to access these services and amenities. In this respect, the application is accompanied by a Transport Assessment and Travel Plan, which assess the accessibility of the site to local services and facilities, by foot, bicycle and bus, as well as impacts upon the highway network in terms of vehicular traffic.
92. In terms of distances to services and amenities, the applicant makes reference to a range of distances that are generally considered acceptable set out in the Chartered Institute of Highways and Transportation (CIHT) documents including 'Guidelines for Providing for Journeys on Foot' and 'Planning for Walking', The Department for Transport's 'Manual for Streets', along with work undertaken by independent consultants. In general, it is considered that a walking distance of 1650-2000m or a 20-minute walk is at the upper end of what future residents could be expected to walk, taking into account topography and desirability of routes.
93. In this respect, it is noted that the central area of facilities in Langley Park (at the Quebec Street / Front Street junction area) contains a reasonable selection of convenience stores, doctors, pubs, post office, church, primary school and community facilities. It can be accessed via Low Moor Road, a relatively flat and well-lit route from the cemetery entrance to the centre. This would be accessible both by foot, cycle and bus, services being from the Stringer Terrace bus stops. These stops see the terminus of services from Durham (via Sacriston and the Arnison Centre, a retail area to the north side of Durham) and Newcastle (via Chester le Street and Gateshead), with three an hour to Durham (one via the Arnison Centre) and two an hour to Newcastle on weekdays and Saturdays. These reduce to just one bus an hour to Durham on Sundays.
94. Fundamentally however, the bus stops at Stringer Terrace are located approximately 350m from the nearest proposed property, with the vast majority of the proposed housing outside of the Council's adopted 400m access distance to public transport options. This is as a result of the development being located to the north of the

cemetery. Given the increased range of facilities available within Durham to the east, including larger supermarkets, health facilities and employment sites, and these being accessible from the bus stops on Stringer Terrace, their importance is elevated in respect to the proposed development.

95. The Council's Sustainable Transport team have reviewed the proposals and following discussions with the applicant a package of improvements to the Stringer Terrace bus stops are proposed, including electronic information boards and full street lit access to the stops from the proposed development. Also, the applicant proposes the creation of a pedestrian access link to the Lanchester Valley Railway Path (LVRP) to the north east boundary of the application site, which when taken together means the Sustainable Transport team cannot sustain an objection to a proposed scheme of 74 dwellings.
96. Taken in the round, it is recognised that the site is located on the periphery of a frequent bus route and would be within the maximum distances to services and amenities in the village. A package of improvements to sustainable transport modes would enable greater options to future residents and to those already living in vicinity of the site. As such it is considered that in this case the proposals and the proposed mitigation would see them comply with Policies GDP1 and TR2 of the DDLP and Paragraphs 103 and 110 of the NPPF.

Landscape and Visual Impact

97. As set out above DDLP Policy EN1 seeks to prevent encroachment of development into the open countryside, except where it benefits the rural economy or helps to maintain or enhance landscape character, setting out that proposals should be sensitively related to the existing settlement pattern. DDLP Policy EN2 sets out that development outside the existing built up area will not be permitted where it results in the merging or coalescence of settlements, ribbon development or an encroachment into the surrounding countryside. Furthermore, DDLP Policy EN6 designates the area in and around the western side of Langley Park as part of the Browney Valley Area of High Landscape Value, where development should pay particular attention to the landscape qualities of the area in terms of siting and designing proposed new development. It is considered that the principle of protecting the countryside and the provision of a framework on how to assess development proposals in such locations is consistent with the NPPF so too is the policy protecting a locally valued landscape.
98. Whilst Policies EN1 and EN2 are considered out of date for the reasons outlined earlier in this report, they can still both be attributed significant weight in the decision-making process due to their content having significant resonance with the content of the NPPF and therefore consistent on this basis. DDLP Policy EN6 can also be attributed significant weight as it is considered to be consistent with Paragraph 170 of the NPPF with both supporting the protection and enhancement of the intrinsic character and beauty of the countryside. DDLP Policy GDP1 also sets out that general development principles including, that development proposals should be well related to the existing environment and take account of the presence of natural features, requiring the protection of the existing landscape. This policy is considered consistent with the NPPF. Paragraph 127 (c) of the NPPF requires that development proposals be sympathetic to their landscape setting.
99. The application site is in the lower reaches of the scenic Browney Valley and is identified as being within an Area of High Landscape Value (AHLV). The northern part of the site is also identified within the adopted Durham County Council Landscape Strategy as a Conservation Priority Area, where the landscape spatial strategy is to Conserve and Enhance. The southern part of the site is identified a landscape

improvement priority area with a restore and enhance strategy. The Landscape Officer advises that the site and its immediate surroundings are assessed as being of moderate to high sensitivity to the effects of built development. The effect of development of this scale on the locality would be transformative in the absence of existing visual containment. Development would have a significant adverse effect on the character of the local landscape and the AHLV.

100. The site is principally and most significantly visible from the public highway of Low Moor Road in views from the west towards the village. Land level changes from south to north together with open agricultural fields which characterise the immediate area west of Langley Park afford uninterrupted views of the application site on the approach the village and the built environment. The LVRP also affords views of the western side of the village with the path being elevated above the application site as it passes to the north. Also, views of the site are possible from the A691 to the north, although more passing in nature, again its elevated position above the village provides a panorama of the village setting. Finally, to the south, the village of Esh sits atop the valley ridge close to 100m higher in elevation, affording significant panoramic views of the Langley Park.
101. In an attempt to address the transformative impact of the proposed development, the applicant has submitted a draft landscape strategy and a landscape visual impact assessment (LVIA) to support their proposals. The submissions mirror the requirements of the Council's Landscape Team and their views with regard to the visual sensitivity of the application site and the receptor locations. First iterations of the landscaping scheme featured a proposed new hedgerow which separated the fronts of the proposed dwellings to the indicative layout. This open aspect to such a visually prominent boundary of the application could not effectively mitigate the transformational impact in the absence of existing visual containment or screening. The Landscape Team considered that the absence of any structure planting of note to create an effective screen to development over time and a strong natural feature to the settlement edge was a significant omission.
102. Revised proposals were subsequently put forward by the applicant, which included the provision of a 15-metre-deep structure planting belt in addition to the native species hedgerow which would form the new agricultural boundary and would run to the full length of the western boundary of the application site from Low Moor Road to the LVRP. Upon review, the Landscape Team acknowledge that the proposals can represent an improvement upon the previous landscape scheme that would be realised, upon maturity of the structure planting in 25 years from implementation. However, particularly in the short (5 years) and medium term (10 years), the ability of the structure planting to offset the transformative impact upon the landscape character of the area would be negligible.
103. Development of the site would see a significant transformative impact upon the landscape character of the AHLV in this area and an attempt has been made by the applicant to address those impacts in the long term. However, the proposed mitigation would not address the impact of the development, particularly in the short to medium term that would be read as an incursion into the countryside beyond a well-defined boundary to the edge of the existing built environment. The elevated status of the landscape character in this area adds further weight to the severity of these impacts.
104. Overall, having regard to the advice of the Council's Landscape Team, the development would represent a significant encroachment into the surrounding countryside, which would not be sensitively related to the existing settlement pattern and would not respect existing natural and landscape features resulting in conflict with Policies EN1, EN2, EN6 and GDP1 of the DDLP in this respect, and Paragraphs 170

and 127 of the NPPF, representing a significant adverse impact that needs to be taken into account in the planning balance.

Layout and Design

105. DDLP Policy GDP1 (A) sets out that development proposals should achieve a high standard of design which is in keeping with the character and appearance for the area and take into account the sites natural and built features. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Due to its consistency with the NPPF, significant weight should be afforded to DDLP Policy GDP1 (a) in this respect.
106. The illustrative masterplan includes a full indicative layout and composite landscape proposals. Main vehicular access would be taken from Low Moor Road and feature a 110m long access road alongside the western boundary of the cemetery. Once north of the cemetery the site begins to open up and housing is indicatively proposed to go back-to-back with the cemetery and the existing properties of Davis Crescent. Properties would also face in to the site along the western boundary acknowledging structure planting as the edge of the development.
107. A central area of amenity space is proposed with a footpath link running from south west to north east to facilitate a direct route between the access road and the proposed footpath link to the LVRP. The footpath link would benefit from natural surveillance from properties orientated accordingly. The Police Architectural Liaison Officer advises that the LVRP is a likely source of crime due to the access and the possibility for use by off-road vehicles and advises that this access needs to be carefully designed. It is noted with regret that the proposed development could not secure a potential pedestrian access route to the eastern side of the cemetery, allowing for swifter access to the village and public transport options.
108. The submitted Design and Access Statement includes information on the detail potentially forthcoming under any future reserved matters application. The applicant considers that 2 storey dwellings would reflect the built form of the existing settlement. While the original layout as proposed was considered inappropriate by the Council's Design Team, revisions made have successfully addressed their concerns and no objections are raised at this outline stage.
109. Overall, subject to the consideration of any future reserved matters application, while the preferred access road presents a lengthy and functional approach, the development could still achieve a standard of design in the circumstances that would meet the aims of Policy GDP1 (a) and paragraphs 127 and 170 of the NPPF in this regard.

Highway Safety and Access

110. DDLP Policy TR2 sets out that planning permission for development will only be granted where the scheme incorporates a clearly defined and safe vehicle access and exit, satisfactory access onto the public transport network and satisfactory access onto the adopted highway. The supporting text of policy TR2 also sets out that a proposal will not be granted unless adequate traffic flows can be maintained. Policy TR2 is considered consistent with the NPPF, which also seeks to ensure that a safe and suitable access can be achieved and, therefore, it can be given full weight in

considering the application. The NPPF, at Paragraphs 108 and 109, also sets out that when considering development proposals, it should be ensured any significant impacts from the development on the transport network (in terms of capacity and congestion), can be cost effectively mitigated. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

111. Paragraph 111 sets out that all developments that would generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. In this respect, the application is accompanied by a Transport Assessment, which assesses the impacts of the development, concluding that there would be no impact on the capacity of the wider highway network.
112. It is proposed that the main vehicular access to the site would be taken off the Low Moor Road via a standard T-junction arrangement, with footpath running to the eastern side extending from the front of the cemetery. Furthermore, the site would see a pedestrian access taken from the LVRP to the north east corner of the site.
113. In reviewing the access proposals, and following amendments to bus stop provision, the Highway Authority advise that the proposed access can be accommodated with the necessary visibility splays in both directions to Low Moor Road. The 4.8m wide access with 1.8m footpath proposed would allow safe access for future residents into and out of the development. Revisions to the position of the 30mph speed limit have been discussed with the Highway Authority in conjunction with a scheme of traffic calming for the current speed limit position, however the creation of the access would not be considered sufficient to lead to a reposition of the 30mph speed limit at this time.
114. In relation to the impact on the wider highway network, the Highway Authority advise that the assumptions and subsequent conclusions of the submitted Transport Assessment are considered sound. A trip distribution exercise demonstrates that at peak times around 50 vehicles per hour would leave the site, with around half heading east into the village. The proposed signalisation works to the Wallnook Lane junction to the far eastern side of the village, required as mitigation to a separate approved housing scheme, have also been factored into the modelling undertaken by the Transport Assessment. Results show that the junction would remain stable with the addition of the traffic flows from the proposed development. On that basis, traffic generation from the development would be acceptable to the Highway Authority.
115. Overall, it is considered that the proposed development could be served by an appropriate means of vehicular access in accordance with Policy TR2 of the DDLP. Similarly, the traffic generated by the proposed development would have an acceptable impact upon the highway network in accordance with Paragraphs 108 and 109 of the NPPF and policy TR2 of the DDLP.

Heritage Impact

116. DDLP Policy GDP1 (c) sets out that development proposals should protect existing historic features. This policy is considered broadly consistent with the NPPF in this respect, which seeks to protect heritage assets in proportion to their significance allowing in certain instances harm to be outweighed in the planning balance and against public benefits. Policy GDP1 (c) is, therefore, to be afforded significant weight in this respect.

117. Esh Conservation Area represents the nearest designated heritage asset, located 850m to the south atop the Browney Valley slope, and featuring the Church of St Michael (Grade II listed). The site is highly visible from the conservation area as a result of the elevation, however the applicant has considered this in their submission and the Design and Conservation Team agree that there would be no harm to the Conservation Area, having regards to the statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. No harm has been identified to any other designated heritage assets. The LVRP is considered a non-designated heritage asset by Design and Conservation Officers as it appears on the first edition OS maps from 1860 and has a communal value as a public route. Again, the applicant has successfully demonstrated within their submission that the development would not adversely impact upon the LVRP. Blackburn Farm contains buildings to its inner core of structure which date from the first edition OS maps also, however late 20th century modern buildings now surround those and so any impact is unlikely.
118. In terms of Archaeology, DDLP Policy EN19 sets out that where nationally important archaeological remains, whether scheduled monuments or not, and their settings, would be affected by a proposed development, there will be a presumption in favour of their physical preservation in situ. This policy is considered consistent with Paragraph 189 of the NPPF which sets out that, where a site on which development is proposed, includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Policy EN19 should be afforded full weight in this respect. Initial geophysical survey work has been undertaken at the site and no archaeology of significance has been found, although it is considered by the Council's Archaeology Team that field investigation of the findings will need to be clarified prior to the consideration of any future reserved matters application.
119. Overall, it is considered that the development would not have an adverse impact on the character and form of the Esh Conservation Area or other designated and non-designated heritage assets in the vicinity of the site, commensurate with Policy GDP1 (c) of the DDLP. Similarly, no findings of significance with respect to archaeological interest have been discovered on site leaving the development in compliance with DDLP Policy EN19.

Residential Amenity / Pollution

120. DDLP Policy GDP1 (h) requires development to protect the amenities of neighbouring occupiers and land users. DDLP Policy EN25 require that residential development will not be permitted on sites affected by unacceptable levels of pollution of adjoining land uses. DDLP Policy EN26 requires that developments protect the environment in terms of likely levels of air, noise, soil or water pollution. These policies are considered consistent with parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
121. The submitted masterplan sets out that separation distances in excess of 21m between habitable room windows to existing neighbouring residential dwellings can be achieved with the proposed number of dwellings, which would prevent any loss of amenity/overlooking in this respect. Further scrutiny of this matter and the internal site layout would be given at the reserved matters stage.

122. A noise impact assessment and odour assessment have both been submitted in support of the application, which consider the existing noise climate and odour risk up on the development. It is concluded that consideration should be given to the positioning of dwellings with regard to Blackburn Farm to the west of the application site. Following discussions with the Environmental Health and Consumer Protection Team in regard to the introduction of the increased 15m structure planting belt between the proposed housing and the farm and clarification that the farm operates as an arable business, it is considered that dwellings in this location would not be subject to any unacceptably adverse impacts from operation of the farm. Noise impacts from Low Moor Road were not considered to lead to an adverse impact upon the proposed residential properties in this instance, primarily due to the distance of the proposed properties from the main road. The likely orientation of the domestic properties towards the cemetery would also not be considered to lead to an undue impact upon visitors to the grounds and will be controlled at the reserved matters stage.
123. In order to limit the potential disturbance for existing and future residents during construction, the Environmental Health and Consumer Protection Team recommend that a construction management plan be secured to deal with construction related impacts. Subject to the imposition of such a condition, construction related impacts could be adequately mitigated.
124. In relation to land contamination, the applicant has submitted a phase 1 desk top study which identifies that there is a low risk of contaminants being present on site and is subject to site investigation works. After reviewing the submitted report, Environment, Health and Consumer Protection (Contaminated Land) Officers advise that the submitted Phase 1 Assessment is acceptable and recommends a conditional approach to further land contamination investigations in accordance with Part 15 of the NPPF.
125. The Environmental Health and Consumer Protection (Air Quality) Team advise the site is not in close proximity of any Air Quality Management Areas. The applicant has demonstrated that it would produce less than 500 average annual daily trips from the application site and so the impacts upon air quality are below the national air quality objectives. Therefore, the Environmental Health and Consumer Protection Team raises no objections in regard to either the operational or construction phases of the development. It is advised, in respects to the construction phase of the development, that a dust action management plan be secured by condition.
126. Overall, the scheme would comply with DDLP Policies GDP1, EN25 and EN26 and Parts 12 and 15 of the NPPF and would not lead to a significant reduction in residential amenity for existing or future residents, subject to appropriate conditions.

Ecology

127. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. DDLP Policy GDP1 (d) requires the protection of designated sites, those species protected by the Wildlife and Countryside Act and that there is no harmful impact on the ecology of the District. This advice is considered consistent with the NPPF. Policy EN22 applies to a number of Sites of Nature Conservation Importance (Local Wildlife Sites) across the former Derwentside District and advises that development should only be permitted where it would not lead to the loss of, or significant harm to, said sites. The advice contained within Policy EN22 is considered consistent with that within the NPPF. However, it is noted that the justification to the policy considers potential further ecological site designations which have now occurred, and in that sense, the policy is not fully up to date and therefore weight afforded to the policy should be reduced. The application

site is located approximately 1.8km to the south east of Malton Local Wildlife site which is accessible via the LVRP.

128. An ecological impact assessment has been submitted in support of the planning application. The submitted report concludes that subject to mitigation measures including the provision of onsite green space, including tree planting and hedgerow creation, and appropriate future management and maintenance the impacts of the development in large would be mitigated and compensated for. The report also concluded that there were no European Protected Species to be found on site. Paragraph 175 of the NPPF encourages opportunities to secure net biodiversity gain. The developer has been able to demonstrate that the proposed development and landscape masterplan would deliver an overall net biodiversity gain, especially with respect to the creation of native species hedgerow to the western boundary of the development. The Council's Ecology Team agree with the conclusions of the submission. This will be weighted accordingly within the planning balance.
129. Subject to delivering this mitigation and subject to further review at reserved matters stage, the Ecology Team raises no objections to the application. No objections or concerns are raised in regard to the above locally designated sites and local biodiversity. The development is, therefore, considered to comply with DDLP Policies GDP1 (d) and EN22, and Paragraph 175 of the NPPF in this respect.

Flooding and Drainage

130. Policy GDP1 (i) of the DDLP sets out that developments should make adequate provision for surface water and protect areas liable to flood from development. This element of the policy is considered broadly consistent with national advice within the NPPF and NPPG with regard to flood risk and management of surface water and can be afforded significant weight in the decision-making process. It is, however, recognised that national guidance promotes a sequential criteria-based approach to site selection which is not specifically referenced within Policy GDP1.
131. The application is accompanied by a flood risk assessment (FRA), which highlights that the majority of the application site is within flood zone 1 with a low flood risk probability and the indicative layout shows that all housing would be located in this flood risk zone. The proposed Sustainable Urban Drainage Systems (SuDs) basin for the development site lies outwith, albeit close to flood zones 2, 3a and 3b of the Blackburn Beck. The submitted FRA has taken this into account specific site topography and there are no objections from the Environment Agency to the proposed development.
132. A drainage philosophy has also accompanied the submitted FRA and sets out that SuDs would be utilised with surface water attenuated on site before being discharged at a greenfield run off rate in to the Blackburn Beck. The Council's Drainage and Coastal Protection Team advise that the Council's adopted SuDS Adoption Guide, which sets out that development proposals should include a preliminary layout plan identifying surface water drainage runs and locations of swales, basis, filter strips and drains, and which has been mostly adhered to by the proposals. As such they raise no objection to the proposals subject to conditions ensuring the philosophy is followed. Northumbrian Water advise that any final details for the disposal of foul water based on the submitted details be developed and agreed by condition.
133. The Council's Bereavement Services Team have also commented upon the application. The Council's Bereavement Services Team highlight that they have expansion plans for the neighbouring cemetery site but that the site suffers from drainage issues. The applicant confirmed at first that they would in the event that the

housing development was approved seek to ensure a surface water connection from the cemetery into the application site. Since this time the applicant has also stated that they would be prepared to seek to resolve drainage issues that the cemetery land may be subject to, potentially through directly delivering a scheme or through a financial contribution. No detailed design or therefore fully quantified cost has been devised at this stage. Whilst the applicant has made this offer, as works in regards to the cemetery land or a financial contribution towards them are not directly related to the housing development no condition could be utilised to ensure this nor would a contribution under S106 be CIL compliant (discussed below).

134. Overall, the strong adherence to the Council's adopted SuDs guidelines would result in a suitable scheme for surface water drainage that would discharge at the necessary rate into the Blackburn Beck. Subsequently, it is considered that the application is compliant with DDLP Policy GDP1 (i) and relevant paragraphs within Part 14 of the NPPF in this respect.

Planning Obligations

135. Paragraph 62 of the NPPF sets out that, where a need has been established, an appropriate level of affordable housing should be provided. The council's Strategic Housing Market Assessment is the evidence base used to inform the need for affordable housing. This document confirms that there is a net shortfall of affordable homes per annum and also provides evidence to inform the tenure split for affordable housing. In terms of the split between social/affordable rented and intermediate tenure products, the SHMA outlines a tenure split of 76.5% affordable (social) rented and 23.5% intermediate tenure. For the purposes of implementation, as part of a planning application the tenure split as set out in the SHMA is rounded to an 80:20 ratio (Affordable (social) rented: intermediate tenure).
136. The site falls within a medium viability area, this means that 15% of properties on the scheme would need to be affordable, this equates to 11 units if the site delivered 74 dwellings. It is indicated that 15% would be delivered on site, and that these would all be delivered as bungalows, surpassing the requirement to provide 10% of the private and intermediate properties for older people. The applicant has indicated that this level of provision would be delivered, with the delivery and tenure to be secured through a planning obligation under Section 106 of the Town and County Planning Act 1990 (as amended).
137. DDLP Policy HO22 sets out that planning permission for new housing developments will be granted if the proposals include sufficient public open space and play areas in appropriate locations in accordance with specific targets or the developer agrees to make a financial payment in lieu of direct provision, where sufficient provision cannot be made on site. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2018, which is considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF. Therefore, whilst the general thrust of Policy HO22 is consistent with the content of the NPPF, the evidence base in respects to open space requirements has changed and, in that sense, the policy is not fully up to date.
138. 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. Having regard to the indicative proposed layout and development size, the OSNA recommends on site provision for children's play and amenity/semi-natural open space. Remaining typologies would therefore be expected to see existing off-site provision enhanced and secured (allotments / parks and recreation, etc.) and a

contribution of £104,604 would be made and sought through a planning obligation secured through Section 106 agreement of the Town and Country Planning Act 1990.

139. Policy RE4 of the DDLP sets out that development which would directly affect a Public Right of Way or other recognised recreational path will only be permitted if an acceptable and equivalent alternative route is provided. Policy 98 of the NPPF sets out that decisions should protect and enhance public rights of way and access, policy RE4 is therefore considered consistent with the NPPF advice. As advised above, the LVRP sits to the northern boundary, a Council owned recreational footpath, with Public Footpath no. 65 Esh passing to the western extreme of the wider agricultural field.
140. While the Public Rights of Way Team acknowledge that the Public Footpath to the west of the site would be unaffected by the development, they would likely see access to the LVRP. The Council's Parks and Countryside Team have advised that they have no objection to the development providing an access to the LVRP, however the detail of the access should be controlled. They are also in agreement with the Police Architectural Liaison Officer in seeking to ensure access to LVRP is restricted to prevent motorised vehicles accessing the path. Also, the provision of an access from the development is likely to see an increase in the number of users of the LVRP, therefore the Parks and Countryside Team have raised this as a concern. The applicant has indicated that they would provide a contribution of £50,000 to facilitate future maintenance of the LVRP to off-set the impacts from increased use from future occupiers of the development and would be secured through Section 106 of the Town and Country Planning Act 1990 (As Amended).
141. The School Places and Admissions Manager advises that there is no projected issues with school capacity in the Langley Park area and therefore raises no objections to the proposals.
142. No response has been received from the NHS in relation to GP capacity within existing facilities in the area.
143. It is considered that the Section 106 obligations for affordable housing, open space and future maintenance of the LVRP would meet the necessary test for imposition in the Community Infrastructure Levy (CIL) Regulations 2010. As discussed in the drainage section above, potentially in the event of an approval the applicant has offered a financial contribution towards resolution of drainage issues on neighbouring cemetery land. As this is not directly related to the development it would not be CIL compliant, would be a voluntary offer only and can not therefore be attributed weight.

Other Issues

144. NPPF Paragraph 172 states that LPAs should recognise the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The development would result in the loss of approximately 4.6ha of agricultural land. A site-specific investigation into the land classification accompanies the application, setting out that the land is classed a subgrade 3b and, therefore, would not be classed as best and most versatile. The loss of this agricultural land is not, therefore, considered significant. DDLP Policy AG1, though relating to the protection of agricultural land, only relates to Grades 2 and 3a and is not, therefore, strictly applicable to the application.
145. Paragraph 170 of the NPPF sets out that unstable land should be remediated and mitigated where appropriate. In this instance, the application site lies with the Coal

Authority's Coalfield Area of high risk. A coal mining risk assessment, considering unstable land, has been submitted in support of the application which has been reviewed by the Coal Authority. The Coal Authority raise no objections to this strategy further to reviewing and securing the detailed site investigations and proposed mitigation by condition prior to the commencement of development.

CONCLUSION

146. The development would conflict with DDLP Policies GDP1, EN1, EN2 and EN6 of the DDLP and Paragraphs 170 and 127 of the NPPF and would represent an encroachment of built development into the countryside and harm the local landscape, the consequence of which would be particularly significant in the short to medium term. This is a substantial adverse impact that needs to be accounted for in the planning balance.
147. As a consequence of DDLP Policies being considered out of date with respect to some of the evidence which underpins them, consideration would need to be given to the balance set out in paragraph 11(d) of the NPPF. There are no applicable policies within the NPPF that protect areas or assets of particular importance which provide a clear reason to refuse the development. Therefore, paragraph 11d(ii) requires that planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits when assessed against the Policies of the NPPF taken as a whole.

Benefits

- 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.
- Typical of any residential housing development, 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 longer-term expenditure benefits to the area.
- The development would provide an increased range of house types including 15% affordable housing units which would be provided as bungalows exceeding the minimum 10% of the development being provided for older people, meeting an identified short fall within the County.
- Based upon the landscape and ecological works proposed on-site, it is considered that the development would lead to net gain in terms of biodiversity.
- Improvements to the immediate public transport infrastructure would have wider benefits to community to the western extreme of Langley Park, but these are moderated by the distance future residents would need to walk to access these public transport options.

Adverse Impacts

- The proposed development would represent an encroachment into the surrounding countryside, which would lead to a significant impact upon the character of the local landscape and AHLV.

148. Overall it is acknowledged that the proposal does offer some benefits in terms of older person accommodation, biodiversity net gains and public transport infrastructure improvements. However, these are considered to be significantly and demonstrably outweighed by the harmful impacts upon the intrinsic character and beauty of the countryside and the particular landscape qualities of the AHLV within which the site is located, and in turn the conflict with development plan policies and relevant advice within the NPPF in this regard. Accordingly, planning permission should be refused.
149. The proposal has generated some public interest, with a number of letters of objection having been received. The objections and concerns raised have been taken account and addressed within the report.

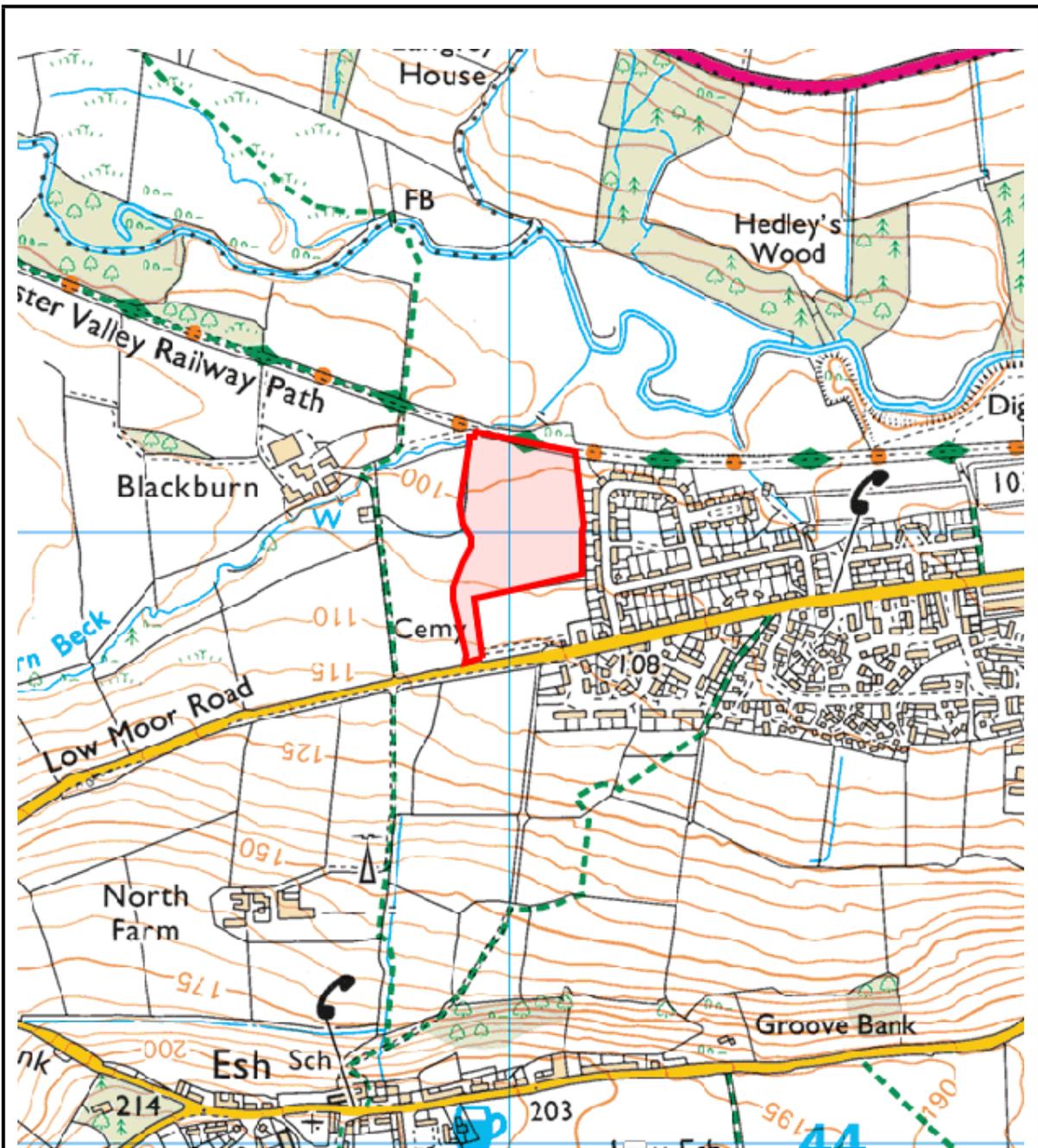
RECOMMENDATION

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

1. The Local Planning Authority considers that the development would represent a significant encroachment of built development into the countryside and on land designated as an Area of High Landscape Value resulting in an unacceptably harmful impact upon the character of the local landscape in conflict with Policies EN1, EN2, EN6 and GDP1 of the Derwentside District Local Plan and Paragraphs 127 and 170 of the National Planning Policy Framework.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- Derwentside District Local Plan
- The County Durham Strategic Housing Market Assessment January 2019
- DCC Open Space Needs Assessment 2018
- Local Plan Viability Testing, June 2018
- Statutory, internal and public consultation responses



Planning Services

DM/18/03277/OUT

Outline planning application for the development of up to 74 dwellings including access, open space, SUDS and associated infrastructure with all matters reserved except for access (amended 1st February 2019).

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Comments

Date May 2019

Scale Not to scale