

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01108/FPA
FULL APPLICATION DESCRIPTION:	Residential development of 30 dwellings and associated infrastructure
NAME OF APPLICANT:	BBL, Karbon Homes & Mr T. W. Shaw Land South of former Whitehill Farm
ADDRESS:	Fell Road Pelton Fell
ELECTORAL DIVISION:	Chester-le-Street West Central
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is comprised of 2ha of semi-improved grassland, using for grazing, on the south side of the settlement of Pelton Fell, outside the settlement boundary as defined in the Development Plan. Historically the land was associated with the former Whitehill Farm and has never been developed. The farm group was removed with the implementation of the recent residential development to the north.
2. The site is surrounded by arable farmland to the west separated by a hedge boundary, and modern housing development to the north, through which the site access is proposed. Post-war local authority-built dwellings are evident to the east, separated by a cycle/footway in a treed cutting that uses the route of the former Waldrige Waggon Way that leads to Rutter's Plantation which wraps around the south boundary of the site, parts of which are designated as a nature reserve.
3. The red-lined defined site boundary extends into the new development to the north, as the highways in that area have not yet been formally adopted by the Council.
4. The site is 1.4 miles from the centre of Chester-le-Street to the east, which has a wide range of community, education, recreation, employment and commercial facilities. Buses and a railway station provide sustainable transport links to Durham and Tyneside. Pelton Fell itself has a surgery, Post Office / shop and sports facility / playground on the main road, where there are also several bus stops.

The Proposal

5. The application proposes a residential development of 30 dwellings and associated infrastructure, with a mix of 2, 3 and four-bed units. The site is served from a single access from the existing estate at Littleburn Way to the north of the site, which leads through the estate to the main road, the B6313. The distance between the main road and the site is 585m, or 0.36 miles. A sustainable drainage basin is proposed in the north-east part of the site, where there is an existing drainage ditch. The low density of development proposed allows for a buffer zone around the proposed dwellings to the site boundaries.
6. The application is described by the applicants as an affordable housing scheme - '*the mix of tenures proposed on site will comprise of 53% Affordable Rent (16), and 47% Rent to Buy (14)*'.
7. The proposed dwellings are of a modern design, using materials comparable with those of the adjacent new developments. Houses are generally two storey, with some three storey units proposed at the development's entrance and in the centre of the layout.
8. This application is reported to Committee as a major development.

PLANNING HISTORY

9. The site has no recent planning history.

PLANNING POLICY

NATIONAL POLICY

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
11. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
12. The following elements of the NPPF are considered relevant to this proposal;
13. *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.

14. *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.
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. It should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, '*so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion*'.
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 12 - Achieving well-designed places.* Planning policies and decisions should ensure that developments achieve a range of aims including, 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.
18. *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.
19. *NPPF Part 15 - 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.

NATIONAL PLANNING PRACTICE GUIDANCE:

20. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government and is subject to continual review.
21. *Health and wellbeing* - seeks to ensure opportunities for healthy lifestyles have been considered in decision making along with the potential for pollution and other environmental hazards, which might lead to an adverse impact on human health.

22. *Design* - The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
23. *Land affected by contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.
24. *Flood Risk and Coastal Change* – sets out the required assessments, tests and thresholds developers are expected to undertake, and Local planning authorities must assess when considering new development of different types.
25. *Natural environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
26. *Air Quality* – sets out the national European and National legislative framework and a local air quality management (LAQM) regime which requires every district and unitary authority to regularly review and assess air quality in their area. Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location.
27. *Planning Obligations* – may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.

LOCAL PLAN POLICY:

28. The following is a summary of those saved policies in the Chester-le-Street District Local Plan 2003 (saved policies) relevant to the consideration of this application:
29. *Policy NE2 – Development beyond settlement boundaries* – outside of settlement limits development will be strictly controlled. Development should protect and enhance the character of the countryside and be consistent with maintaining the economic sustainability of agriculture and other rural businesses.
30. *Policy NE8 – Nature Conservation Importance and Local Nature Reserves* – Planning permission will only be granted for development proposals that meet a range of criteria including minimising damage to designated sites and creating habitats and enhancements elsewhere in the site or the local area.
31. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.

32. *Policy HP13 – Affordable Housing* – an element of such will be negotiated where the site meets specified thresholds.
33. *Policy HP15 – Community Provision* – requires on major developments a contribution to provision of community social, recreational or leisure provision.
34. *Policy RL5 – Provision within New Developments* – sets out requirements for play and open space provision.
35. *Policy T8 – Car Parking Provision* – The design and layout of new development should seek to minimise the level of parking provision.
36. *Policy T15 – Access and Safety Considerations in Design* – sets a range of criteria including that: a safe access to the site and the classified road system should be provided, the development should not create levels of traffic which would exceed the capacity of the local road network or create a road safety hazard, make adequate provision for service vehicle turning and allow effective access at all times for emergency vehicle access.

RELEVANT EMERGING POLICY:

37. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre-Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it 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 most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. *Highways* – The applicant has provided a housing layout plan to support this application for 30 units. In terms of residential traffic generated by the proposals, given the form and capacity of the B6313 which is the main road and the junction serving the site and the relatively minor increases in traffic demand as a result of the proposed development, the traffic demand associated with the proposed development is expected to be below the threshold of 30 two-way peak hour vehicle trips during the weekday AM and PM peak hours. The proposed development will therefore not have a material traffic impact on the operation of the wider road network.
39. The applicants propose a 4.8m wide access with 1.8m footways linking onto the public highways of Chester Burn Close and Little Burn Way. This is acceptable as means of access into the development. This would take the number of dwellings at this location up to around 100 dwellings which is the maximum that should be served from a 4.8m wide residential estate road.

40. Some detail changes will be needed to the internal layout of the scheme to meet full adoptable standards.

41. *Northumbrian Water* – indicate they have no issues with the proposals and ask for a condition that requires strict adherence to the recommendations and mitigations of the ‘Flood Risk Assessment and Drainage Strategy’ submitted with the application.

STATUTORY RESPONSES:

42. *The Coal Authority* – confirm the site has no issues with shallow coal mining legacy issues.

INTERNAL CONSULTEE RESPONSES:

43. *Spatial Policy* – Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration.

44. The site is included within the SHLAA and rated as unsuitable (amber) in principle. The assessment notes that development would result in some adverse landscape impacts. Given the proximity to a designated Local Wildlife Site a substantial stand-off distance would be required together with alternate greenspace provision provided on site/immediately adjacent to mitigate against likely impacts. Development would encroach into open countryside which is sensitive for the above reasons.

45. The latest viability evidence in support of the County Durham Plan identifies a need for affordable units across the County. Evidence suggests that a requirement of 15% can reasonably be expected on sites of 10 dwellings or more given that the site is within a medium viability area (tenure mix of 70% affordable rented housing to 30% immediate products).

46. To summarise the Council’s position, the NPPF has confirmed the use of the standard method for calculating local housing need and the CDP is aligned with the figure derived from this standardised methodology. Measured against this, as things stand the Council can demonstrate more than 6 years supply of deliverable housing, which means that the tilted balance does not apply.

47. The Open Space Needs Assessment advises that schemes of this scale should consider open space provision within the site envelope. A scheme of 30 dwellings would be expected to generate a population of around 66 people for OSNA purposes. The OSNA recommends on site provision for functional amenity/natural green space for schemes of this size, equating to around 990 sqm in area. The remaining contributions towards off-site typologies (allotments, parks and recreation, youth/child play space) would amount to £47,223 if a 50% contribution is considered acceptable. Where schemes are poorly connected to existing areas of open space and there are plans in place to provide new facilities then full off-site contributions can be expected. Additional sums may be required for maintenance should the proposer wish to utilise the council’s services.

48. This site is regarded as greenfield land located outside of the defined settlement of Pelton Fell. While the site itself is not directly covered by any specific designations in the LP, it is adjacent to a County Wildlife Site.

49. Policies NE2 and HP6 support a settlement boundary for Pelton Fell whereby new development will generally be resisted outside of the boundary. The site falls outside of this boundary and residential development would therefore be contrary to the LP in this regard. It is noted however that the settlement boundaries in the LP are based upon evidence relating to the projected development requirements for the lifespan of the Local Plan (the plan period), which has now passed. As such, whilst the boundary provides a useful starting point for identifying the extent of the built up area, and for considering the locational credentials of a proposal, it is considered to be out-of-date (a point which is emphasised by other recent permissions in the vicinity of this site and also located outside of the settlement boundary).
50. Therefore, whilst relevant to the proposal and broadly consistent with the principles of NPPF, limited weight should be attached to this element of the policy in the determination of this application. Paragraph 11 of NPPF would therefore be engaged. Comments from specialist colleagues will assist in this regard and help determine the relevant criteria under 11'd' that would provide the appropriate test in this instance. If there are no 'Footnote 6' issues, then the scheme would be assessed on whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits of granting planning permission when assessed against the policies in the Framework taken as a whole. Relevant LP policies can still be afforded some weight in the determination of this proposal.
51. *Environmental Health, Contamination* - are satisfied with the information contained in the reports and agree with the risk assessments. Although no elevated levels of contamination have been identified in the soils, some unsuitable material has been identified and therefore is required to be removed and visually validated. There is no obvious source of ground gas however elevated levels of carbon dioxide have been monitored and the site has been identified as requiring gas protection measures. Appropriate conditions and 'informatives' are suggested to mitigate these issues.
52. *Environmental Health, Air Quality* – Looking at both the construction period and the 'operational phase' (i.e. the lifetime of the development and its occupation and traffic generation), the effect on air quality of a further proposed development comprising of 30 dwellings, taking into consideration the outcome of the previous assessment, will not be significant. Further assessment and/or conditions are not requested.
53. *Environmental Health, Nuisance* – have undertaken a technical review of information submitted in relation to the likely impact upon amenity. The information submitted demonstrates that the application complies with the required thresholds. This would indicate that the development will not lead to an adverse impact once complete. The proximity of residential properties to the site access has the potential to impact during the development phase. The application has a 'construction management plan' supplied with it, however this is a site development plan and does little to demonstrate the measures to reduce any future impact.
54. The granting of planning permission for the development may potentially result in a statutory nuisance being created from the site works, however the suggested conditions relating to working hours and a Construction Management Plan are sufficient to mitigate the potential of a statutory nuisance and therefore if imposed, remove objection to the development.
55. *Archaeology* - The applicant has submitted the results of a geophysical survey which have not identified any significant archaeological remains however confirmation of this is recommended through a programme of trial trenching. Evaluation post-determination would be acceptable in this case. Conditions are suggested for appropriate investigation and recording.

56. *Trees* – The submitted arboricultural report complies with current standards. No trees need to be removed to facilitate the development. Overhanging mature trees should be taken into account assessing the application, along with the potential impact of service runs. Tree protection during the construction process must be to British Standards.
57. *Ecology* – Acknowledging the site has opportunities for on-site mitigation, the County Ecologist has agreed the level of compensatory mitigation to ensure the development does not result in a net biodiversity loss given the development will displace biodiversity on the site itself, and lead to additional pressure on the adjacent nature reserves.
58. *Drainage* – The applicants have submitted a scheme of sustainable surface water drainage which is acceptable to the Council's Drainage Team which must be conditioned as part of any approval.
59. *Landscape* – note that with a significantly reduced density, criticisms of a version of the development commented on pre-submission have been addressed in this proposed layout showing reduced house quantities, and that includes suitably located public open space, habitat and sustainable urban drainage system (SUDS) allocations. These recognise the site's complex landform and the proximity of sensitive wildlife designations to the south. Planting advice is provided.
60. *Affordable Housing* - The area has a need for more 2 bedroomed affordable properties to rent and 3 bedroomed affordable home ownership. There is average demand for bungalow accommodation in comparison to neighbouring areas. This site is in an area which has an average demand for affordable rented properties in comparison to neighbouring areas. Approximately a quarter of those actively seeking affordable rented properties are aged over 65, therefore provision should be made which meets the demands of older persons.
61. *Design* – Note that the significant reduction in the number of units proposed pre-submission, commented on through the Building for Life process has addressed many of the issues raised at that time, and that overall, the applicant has ensured the majority of streets and spaces are well-defined and overlooked. There is an attempt to address the entrance to the site through the orientation of unit 1 which is set back beyond the proposed SUDS pond. Comments were made on the potential for further natural surveillance opportunities.
62. *Education* – advises that there is capacity for school places and that no mitigation is required for this implication of the development.

PUBLIC CONSULTATION EXERCISE:

63. A public consultation exercise consisting of site notices, press notices and 148 direct letters was undertaken. This resulted in 32 objections and 3 other representations from 29 properties.
64. The overriding concern of residents relates to the traffic implications of the scheme. The main concern relates to the capacity of the network of roads through the existing residential estate. The long access through the estate is winding, narrow and with difficult bends, with current on-street parking and congestion making access difficult, particularly for service and emergency traffic. The estate is not gritted in winter. These concerns as to how the additional residential traffic the scheme would generate would exacerbate existing problems extend to concerns at the effect to construction traffic during the build process if the application were approved. There are residential amenity concerns also attached to the last issue and criticism of proposed working hours.

65. Traffic concerns extend beyond the site to the safety of the access onto the main road at the front of the site, and the capacity of the surrounding road network. That the site is some distance from major sustainable transport nodes – railway and metro stations and the like, is claimed to reduce its sustainability.
66. Following traffic related issues, the effect on ecology from the development of the field and the loss of wildlife habitat is the next concern that has generated most objection. A range of species both use the field and are present in the immediate area.
67. Whilst there is concern that the development of social housing may result in anti-social behaviour and an increase in crime, different correspondents refer to a current crime-free residential environment, and one that has suffered a 400% increase in crime recently. The proposals are suggested to be likely detrimental to this issue.
68. Given recent approvals in the immediate and surrounding area, the need for further social / affordable housing is claimed as met, as indeed is the need for additional housing generally. That the residents in the new development would be from the local area is questioned by a number of correspondents.
69. The proposed three storey dwellings are claimed as out of character and likely to result in overshadowing. A number of objectors claim potential overlooking from the proposed scheme and claim that assurances were given on the purchase of their properties that this site would remain undeveloped, to their benefit. One correspondent objects that their property will be devalued by the development.
70. There is a claimed lack of amenities in and serving the settlement, a shortage of school places, and access to open space and safe children's play provision.
71. There are claims of unresolved flooding and contamination issues affecting the land.
72. The three other representations do not object to the prospect of additional housing development but do reflect the highways concerns set out above.
73. A late objection has also been received from the Council for the Protection of Rural England (CPRE). They echo resident's traffic concerns. They also object to the development in the countryside, outside the settlement boundary adjacent the nature reserve, and that this will be contrary to proposed policies in the County Plan. They believe that the site not allocated as a housing site in the County Plan is 'significant' and that the County Council's healthy housing land supply position and the 'considerable development' in Pelton Fell undermines any 'need' for the development.

APPLICANT'S STATEMENT:

74. The proposed development comprises of 30 homes to be made available as 100% affordable housing by Karbon Homes, making a significant positive contribution to the availability of affordable homes in the area.
75. The site is recognised to fall within a sustainable location, suitable for the scale of development proposed. It is also proposed that development of the site will make significant improvements to biodiversity habitat, particularly for great crested newts, as part of a significant landscape buffer around the site edges, equating to approximately 50% of the site area. These improvements are being agreed between the Council, the applicant and Natural England.

76. Through the provision of affordable housing, assisting with local housing needs, the proposed development is also demonstrated to make a significant positive economic contribution to the County. Those items which are relevant to the determination of the application include:

- Open Space contribution of £47,223
- Biodiversity Contribution of £9,401
- Supporting the employment of approximately 93 jobs
- Approximately £34,000 in annual council tax receipts
- Approximately £136,000 in New Homes Bonus receipt
- Approximately £150,000 spent in the local economy in off-off spending on first occupation

77. Overall the proposed development represents a suitable development location for the scale of development proposed. The scheme complies with the relevant policies of the Development Plan and the NPPF and represents 'sustainable development'.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PPG1W9GDIQN00>

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

78. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the principle of development, affordable housing and highway safety are the principle issues involved in this instance. Implications to ecology, amenity and other issues will also be considered.

The Development Plan

79. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester-le-Street District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

80. This Local Plan was adopted in 2003 and was intended to cover the plan period until 2006. However, the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.

81. This is an application for housing development. The Policies within the Development Plan relating to this topic are considered out of date either because their evidence base is too old, or because they are contrary to the advice in the NPPF – i.e. where they relate to overly restrictive planning restraints such as settlement boundaries. Consideration of the development must therefore be led by the NPPF.

The NPPF

82. Paragraph 11 advises in the first instance to grant permission for sustainable development unless there is specific advice in the Framework that protects areas or assets of particular importance that gives a clear reason for refusal. The affected policies are listed (footnote 6). There are no topic areas that affect this site. Paragraph 11 then goes on to advise that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This application therefore benefits from this 'presumption in favour', if it is concluded as sustainable, and unless issues are identified and evidenced as clearly outweighing the benefits.

Sustainability

83. In terms of locational sustainability, the proposed development is on the edge of a small settlement that includes a range of its own facilities including a surgery, a store with Post Office, a Community Centre and a Multi-Use Games Area (MUGA) at the estate entrance. The site is close to footpath links to the surrounding countryside. There are bus-stops on the main road that give access to the main local centre at Chester-le-Street. The development is concluded a sustainable location for new housing development.

Highways

84. This is the significant issue both for local residents and the local Ward Member who has raised concerns on this issue. Site visits at different times of day and different days of the week by Planning Officers have assessed this issue in addition to the formal advice offered by Highways Engineers. The route to the site is winding through the estate, and there are obvious pinch points and areas of potential conflict in the route, both as a result of its layout, and where areas of car ownership exceed in-curtilage capacity, or where householders prefer to park on-street. Highways Engineers advise that both the capacity of the estate, its entrance and the wider highway network are all capable of safely accommodating an additional development of 30 new dwellings.

85. Whilst Planning Officers acknowledge there appear to be local difficulties in the estate layout and current operation, the NPPF advises that, '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'. The highways Policies in the development plan do retain material weight, and seek, as outline in the Policy section of this report, to ensure 'the development should not create levels of traffic which would exceed the capacity of the local road network or create a road safety hazard'.

86. Highways Officers' advice is however clear that the road system in the estate and the effects on the wider transport network are acceptable. In the light of this specialist technical advice and in lieu of specific and evidenced information to the contrary, Planning Officers must conclude the scheme is acceptable in highways terms.

87. Environmental Health Officers have also identified that there is the potential of highways conflicts during the construction period and included within their suggested Construction Management Plan condition that construction traffic 'routing agreements' and operation be agreed.

Affordable Housing

88. The application describes that, *'the proposed development proposes the construction of 30 no. new homes on land south of Chester Burn Close, Pelton Fell, with 53% of those being affordable housing (16 properties), with the remaining properties being available on a rent to buy product. Karbon Homes will be the Registered Provider, upon completion. Karbon Homes will maintain ownership of the affordable properties and will be responsible for the continued maintenance and management of the site'*.
89. Pre-submission discussions indicated that the settlement is in a Medium viability area and that therefore 15% (4.5 dwellings) are required by Council policy to be a form of affordable dwelling.
90. Objectors claim an oversupply of affordable dwellings in the area on the basis of the application for 165 dwellings in the immediate vicinity. It should be noted that whilst that application has been 'minded to be approved' by the Strategic Committee, as the s.106 legal agreement has not yet been signed, that consent is not yet in place. There is however no reason to suggest that consent will not be issued.
91. There is a requirement for all major housing schemes to include a proportion of affordable housing and providing there is a good mix of dwellings in an area there is no upper threshold for such. There is a presumption in favour of all sustainable development and a Government imperative to supply housing. These provisions by the scheme bring compliance with the NPPF and the presumption of a favourable decision unless other issues are shown to demonstrably outweigh the benefits.
92. The applicants, Karbon, are a registered Social Landlord whose function is to supply affordable housing. The scheme provides different types of affordable, some meeting the definitions of such in the NPPF, and some not. The actual oversupply proposed by the application is that over and above the 15% policy requirement. The legal agreement required to secure the affordable housing can only be imposed as far as it meets the 15% Policy requirement. Planning Officers advise that the additional affordable units do bring a degree of positive material weight to the Planning Balance, but this is significantly reduced by the fact that they will not be legally secured.

Other Issues

93. With the amount of development being reduced by 50% since pre-submission discussions, the density of development has reduced allowing for significant buffers and open space within the site and opportunities for ecological provision. This has allowed for criticism of the earlier iteration to be overcome in landscape impact terms, and also benefits residential amenity relationships.
94. The scale and character of the development is considered appropriate, as is the materials palette, which design Officers not matches adjacent parts of the estate. The three-storey element of the design is contentious to some correspondents in terms of both scale and residential amenity impact.
95. The three storey buildings proposed are a standard feature on many new residential estates, often referred to as 'town-houses'. Providing they do not introduce unacceptable amenity relationships, there is no reason why they should be regarded as inappropriate. As a modern residential development adjacent modern and post-war housing developments the proposals are considered compliant with Policy HP9 in terms of scale and character.

96. In residential amenity terms, there is a separation distance of 26m between the rear of the nearest existing dwelling in Littleburn Way – number 6 and the detached garage of plot 30. The proposed dwelling on plot 30 is a type 8b, a 3 storey semi detached dwelling. The distance between the gable of this unit and 6 Littleburn Way is 30.5m. The guidance in the development plan suggests an appropriate distance between a rear elevation facing either a garage or a two-storey dwelling is 12.5m. With both described relationships exceeding the suggested norm by over 100%, there is no defensible position for upholding this element of the objections. Whilst the outlook of the facing properties will be affected, there will be no loss of light and no unreasonable effect on existing or new residents' privacy or amenity.
97. A number of residents on the site boundary claim they were given assurances when they bought their homes that the site would not be developed. Any such assurances are not defensible and should be taken up with whoever offered them.
98. The reduction in density and inclusion of areas of open space and planting within the development also has benefits to the ecological mitigation that the developer must undertake to ensure the scheme does not result in a net biodiversity loss, as required by the NPPF. The developer has discussed the need for off-site mitigation with the County Ecologist and a sum that must be provided as calculated through the Council's biodiversity calculator to offset both the direct impact on the site and the additional pressure that the new residents would bring to the surrounding natural environment.
99. Spatial Policy Officers have assessed the open space implications of the development, acknowledging that there is provision of such within the site, reducing the amount of compensation required for off-site provision. They calculate that the off-site provision required equates to a payment of £47,223 that must be secured with any approval. This is considered reasonable and necessary to ensure development is acceptable, meeting the tests for planning obligations set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
100. The late objection from the CPRE sets out a range of concerns, some reflecting those of residents, but also raising the principle of the extension into the countryside. However, the use settlement boundaries are out of date as a planning tool, discouraged by the NPPF. The assessment of this application has included whether the location is 'sustainable' for the proposed residential use, and whether the land involved is protected, acknowledging the intrinsic value of the countryside. It has been concluded that at present the site may in principle be suitable for residential development. That the proposals may be contrary to proposed future County Plan policies is premature, that document having no material weight at present. Likewise, the Council's healthy housing land supply is not a reason to refuse development in acceptable locations, but it does help resist development on inappropriate sites. The relationship to the nature reserve has been assessed by the County Ecologist, with both on and off-site mitigation proposed to ensure a net-biodiversity gain.
101. Drainage Officers have confirmed that they will expect the surface water drainage element of the scheme to be addressed properly through the Sustainable Drainage Hierarchy. Drainage Officers have advised that this issue is capable of resolution by condition but must represent best SuDS practice. Northumbrian Water are happy to accept the proposals subject to a condition to ensure defined flows and connections are as described.
102. The Coal Authority have confirmed there are no implications from the historic coal mining legacy on this site. As the new use of the land is to a 'more sensitive receptor', standard conditions are required to ensure any land contamination on the site will be properly treated.

103. Any archaeological value the site may hold can be investigated through standard conditions suggested by the County Ecologist.
104. Air Quality Officers are happy with the information submitted and do not require further information or safeguards.
105. There is a divergence of opinion in the public consultation response as to whether there is an issue with crime and anti-social behaviour existing in the area. Some correspondents equate the provision of affordable housing to an inevitable increase in anti-social behaviour. To achieve material weight in a planning determination the fear of crime must be evidenced and specific.
106. The Framework sets out at paragraph 127 that planning policies and decisions should 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'. Paragraph 91 advises that, 'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: ...are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion'.
107. Planning Inspectors (Appeal Ref: APP/X1355/A/14/2219717) have set out the required test: *'the courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern. It is not a foregone conclusion that the use of the land as (in that instance) a care home in the manner proposed would inevitably result in an increase in crime, and the fear and concern must therefore be supported by evidence'*. No such evidence has been provided to support residents' concerns that the residential development proposed here would result in an increase in crime.
108. Positive material weight is given in the consideration of the application by Officers to the economic activity that will be generated by the scheme, both in the construction period, and through the lifetime of the development, as described in the Applicant's Statement, above.
109. One resident, who's property is 85m from the site entrance complains at the potential devaluation of their house, affecting their standard of living and financial prospects. This is not evidenced and is not a material planning consideration.
110. It is noted that Officers would usually be asking for footpath links to and from new developments to help integrate it into the existing environment. In this case it was established pre-submission that the footpath Officer opposed such connections to the adjacent railway path given the engineering that would be required to join with that link, sunk as it is, in a cutting. Ecologists supported this request as reducing the effect on wildlife.
111. Environmental Health Officers have suggested conditions for working hours and a Construction Management Plan that will help mitigate to development process for local residents, albeit it is acknowledged that there will always be disruption and inconvenience associated with developments of this type. Imposition of such a condition should help ensure the potential for a statutory nuisance is significantly reduced.

The Tilted Balance

112. The policies most important for determining the application in the Development Plan are out-of-date and as a consequence, the 'tilted balance' addressed by paragraph 11 of the Framework and the presumption in favour of sustainable development is engaged.
113. The application site is considered a sustainable location. The application proposes housing, including the required affordable element. These are all significant benefits of the scheme. The affordable housing element supplied in addition to that meeting the Policy requirement is a positive benefit, but unsecured by legal agreement this is not significant. Economic benefits have been referred to in the report and are of positive weight in the balance
114. Objectors point to the highways difficulties within the estate and claim wider issues. Following Highways Officer's advice, Planning Officers acknowledge these, but have no basis to formally support them.
115. Officers consider the tilted balance is in favour of the development, with the positives of the contribution to housing supply not outweighed by the objectors' principle concerns relating to highway safety and ecology.

CONCLUSION

116. The site is greenfield land on the edge of Pelton Fell adjacent to a recent modern housing development on the site of Whitehill Farm. The housing related Policies in the Development Plan are those most important for dealing with the application but are out of date leading determination to the NPPF. This gives a presumption in favour of sustainable residential development.
117. The main areas of contention relate to highways concerns and Ecology.
118. Residents' concerns for highways are not shared by the County Highways Engineer, who through pre-submission discussions set the level of additional development the existing road network could accommodate. Whilst the roads within the estate are busy and at points restricted by their use by existing residents, no quantified reasons have been presented that would have such weight that they would outweigh the benefits of the scheme.
119. There are elements of the proposals that can be mitigated or made acceptable through contributions by the developer in a legal agreement – i.e. an Open Space / Play space contribution of £47,223, and an Ecology contribution of £9,401. These issues are neutral, and are required to make the proposal acceptable only, being directly proportionate to their impacts.
120. Conditions can address technical implications and ensure an acceptable for of development and detail for issues including foul and surface water disposal, contamination, archaeology and landscaping. Pre-commencement type conditions are only proposed where the nature of the issue requires agreement in advance of site works.

RECOMMENDATION

121. That the application be APPROVED, subject to the applicant entering into a legal agreement to secure:
- 15% affordable houses (5 units) within the scheme
 - A contribution to secure ecological mitigation of £9,401
 - A contribution to secure open/ play space mitigation of £47,223

And the conditions detailed below:

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 approved plans listed in Part 3 - Approved Plans.
Note: the plans list is still in preparation as minor amendments for the Highways layout are incorporated into the design
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies NE2, NE8, HP9, HP13, HP15, RL5, T8 and T15 of the Chester-le-Street Local Plan 2003 (saved policies).
3. Contaminated Land (Phase 3) - No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 3 remediation strategy, which shall include the proposed gas protection measures and method of verification.
Reason: To ensure that the presence of contamination is identified, risk assessed, and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.
4. Contaminated Land (Phase 4) - Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.
5. The Development must be implemented in full accordance with the "Flood Risk Assessment and Drainage Strategy", ref: N18132C, dated "December 2018" in order to meet Surface Water Drainage requirements.
Reason: To prevent the increased risk of flooding from any sources in accordance with part 14 of the NPPF.

6. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled "Flood Risk Assessment and Drainage Strategy", ref: N18132C, dated "December 2018". The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 1201 and ensure that surface water discharges to the surface water sewer downstream of manhole 2312. The surface water discharge rate shall not exceed the available capacity of 7.0l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

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

7. No development shall take place until the applicant has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been approved in writing by the Local Planning Authority. The must include:

- i), the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area by means of trial trench evaluation to inform future phases of archaeological work;

- ii), an assessment of the impact of the proposed development on any archaeological remains identified in the evaluation phase;

- iii), proposals for a mitigation strategy for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible, should features be identified in the trenching phase (i);

- iv), sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and

- v), notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

The development shall then be carried out in full accordance with the approved details.

Reason: To comply with paragraphs 197 and 199 of the NPPF because the site is of archaeological interest.

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

Reason: To comply with paragraph 199 of the NPPF which ensures information gathered becomes publicly accessible.

9. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 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: In the interests of residential amenity and paragraph 180 of the NPPF.

10. Prior to the commencement of any part of the development or any works of demolition, hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 1. A 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.
 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 contractors' 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: In the interest of residential amenity site as required by part 15 of the NPPF.

11. Protective tree fencing must be erected prior to any construction, fencing must comply with BS 5837 2012 as outlined within the arboricultural report section 5 and Plan AIA-TTP.

Reason: In the interest of bio-diversity and ecological interests on the site as required by part 15 of the NPPF.

12. Notwithstanding the submitted information on plan R/2188/1D, prior to the first occupation of the development hereby approved, a more detailed version of the landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. This enhanced landscape scheme shall include the following:

- Any trees, hedges and shrubs scheduled for retention, including method of protection
- Details soft landscaping including planting species, sizes, layout, densities, numbers;
- Details of planting procedures and/or specification.
- Finished topsoil levels and depths.

- Details of temporary topsoil and subsoil storage provision.
- The timeframe for implementation of the landscaping scheme.
- The establishment of a maintenance regime, including the replacement of vegetation which die, fail to flourish within a period of 5 years from planting.
- A plan showing the public/structural landscaping and private/in-curtilage landscaping.
- Full details of the management, maintenance and accessibility of all areas of open space in perpetuity. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity.

The approved landscaping scheme shall thereafter be undertaken in accordance with the approved details and timeframes.

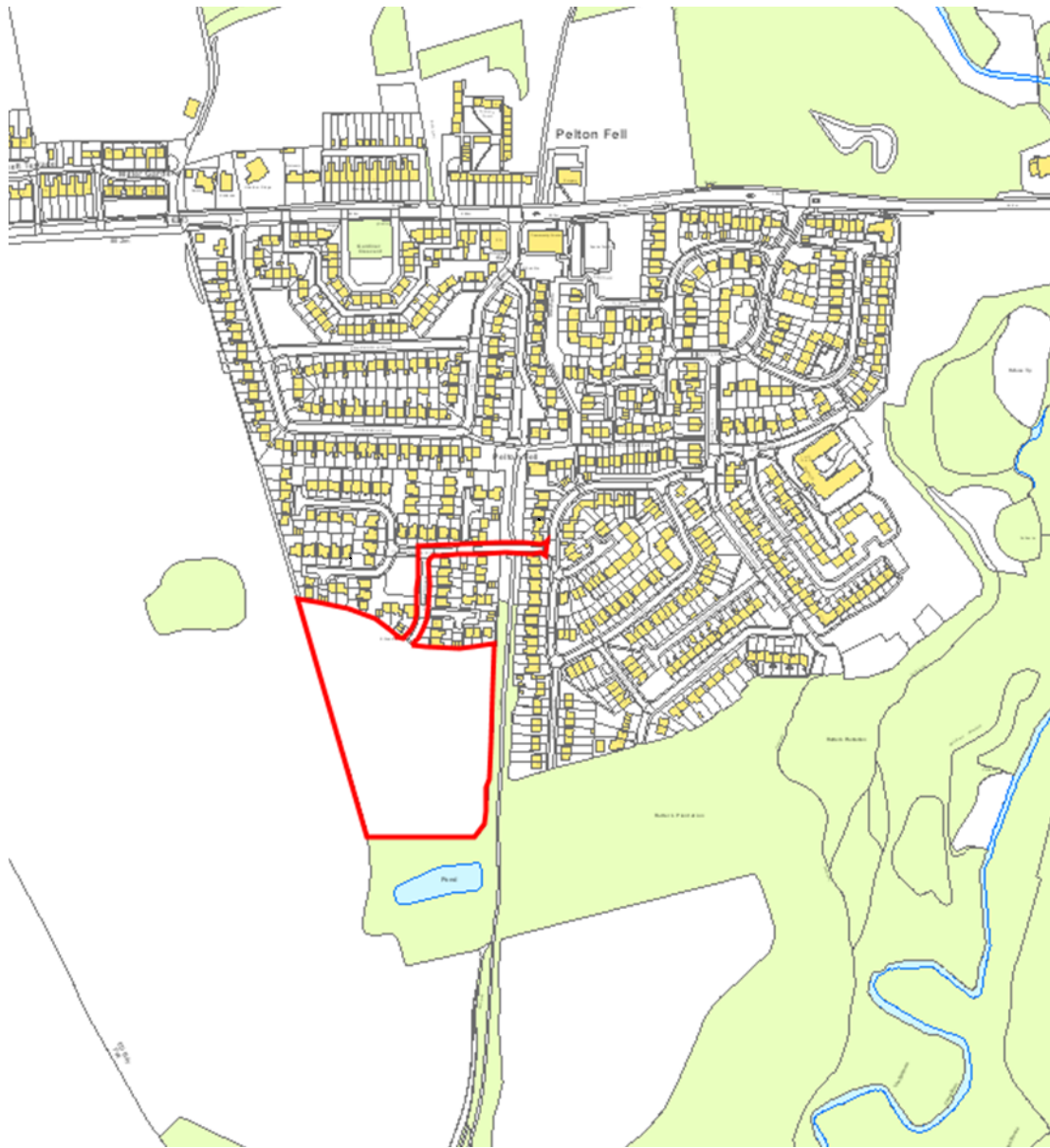
Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester-le-Street District Local Plan 2003 (saved policies) and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

The National Planning Policy Framework (revised 2018)
National Planning Practice Guidance Notes
Chester-le-Street District Local Plan 2003 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

Residential development of 30no dwellings and associated infrastructure.
Application DM/19/01108/FPA

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Comments

Date 25th July 2019

Scale NTS