

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/18/02982/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline planning application for the erection of up to 210 dwellings including public open space, landscaping and SuDS. All matters reserved except for means of access.
<b>NAME OF APPLICANT:</b>	Gladman Developments Ltd
<b>ADDRESS:</b>	Land To The South Of Cockhouse Lane, Ushaw Moor, DH7 7PN
<b>ELECTORAL DIVISION:</b>	Brandon And Byshottles
<b>CASE OFFICER:</b>	Graham Blakey, Senior Planning Officer, 03000 264865 <a href="mailto:graham.blakey@durham.gov.uk">graham.blakey@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site consists of an irregularly shaped parcel of land located to the western edge of Ushaw Moor. The site extends to approximately 8.59 hectares (ha) in area and comprises two agricultural fields separated by a mature hedgeline. There is a level change across the site, with the land falling approximately 30m in a south easterly direction. The site is bound by the highway, Cockhouse Lane (B6302) to the north, beyond which lies residential dwellings. Agricultural fields are located to the west, to the east the site is bounded by allotment gardens and residential dwellings lining Station Road. An existing field access to the north east is taken off an unadopted highway to the rear of Station road and a field gate off Cockhouse Lane provides vehicular access to the site.
2. The Site is located immediately to the north of the Deerness Valley Local Wildlife Site (LWS) which forms the southern boundary of the application site and which contains the Deerness Valley Railway Path, a recreational route running from Durham to Esh Winning and beyond. The LWS is dominated by mature woodland to the steepening valley slopes down to the River Deerness.

### The Proposal

3. This planning application seeks outline planning permission for the erection of up to 210 dwellings including the provision of public open space, landscaping and SuDS and a new vehicular access onto Cockhouse Lane. All other matters remained

reserved. An illustrative development 'Framework Plan' has been submitted which sets out that the dwellings would be arranged around a series of cul-de-sacs taken off a main distributor road. It is indicated that a network of Sustainable Drainage features would be provided to the south of the site along with areas of formal play. It is indicated that the existing hedgerow which runs through the site would be retained whilst areas of structural planting would be planted to the western and eastern site boundary.

4. 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.

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## **PLANNING HISTORY**

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

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

6. 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.
7. 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.
8. *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.
9. *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.
10. *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.

11. *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.
12. *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.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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.
18. *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.

19. 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:**

### City of Durham Local Plan (2004) (CDLP)

20. *Policy E7 - Development in the Countryside* - advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
21. *Policy E10 – Areas of Landscape Value* – States that development which would have an unacceptable adverse impact upon areas of high landscape value will be resisted and requiring that development respects the landscape it is situated within.
22. *Policy E14 - Trees and Hedgerows* - sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
23. *Policy E15 - Provision of New Trees and Hedgerows* - states that the Council will encourage tree and hedgerow planting.
24. *Policy E16 - Protection and Promotion of Nature Conservation* - is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
25. *Policy E18 – Site of Nature Conservation Importance* – The Council will seek to safeguard sites of nature conservation importance unless the benefits from the development outweigh the nature conservation interests of the site, there are no alternatives sites and measures are undertaken to minimise adverse effect associated with the scheme and reasonable effort is made by appropriate habitat creation or enhancement to compensate for damage.
26. *Policy E23 - Listed Buildings* - states that the Council will seek to safeguard listed buildings and their setting.

27. *Policy E24 - Ancient Monuments and Archaeological Remains* - states that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ.
28. *Policy H5 – New Housing in the Countryside* - In the countryside new housing development will be permitted only when it is; required by persons employed in agriculture or forestry where there is a functional need and the enterprise is financially viable, the size is commensurate with the established functional need; adequate provision cannot be made within the settlement/existing buildings and it respects the character of its landscape setting.
29. *Policy H12 – Affordable Housing* – states that on sites of 25 or more dwellings or 1ha or more in size a fair and reasonable proportion of affordable housing will be provided.
30. *Policy H12A – Type and Size of Housing* – States that the type and size of dwellings will be monitored and where appropriate negotiation will take place with developers to provide the right housing types and sizes to ensure balance.
31. *Policy H13 - Residential Areas – Impact upon Character and Amenity*) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
32. *Policy T1 - Traffic – General* - states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
33. *Policy T10 - Parking – General Provision* - states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
34. *Policy T20 – Cycle Facilities* - Sets out a requirement to encourage the provision of facilities for parking cycles in the city centre and at other appropriate locations.
35. *Policy T21 – Walkers Needs* – States that existing footpaths and public rights of way should be protected.
36. *Policy R2 – Recreational and Amenity Space in New Residential Developments* – States that provision for open space for outdoor recreation is evenly distributed to meet the needs of the population, and is suitably maintained.
37. *Policy R11 - Public Rights of Way and Other Paths* - states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless, a suitable alternative route is provided.
38. *Policy Q1 - General Principles – Designing for People* - states that the layout and design of all new development should take into account the requirements of users. It will be expected to incorporate the following as appropriate personal safety and crime prevention, the access needs of people with disabilities, the elderly and those with children.
39. *Policy Q2 - General Principles – Designing for Accessibility* - states that the layout and design of all new development should take into account the requirements of users. It will be expected to embody the principle of sustainability and to incorporate the following as appropriate.

40. *Policy Q4 – Pedestrian Areas* - Requires that pedestrian area should be laid out and designed with good quality materials in a manner which reflect the street scene.
41. *Policy Q5 - Landscaping General Provision* - sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
42. *Policy Q6 – Landscaping - Structural Landscaping* – new development located on the outer edge of settlements or exposed sites will be required to include peripheral structural landscaping within the site in order to minimise any adverse visual impact of the proposal.
43. *Policy Q8 - Layout and Design – Residential Development* - sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
44. *Policy Q15 – Art in Design* – Encourages the provision of artistic elements within new development.
45. *Policy U5 – Pollution Prevention – General* – new development should not lead to an adverse impact upon the quality of the local environment and the amenity of nearby land and property.
46. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution* - Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
47. *Policy U8a - Disposal of Foul and Surface Water* - requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
48. *Policy U10 – Natural Flood Plains* – Developments should not be permitted in flood risk areas or where they increase the risk of flooding elsewhere without mitigation.
49. *Policy U11 - Development on Contaminated Land* - sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
50. *Policy U13 - Development on Unstable Land* – This policy states that development will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.

**RELEVANT EMERGING POLICY:**

The County Durham Plan

51. 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 27 June 2019. A timetable for the Examination in Public (EiP) of the CDP has been devised with the Hearings set to commence in October 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 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>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

52. *Highways Authority* – Traffic generation from the development and its impact on the A690 and A167 between Ushaw Moor and Durham City will lead to increased queuing and delay to these key links with limited impacts upon local junctions. These junctions to the A690 and A167 are considered to already be saturated and therefore require mitigation. Traffic growth through these junctions would have exponential effects which mean small increases in volume can result in a substantial increase in queuing and delay. This will inevitably result in temporal changes in traffic flow, increasing the length of the peak traffic beyond the typical hour. Road users will furthermore seek alternative routes, increasing the geographical spread of traffic and rat running. Public transport operators will see increased costs as a result of unreliable and increased journey times.
53. A transport assessment has been produced by the applicant's consultant in which it sets out trip rates, distribution and impacts. The assessment confirms that the local junctions around the application site would have capacity within Ushaw Moor, but that the junctions at the A690 and A167 are saturated. Trip levels for traffic towards the A167 east of the site are considered to be underrepresented within the assessment, therefore under representing the impact upon those saturated junctions.
54. Provision of the Western Relief Road is considered by the assessment to provide the mitigation to increase capacity in the junctions considered saturated, this is agreed by the Highways Authority and serves to demonstrate that impacts from this development would be significant.
55. The assessment concludes that whist impacts upon the A690 and A167 will not be severe. The Highway Authority disagree with this conclusion and consider that the exponential effect of increased queuing and delay to the A690 and A167 junctions would result in a severe cumulative impact upon highway safety and should this application should be refused.
56. The proposals include details of access, which is proposed to be taken from the B6302 (Cockhouse Lane) to the north boundary of the application site. The applicant outlines that observed vehicle speeds are 34mph (85<sup>th</sup> percentile), however the Highway Authority have undertaken their own survey which found vehicle speeds to be 43mph (85<sup>th</sup> percentile). The proposed standard T-junction arrangements with 43 metres visibility would be unsuitable for the observed vehicle speeds on a road with high levels of HGV traffic, whereby a protected right-hand turn arrangement with pedestrian refuge islands would be required on highway safety grounds.

57. *Drainage and Coastal Protection* – Advise a conditional approach to deal with the proposed methods of attenuation of surface water from the site through SUDS, subject to a condition to agree the final design, maintenance regime and subsequent delivery of the scheme prior to submission of any reserved matters application. The greenfield run-off rate for the site should be 4.6 litres per second.
58. *The Coal Authority* – Raise no objection subject to the imposition of a condition requiring confirmatory site investigation works of past coal mining activity to the site.

#### **INTERNAL CONSULTEE RESPONSES:**

59. *Spatial Policy* – Advise that CDLP Policies E7, alongside housing policy H5, 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 whether there are policies in the Framework which provide a clear reason for refusal. Footnote 6 identifies specific policies of restriction (in principle) in the Framework.
60. Should this test be passed, the second criteria under 11d 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 E7 and H5 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.
61. 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. If the scheme provides affordable and specialist dwellings, these could also be added into the benefit column.
62. *Landscape* – An amended indicative layout now includes a more generous structure planting and open space allocation to western and northern boundaries respectively, which together with green linear corridors that better appreciate the gradients of the site however retaining walls are still expected to be common and necessary.
63. The Landscape Visual Assessment included with the submission concludes that the site and wider area are of a ‘medium quality, sensitivity and value’. Cockhouse Lane is characterised by built development on its northern side only in the transition from settlement to countryside, with the gradient to the south offering a visual connection to the Deerness Valley from public and private viewpoints. Therefore, a development of this scale and visibility would be transformative in the immediate surrounds and to the settlement of Ushaw Moor.
64. Consequently, the proposals would have some significant adverse landscape and visual effects raising conflict with landscape related saved policies within the CDLP.
65. *Landscape (Arboricultural)* – Landscape Visual Assessment submitted with the application acknowledges that the site has several areas of mature hedgerow and tree

planting across the site. Any future detailed scheme should acknowledge these areas and be supported by appropriate survey work and reports.

66. *Ecology* – Submitted ecological assessment confirms that there will be a loss of habitat to the application site, whereby the applicant proposes a mixture of on-site and off-site mitigation. This would be taken in the form of a suitably designed landscaping and SuDs scheme and through the form of a contribution of £26,000 for off-site mitigation.
67. *Environmental Health and Consumer Protection (Air Quality)* – Development like this would give rise to emissions of particulate matter, against which there are short and long term air quality objectives and requirements to reduce exposure of these by the public. Management of dust at the construction phase is required by condition. At the operational phase, the development would not affect any Air Quality Management Area (AQMA), therefore the test for a development of this nature would be to assess whether levels of pollutants generated would result in the air quality objective being exceeded.
68. A quantitative assessment of the impact of the proposed development has been undertaken to the surrounding area of the site and the nearby congested Neville's Cross junction, and has been undertaken in accordance with the Technical Guidance (TG16) Local Air Quality Management that covers the modelling of congestion and the queuing of traffic. Based upon the traffic movement data used to model the air quality impacts at the junction and roads leading up to the junction, the impacts are considered to be negligible in respect to the annual mean air quality objective.
69. *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.
70. *Environmental Health and Consumer Protection (Pollution Control)* – Advise that the submitted noise assessment has been carried out to appropriate methodologies, including outlining a package of potential mitigation measures for the new housing. Subject to a condition requiring details of the final mitigation measures linked to the final design of the proposed housing, no objections would be raised in respect to the operational phase of the development. A further condition requiring the submission of a construction and dust management plan should also be considered to ensure that impacts from the construction phase of the development are appropriately controlled.
71. *Access and Rights of Way* – While there are no recorded Public Rights of Way abutting or through the site, there is a series of informal pathways through woodland to the south (Deerness Valley LWS) and via an informal field access and track to the west of the application site. Provision of recreational routes to the Deerness Valley Railway Path to the south should be provided together with access to Station Road to the south east of the application site to promote walking and cycling activities. Financial contributions towards route improvements are requested.
72. *Parks and Countryside* – Increased numbers of households in proximity to the Deerness Valley Railway path will be significant and lead to an increased footfall through the railway path and associated habitat of the local wildlife site. Mitigation and improvements should be sought to ensure continued future enjoyment of the path and wildlife site.
73. *School Places and Admissions Manager* – Advise that a development of 210 houses could produce an additional 63 primary pupils and 25 additional secondary pupils. It is identified that based on projected school rolls, taking into account the likely implementation timeframe of the development there are sufficient secondary school

places to accommodate the development however a contribution of £926,289 would be required to provide the additional primary school spaces, to mitigate the impact of the development.

74. *Leisure Services* – A development of this scale will trigger a new play area as Ushaw Moor, already being a large community, have their existing play areas at their maximum capacity.
75. *Employability Section* – Request that targeted recruitment and training clauses are secured via a S106 agreement or planning condition.
76. *Sustainable Travel* – Most of the site is within 400 metres of a bus stop, with the exception of the lower, southern part of the site. Pedestrian links to Station Road would improve this significantly.
77. *Travel Plan Advisors* – Raises no objections, subject to the adherence of the Travel Plan dated January 2019
78. *Archaeology* – Potential for remains dating from the Roman through to medieval periods is thought to be low, however survey work supported where necessary by field investigations should be undertaken prior to reserved matters submission.
79. *Design and Conservation* – The site it is not well related to the existing built form and its development would have a significant adverse visual impact and it would be a disproportionately large addition to the settlement. Due to the topography, existing vegetation and plan form of the existing settlement, there is limited intervisibility between the site and designated heritage assets within 1km and therefore there will be no impact on the setting of designated or non-designated heritage assets.
80. *Affordable Housing* – Advises that there should be a minimum of 10% affordable homes be provided on site, in a 80:20 ratio of affordable rent to intermediate tenure.

#### **NON-STATUTORY RESPONSES:**

81. *Northumbrian Water* – Raises no objections. Development should be carried out in accordance with the submitted flood risk assessment and foul drainage analysis.
82. *NHS* – Local NHS services, including GP Surgeries, would be unable to assimilate the increased numbers patients the proposed development would likely generate, and as such a contribution towards improving facilities of £144,900 would be required by the development.
83. *Police Architectural Liaison Officer* – Advises that the crime risk assessment for this proposed development is moderate, with nuisance from off road vehicles being of particular concern. Road safety on the surrounding roads, in particular towards the A167 and its tributaries west, is a concern with records showing accidents to be mainly damage only. There is a general lack of youth provision in the village and surrounding area, in particular in respect to older children and teenagers.

#### **PUBLIC RESPONSES:**

84. The application has been publicised by way of press notice, site notice, and individual notification letters to neighbouring residents. In total thirteen representations from local residents were received objecting to the proposals highlighting concerns around the impact upon the local landscape and countryside, views of the Deerness Valley, a lack of need for new properties in Ushaw Moor, impacts upon air quality, volume of

traffic on the B6302, vehicular access from Cockhouse Lane, vehicle parking to the B6302 for residents, quality of roads and play areas in the village, insufficient support for doctors surgeries, capacity of local schools, flooding to lower Station Road private properties, and loss of agricultural land.

85. *CPRE* – Consider that the application is contrary to a number of policies of the CDLP. The development encroaches into the countryside beyond the established settlement lines of Ushaw Moor, not respecting the character of the countryside in this location. An Area of High Landscape borders the site to the south of the application site, that given the valley topography of the immediate site would see an impact upon the Area of High Landscape Value also.

**APPLICANTS STATEMENT:**

86. The 8.59 ha site lies adjacent to the existing residential development on the edge of Ushaw Moor, in the parish of Brandon and Byshottles. The settlement lies approximately 5.2km to the west of Durham, 20km south of Newcastle upon Tyne and 23km south west of Sunderland.
87. The following is relevant in terms of the site's suitability and sustainability for development:
- The site is well contained within the landscape and important trees and other landscape features are retained;
  - The local highway network has capacity to accommodate the additional traffic associated with the development, without adverse impact;
  - The site comprises land in agricultural and equine use, but its usefulness for agricultural purposes is limited and its loss would not be significant in NPPF2 terms;
  - The site has low ecological value on the basis of the evidence submitted with the application (Ecological Impact Appraisal prepared by CSA). The loss of habitat would therefore not be significant and mitigation and net biodiversity gains can be readily achieved;
  - The application site falls within the EA Flood Risk Zone 1 (i.e. land assessed as having a less than 1 in 1,000 annual probability, or <0.1% chance of flooding);
  - There are no designated heritage assets within or immediately adjacent to the site, and the development is not considered to affect the setting of any listed buildings.
88. In summary the application site presents an opportunity for the sustainable growth of Ushaw Moor:
- The land to which the development proposals relate is not of high environmental value.
  - The site is suitable for residential development in terms of its general location and characteristics.
  - There are opportunities through development to improve the environmental conditions of the area.
89. The following areas are considered key benefits arising in respect to the application: market housing, affordable housing, short term and long term economic benefits,

protecting and enhancing vitality and viability of local businesses, provide public open space and recreation, and bio-diversity benefits. This would be assessed against adverse impacts associated with the development of a greenfield site introducing urbanising effects, however the submitted supporting information confirms that the scheme can be delivered without unacceptable wider landscape and visual impacts. The scheme can therefore would not give rise to significant and demonstrable harm from the proposed scheme.

90. The NPPF policies on the delivery of sustainable housing development carry significant weight, and the delivery of the proposed development would support housing and economic development objectives and meet the aims and objectives of sustainable development, securing net gains across all three strands of sustainable development (economic, social and environmental).
91. There are no technical or environmental impacts that would significantly or demonstrably outweigh the substantial benefits of the proposal and specific policies of the Framework and Development Plan do not indicate that development should be restricted.
92. In accordance with paragraph 11 of the Framework, the development proposal clearly constitutes 'sustainable development'. Accordingly, it is clear there are significant material considerations which outweigh the statutory presumption in favour of the Durham Development Plan and the planning application should be approved.

*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/>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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93. 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, highway safety and access, landscape and visual impact, residential amenity and pollution, flooding and drainage, ecology, planning obligations and other issues.

### Principle of Development

94. 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 City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF.
95. The CDLP was adopted in 2004, 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).

96. CDLP Policy E7 (Development Outside of Settlement Boundaries) identifies the countryside as a finite resource setting out that many elements of the countryside such as landscape character, nature conservation and high-quality agricultural land are highly valued and worthy of their own protection. For this reason development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside settlement boundaries in the countryside may be considered acceptable, this includes development for change of uses, small infill housing or agricultural or compatible employment uses as permitted by Local Plan Policies. However, none of these exceptional circumstances apply to this proposal. Furthermore, none of the exceptional circumstances in which housing within the countryside is permissible under CDLP Policy H5 apply to the proposal. With the proposal seeking a large residential development outside of a settlement boundary, the proposal conflicts with Policies E7 and H5.
97. The NPPF does not prevent a local planning authority from defining settlement boundaries, however these would need to be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Although policy E7 is considered consistent with the NPPF, given the age of the evidence which informed, based on the development needs of the time, the policy is considered out of date. Whilst this does not mean that the policy should be disregarded or be given no weight, the weight that can be afforded to it is reduced. Similarly, policy H5 is considered out of date albeit, again weight can be attributed to the policy given its content is partially consistent with the NPPF.
98. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):
- 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
99. As set out above, it is considered that the saved policies within the CDLP, which provide a framework to assess the principle of the development of this site, are out of date. Therefore, it is considered that the policies which are most important for determining the application are out of date and the acceptability of the development must, therefore, be considered in the context of Paragraph 11(d) of the NPPF as set out above.

## Housing Land Supply

100. 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.
101. Within County Durham all the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Pre Submission Draft' County Durham Plan (CDP) was subject to consultation in January 2019 and was submitted for Examination in June 2019. The CDP sets out that housing need in County Durham is based on the minimum assessment of Local Housing Need adjusted for recent past delivery. The housing need for County Durham is, therefore, 1,308 dwellings per annum (dpa). At this time, the Council is able to demonstrate 6.37 years supply of deliverable housing land against this figure. The Council also has commitments of an additional supply beyond the deliverable 5-year supply period.
102. In a written representations appeal involving a site in Esh Winning, the Inspector took the view that housing supply had not been demonstrated by the Council in the terms of paragraph 74 of the NPPF. However, the Planning Inspectorate have subsequently confirmed that the Inspector misapplied Paragraph 74, as it was impossible for the Council to have 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.
103. The Government has also recently published its Housing Delivery Test (HDT) results alongside the publication of the update NPPF in February 2019. The HDT outcome for the Council indicates that housing delivery has been above the requirement over the last three years, which is evidence that delivery of housing on the ground is on track and exceeding our housing targets.
104. To summarise, the Council's position is that, in line with Paragraph 60 of NPPF and national planning guidance, the housing need in County Durham and, as set out in the emerging CDP, is 1,308 dpa and a supply of 6.37 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

105. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focusing significant development on 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.

106. 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 Ushaw Moor contains a number of services, and within the study was found to be ranked 37th in the County for access to services and facilities, on par with other settlements of similar size.
107. However, Ushaw Moor 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.
108. 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 considered at the upper end of what future residents could be expected to walk, taking into account topography and desirability of routes.
109. In this respect, it is noted that the central area of facilities within Ushaw Moor (to the Flass Inn staggered cross roads) contains a reasonable selection of convenience stores, pub, post office, church, primary school and community facilities. Wider services are spread along the B6302 east along Broom Lane. It can be accessed on foot via Cockhouse Lane which is a well-lit route from the application site entrance to the cross roads and along Broom Lane. This would be accessible by foot, cycle and bus with services from Cockhouse Lane bus stops. These stops see regular bus service to the centre of Durham (hourly) across 7 days a week. A similar service to Durham is also available from Station Road to the east of the application.
110. Fundamentally however, the bus stops to Cockhouse Lane are located at the top of a sloping application site which sees a drop of around 30 metres (100 feet) from Road to woodland near to Station Road. With no current access available to Station Road, this would put the southern part of the application site at a significant deterrent to accessing public transport. Access could be possible from the south east corner of the application site to Station Road through the creation of a new formalised link, however this would involve traversing part of the Deerness Valley Local Wildlife Site. The applicant is open to providing a link from the site and a contribution towards funding construction of the link should it be considered appropriate. In principle, it would open up the southern part of the proposed development to easier and therefore more appealing access to public transport, and so should be considered subject to any ecological and arboricultural impacts. This in principle view is supported by the Council's Sustainable Transport Team.
111. It is recognised that the site is located within reach of regular bus services to the City of Durham, however work to secure full access is needed. Topographic challenges cannot be played down and would act as a deterrent to any future occupier should no access to Station Road be found. Overall however, the location of the application site close to the village core of services and facilities, offering it some sustainable credentials that would see the proposal, subject to facilitating a pedestrian link at the south east corner of the site, considered to comply with the requirements of CDLP Policies Q1, Q2 and Q8 (consistent with the NPPF) and Paragraphs 103 and 110 of the NPPF. This should be considered in the wider context of the planning balance.

## Highway safety and access

112. CDLP contains various policies, in the form of T1, H13, Q1, Q2 and Q8 which seek to ensure that development does not prejudice highway safety, reduce congestion and protect amenity. These principles are aligned with advice at paragraphs 108 and 109 of the NPPF which amongst its advice requires that safe and suitable access should be achieved, and development should only be prevented or refused on highways grounds where unacceptable impacts on highway safety would occur or the residual cumulative impacts on the road network would be severe.
113. Paragraph 111 of the NPPF requires applications which propose significant amounts of traffic movements to be supported by a Transport Assessment (TA) enabling the projected impacts upon the surrounding highway network to be analysed. Concerns have been raised by local residents in respect to highway safety impacts and queuing traffic locally at more widely from the site.
114. It is proposed that the main vehicular access to the site would be taken from Cockhouse Lane to the northern boundary in the form of a standard priority T-junction with pedestrian access. In reviewing the proposals, the Highway Authority have requested that the proposed junction design feature a protected right turn arrangement; however, following discussions with applicant and their transport consultants a revised speed reduction scheme to the originally proposed T-junction has been tabled by the applicant instead. The package of measures proposed by the applicant include carriageway markings, narrowing and pedestrian refuge islands. These would stretch from South View to the east along to Valley View Farm in the west at the current 30mph speed limit extent.
115. The Highway Authority consider that there is a fundamental issue in classification of the road by the Applicant's Transport Consultants, in that the measured road speeds differ between 34mph at 85% of traffic observed by the Consultants versus the Highway Authority's 43mph observed speeds. The package of measures submitted by the Applicant are based upon the lower 34mph observed speeds and the assumption therefore that the road is 'residential' in nature. The Highway Authority disagree with this assumption as their higher observed vehicle speeds are representative of a 'local distributor road' as outlined in the Council's Residential Design Guide, which would require the provision of a protected right-hand turn arrangement for the proposed junction in accordance with relevant highway guidance (Design Manual for Roads and Bridges).
116. Therefore, it is considered that the proposed access arrangement is unsuitable for the observed vehicle speeds of 43mph (85<sup>th</sup> percentile) along Cockhouse Lane and would be contrary to the requirements of Policy T1 of the CDLP and Paragraph 108 (b) of the NPPF. This adverse impact needs to be weighed in the planning balance.
117. 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 not sound. It is widely accepted that the A167 at Neville's Cross and north towards the Toll House Road junction are both junctions which are operating at saturation, leading to queuing traffic in all directions from them at peak times (inc. A690 Neville's Cross Bank). Increases in traffic through these junctions would therefore have exponential effects, in that small increases in traffic volume can result in substantial increases in queuing and delays. Subsequently, the peak time in this area would change, increasing the length of peak traffic beyond the typical 'rush hour' as

well as road users seeking alternative routes, increasing geographical spread of traffic and 'rat running'. Furthermore public transport operators would see increased costs as a result of unreliable and increased journey times.

118. Provision of the proposed Western Relief Road is acknowledged within the applicant's report as providing mitigation to increase capacity in the junctions of the A167, which is agreed by the Highway Authority to show that the impacts from this development would be significant.
119. The Highway Authority consider that the Transport Assessment underrepresents the level of traffic which would head east from the application site towards the A167 and therefore the impacts upon the wider traffic network and saturated junctions. The assessment concludes that the whilst there are impacts upon the A690 and A167, these would not be considered severe. The Highway Authority disagree with the conclusions of the assessment and considered that the exponential effect of increased queuing and delay to the A690 and A167 junctions would result in a severe cumulative impact upon highway safety.
120. With regards to parking provision within the development this matter would be considered in detail at the reserved matters stage. CDLP Policy T10 relates to parking though is considered inconsistent with the content of the NPPF as the NPPF is considered to permit a more flexible approach to parking standards and furthermore the parking standards which have informed Policy T10 are out of date. As a result the Policy is attributed very limited weight in the decision making process.
121. Overall, it is considered that the development would have a severe impact on traffic flows and queuing to the A690 and A167 east of the application site, which would lead to an adverse impact on highway safety. This adverse impact would be severe contrary to Paragraphs 108 and 109 of the NPPF and Policies T1 and Q2 of the CDLP. This adverse impact needs to be weighed in the planning balance.

#### Landscape and Visual Impact

122. CDLP Policies Q4, Q5, and Q8 together require good quality, well landscaped developments appropriate in scale, form, density and materiality to their location. Policy E14 requires proposals that affect trees and hedgerows should retain of woodland or important groups of trees and hedgerows wherever possible and replace these where they are lost. Policy E15 encourages tree and hedgerow planting including on major sites and the urban fringe. Policy Q6 specifically refers to new development located to outer edges of settlements and a requirement to incorporate peripheral structural landscaping within the site in order to moderate adverse landscape visual impacts. Policy E7 refers to development in the countryside and the conflict with landscape character. Policy E10 relates partly to locally designated Areas of High Landscape Value (which the site is not within the bounds of) but also more generally requires that development respects the character of its landscape setting. These policies are each considered to be consistent with the NPPF. Paragraph 170 (b) also recognises the intrinsic character and beauty of the countryside whilst paragraph 127 (c) requires that development is sympathetic to its landscape setting.
123. The application site is 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 application was also supported by a Landscape Visual Impact Assessment (LVIA) which includes an analysis of the effects of the proposed homes upon the countryside to this area of Ushaw Moor. Within the report, the study concludes that the application site and the wider area are of "*medium quality, sensitivity and value*".

124. Along Cockhouse Lane, the dominant characteristic is the visual connection between the settlement and the countryside, whereby views along the Deerness Valley are plentiful from both public and private viewpoints. It is the view of the Landscape Officer that the effect of erecting up to 210 dwellings upon the landscape character of the immediate locality would be transformative and would be harmful in the local context. This highlights the impact of introducing new development into the application site and what it would have upon the countryside.
125. The site is particularly exposed from Cockhouse Lane to the northern boundary, and the Landscape Officer is concerned that the loss of 86 metres of hedgerow parallel to the road would be required to facilitate the development. The new landscape treatment for this area should be designed to be relevant to the transitional nature of the site between village and countryside, offering visual porosity. Revisions to the proposed site masterplan have increased the area of greenspace and structure planting to the Cockhouse Lane boundary, improving the appearance of the site from the main road and offering some of the visual connection to the countryside referred to above.
126. The southern boundary features the Deerness Valley Local Wildlife Site (LWS), which is the wooded lowest slopes of the River Deerness Valley surrounding the river. The eastern boundary features built development along Station Road, however the western boundary is open with an agricultural field boundary with sporadic hedging in part. The Landscape Officer noted the openness of the western boundary and the revised site masterplan has proposed structure planting to the western boundary in response. These are concessions seeded by the Landscape Officer, however the visual impact of introducing development into the countryside is what these structure planting areas are looking to mitigate and so conflict with CLDP Policies would remain evident.
127. In conclusion, having regards to the advice of the Council's Landscape Officer, the development would represent an encroachment into the surrounding countryside with harmful landscape impacts resulting in conflict with Policies E7, E10, Q5 and Q6 of the CDLP in this respect, and Paragraphs 170 and 127 of the NPPF, representing an adverse impact that will be weighed accordingly in the planning balance.

#### Residential Amenity / Pollution

128. CDLP Policy H13 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. CDLP Policy U5 states that planning permission will not be granted for development that may generate pollution that will have an unacceptably adverse impact upon the local environment, the amenity of nearby and adjoining land and property. Policy Q8 requires that adequate privacy and amenity is provided for each dwelling proposed within the development. These policies show consistency with Paragraphs 170 and 180 of the NPPF which includes the advice that existing and future users of development should have a high standard of amenity provided and new or existing development should be prevented from contributing towards or being adversely affected by unacceptable levels of air and noise pollution amongst other issues. Therefore, these CDLP Policies are considered consistent with the requirements of the NPPF in this regard. Concerns have been raised in respect to air pollution by local residents.
129. Air quality is a fundamental issue which is increasingly causing residents close to new developments concerns. The NPPF under Paragraph 180 provides protection against new developments causing impacts of pollution upon health and living conditions whilst Paragraph 181 advises more specifically in regards to air quality including that

opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management. The application is supported by an Air Quality Assessment which covers the immediate vicinity of the site, along the B6302 east and from the A690 Stonebridge Inn up to and around the Neville's Cross junction (A690/A167). None of these areas reside within an Air Quality Management Area (AQMA).

130. The assessment has been reviewed by the Council's Senior Air Quality officer who has confirmed that the methodology and scope of the report is appropriate. The assessment outlines that the proposed development would have negligible impacts upon the annual mean air quality objective across sensitive receptors, in particular those around the Neville's Cross junction.
131. Generally, the submitted site masterplan does set out that separation distances in excess of 21m between habitable room windows to existing dwellings surrounding can clearly be achieved, given the presence of public highways and back lanes to separate the site from existing dwellings. This would prevent any loss of amenity / overlooking in the first instance, but would be subject to further scrutiny of this matter and the overall internal site layout at the reserved matters stage. Furthermore, the indicative layout highlights that there is sufficient space to accommodate the proposed development, however full details of this would again be for examination at reserved matters.
132. A noise impact assessment has been submitted in support of the application, which considers the existing noise climate and impact on the development. It is concluded that the northern site boundary to be the area of highest noise generation, this being the road, and that mitigation would be required to homes in this area. The report proposes a standardised scheme of a mixture of acoustic ventilation and uprated glazing. Environmental Health and Consumer Protection (Pollution) Officers agree with the conclusions of the noise impact assessment and, subject to the imposition of a condition to secure a detailed scheme of mitigation prior to construction, offer no objections to the scheme in this respect.
133. It is noted that allotments are located in close proximity to the site and as a result there is some potential for some impacts upon the amenities of the future occupiers of the development but such impacts are not considered likely to be significant. It is also noted that existing properties are located adjacent to the allotments.
134. In order to limit the potential disturbance for existing and future residents during construction, Environmental Health and Consumer Protection Officers 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.
135. In relation to land contamination, the applicant has submitted a phase 1 desk top study and a site investigation and gas monitoring report which identifies that there is a low risk of contaminants being present on site. However, further site investigation work is recommended. 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 including site sampling in accordance with Policy U11 of the CDLP (consistent with the NPPF) and Part 15 of the NPPF.
136. In order to limit the potential disturbance for existing residents during construction, the Environmental Health and Consumer Protection Team recommend that a construction management plan be in place for all parts of the development to deal with construction

related impacts. The Environmental Health and Consumer Protection (Air Quality) Team advise in regard to the construction phase of the development that a dust action management plan be secured also. Both teams have considered that a conditional approach to providing a construction management plan prior to construction would be appropriate in this case.

137. Overall, the pollution impacts of the scheme would be considered to not adversely impact upon the nearest neighbouring properties nor those further afield and that the proposals would therefore be compliant with Policies H13, Q8, U5 and U11 of the CDLP and key Paragraphs 128, 170, 180 and 181 of the NPPF.

### Flooding and Drainage

138. Policy U8a of the CDLP sets out that new development provides satisfactory arrangements for disposing of foul and surface water discharges. This element of the policy is considered 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. Similarly Policy U10 relates to development and flood risk, seeking to ensure unacceptable flood risk issues to not result from development, again consistent with the content of the NPPF.
139. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low flood risk probability. Following amendments, the FRA also sets out that SuDs would be utilised with surface water attenuation included before being discharged at greenfield run-off rate in to the River Deerness.
140. In reviewing the submitted FRA and Drainage Strategy, Drainage and Coastal Protection Officers advise that the Council's 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. Whilst a detailed flood risk assessment has been submitted, which indicates the adoption of SuDs, the level of submitted detail does not comply with the Council's adopted policy for outline planning applications.
141. In considering these matters, and recognising the outline nature of the application, a final site layout could be developed to ensure that necessary SuDS features were incorporated into the layout of the homes, recognising that a final detailed design may impact on the quantum of development achievable.
142. In relation to foul water, it is proposed to connect to the existing sewerage network south of the application site, with Northumbrian Water raising no objection to this approach or in relation to the capacity of existing sewerage infrastructure.
143. Overall, flexibility afforded by the outline planning application would allow for future adherence to the Council's adopted SuDS guidelines and would result in a suitable scheme for surface water drainage that would discharge at the necessary rate into the River Deerness. Subsequently, subject to securing conditions to ensure greenfield run-off rate for surface water drainage and a foul water drainage scheme, it is considered that the application is compliant with Policies U8a and U10 of the CDLP and relevant paragraphs within Part 14 of the NPPF in this respect.

### Ecology

144. Paragraph 170 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. Policy E16 of the

CDLP supports protecting and enhancing nature conservation assets, designated or otherwise, and so is consistent with the NPPF as a result. The application site borders the Deerness Valley Local Wildlife Site (LWS) on its southern side, therefore affecting a likely close relationship between future residents and the protected area. Indeed, the Council's Ecology Officer has noted that direct and indirect impacts upon the LWS have been mitigated to a degree by the positioning of SuDs and landscaping along the southern area of the application site. CDLP Policy E18 relates to sites of nature conservation importance and seeks to minimise the impacts of development upon such sites and this policy is consistent with the NPPF.

145. A desire to improve connectivity for the southern part of the site with the Deerness Valley Walk and Station Road, could see a direct route through the LWS being provided. The Council's Ecology Officer has raised concerns over a direct link between the application site and the Deerness Valley Walk due to the impacts upon the LWS. However, a lesser scale impact would occur from a shorter link from the site on to Station Road which would allow access to both public transport and the Valley Walk beyond. The Ecology Officer has noted that this should be securely fenced to ensure against undesirable access in to the wider LWS. The LWS is in the ownership of the Council, therefore there is scope for an access route in principle, however further work would be required to ensure this could be achieved suitably from an ecological perspective. Therefore, a condition requiring detailed survey work and preferred route for access to Station Road should be attached to any permissions.
146. Impacts upon other species have been noted by the applicant in their submitted ecological impact assessment, particularly with regard to badgers and bats. Ecology have confirmed that while a badger survey is required prior to commencement of works, this would be sufficient to inform any layout requirements at the reserved matters stage. This can be ensured via condition. No impacts upon European Protected Species (EPS) which would necessitate a EPS licence from Natural England to be obtained relate.
147. The Ecology Officer considers, following submission of additional information, that the proposed scheme does not fully meet the requirements of the NPPF to provide net gains for biodiversity (Paragraph 170 (d)). The site masterplan does include provision for substantial amount of greenspace including SuDs, however this would still result in an overall net loss in biodiversity across the 9ha site. As a result, the Ecology Officer considers that should this not be met on site then a financial contribution to the Council should be made to allow the off-setting of the biodiversity loss to be undertaken nearby in the Council owned and maintained Deerness Valley LWS. On this basis, it would be considered that the development site would not result in an overall net loss in biodiversity and as such would adhere to Paragraph 170(d) of the NPPF subject to securing off-site contribution via planning obligation.
148. Subject to ensuring that impacts upon the LWS from any footpath connection being controlled by condition, and that the biodiversity lost to development would be mitigated off-site, the proposed development would be considered to comply with Policies E16 and E18 of the CDLP and Part 15 of the NPPF.

#### Planning Obligations

149. Paragraph 62 of the NPPF sets out that, where a need has been established, an appropriate level of affordable housing should be provided and supports CDLP policy H12 albeit the evidence based which supported this policy is now outdated. Similarly policy H12a advises on the type of house types within a development. 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. Affordable Housing have provided advice that 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).

150. The site falls within a low viability area, this means that 10% of properties on the scheme would need to be affordable, this equates to 21 units if the site delivered 210 dwellings. Notwithstanding the advice contained within the SHMA, Paragraph 64 of the NPPF directs that 10% of the scheme is provided in the form of affordable home ownership. In this instance given the affordable housing requirement is 10% then there would be no requirement to provide any affordable rented housing. The affordable housing provision would be secured via a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).
151. The applicant has indicated that the 10% level of provision would be delivered.
152. CDLP Policy R2 seeks to ensure adequate recreational and amenity space in new residential developments. This Policy is considered partially NPPF compliant, as whilst the objectives of the policy remain in conformity, the standards have since been updated through the Open Space Needs Assessment (OSNA) 2018. Therefore, whilst the general thrust of Policy R2 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.
153. The OSNA sets out the requirements for public open space on a population pro rata basis. For a development of 210 houses this equates to 0.42 ha of allotment space, 0.65ha parks and recreation typologies, 0.021ha of child and youth play space and 0.69ha of amenity/natural green space. The OSNA sets out that these typologies should normally be provided on site and provides a bench-marked cost of £765,072 with the addition of maintenance.
154. The framework masterplan sets out that provision would be made for areas of public open space, including green corridor down through the site, equipped play areas with proposed recreation routes around the site and adjacent to the SuDs areas. Although the total provision would exceed the minimum targets sets out in the OSNA the masterplan would not make provision for all typologies. It is considered, however, that this matter could be dealt with by condition or through a S106 legal agreement to make adequate provision in the undeveloped areas of the site.
155. Parks and Countryside Team, who manage the Deerness Valley Railway Path (DVRP) have cited increased footfall upon the DVRP as leading to increased wear upon the DVRP and the surrounding LWS woodland, and as a result mitigation measures should be sought to ensure continued use and enjoyment of the DVRP and LWS. Mitigation is requested by the Parks and Countryside Team to manage the impacts of the development upon the DVRP and LWS in the form of a £100,000 financial contribution to allow the service to deliver this mitigation in the areas where it is needed. Access and Rights of Way similarly request that a financial contribution be made towards improvements of public rights of way. Officers consider that the cited contribution towards the DVRP would be appropriate.
156. The School Places and Admissions Manager advises that a development of 210 houses could produce an additional 63 primary pupils and 26 additional secondary pupils. It is identified that based on projected school rolls, taking into account the likely

implementation timeframe of the development there are sufficient secondary school places to accommodate the development. However, a contribution of £926,289 would be required to provide the additional 63 primary school spaces, to mitigate the impact of the development.

157. The NHS have commented upon the application to inform that the local primary care services are under pressure and that this new development would increase patient numbers. A financial contribution of £144,900 is requested to help provide additional consulting space for anticipated increase in patient numbers.
158. The Council's Employability Officer requests that targeted recruitment and training clauses are included within a S106 planning obligation or via condition in the event of approval in accordance with Part 1 of the NPPF. The applicant has expressed a willingness to enter into such an agreement. This must be viewed as a voluntary arrangement.

#### Other Issues

159. The Coal Authority have raised no objections having regards to coal mining legacy issues subject to condition requiring investigatory works. The proposals are considered compliant with CDLP Policy U13 in this regard (consistent with the NPPF).
160. The Deerness Valley Railway Path (DVRP) lies to the south of the application site across the River Deerness and the LWS woodland that lines the river banks in this location. The PROW Team have confirmed that informal pathways through the woodland to the river and the DVRP are present and would like to see improvements to these paths, however this would need to be set against the ecological impacts upon the LWS.
161. The Council's Archaeological Team have confirmed that the previously undeveloped nature of the site has through an initial desk top survey highlighted the potential for remains dating from the Roman through to medieval periods is thought to be low, however further survey work supported where necessary by field investigations should be undertaken and this can be resolved via the reserved matters/under condition.
162. CDLP Policy Q15 encourages the provision of artistic elements within the design and layout of proposed development. The indicative layout supporting the outline application would allow for potential for elements to be incorporated in to the detailed design for determination at the reserved matters stage.
163. Due to the topography, existing vegetation and plan form of Ushaw Moor, there is limited intervisibility between the site and designated heritage assets within 1km (a range of aforementioned listed buildings) and non-designated heritage assets and therefore there will be no impact on the setting of said designated or non-designated heritage assets with no conflict with key CDLP Policy E23 in this regard (partially consistent with the NPPF) and advice within Part 16 of the NPPF. In turn there is no conflict with the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard must be paid to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
164. Public comments reference the loss of agricultural land. The incursion of the development into the countryside is discussed elsewhere in this report in general terms. The application site does not constitute best and most versatile agricultural land which the NPPF advises the benefits of should be taken into account.

## Planning Balance

165. The acceptability of the development should be considered in the context of Paragraph 11(d) of the NPPF as policies most important to determining the application within the CDLP are out of date. Furthermore, there are no NPPF policies that protect areas or assets of particular importance which provide a clear reason to refuse the application and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

### *Benefits*

166. The development would assist in maintaining housing land supply however this at a time when the Council can demonstrate in excess of 6 years of deliverable housing land supply against an objectively assessed need. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced particularly taking into account the outline nature of the application and uncertainties over deliverability. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced.
167. 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.
168. The development would provide an increased range of house types including 10% affordable housing units which would meet an identified short fall within the County.

### *Adverse Impacts*

169. The proposed development would contribute to further queuing and delay upon the saturated highway junctions around the A167 and A690 east of the application site with an unacceptable impact upon highway safety.
170. The proposed vehicular access on to Cockhouse Lane is considered to not meet the design requirements for the observed vehicle speeds of the road and so would be considered to have an adverse impact upon highway safety.
171. The proposed development would represent an encroachment into the surrounding countryside, which would not be sensitively related to the existing settlement pattern and would not respect the existing natural and landscape features resulting in adverse harm to the character of the local landscape.

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## **CONCLUSION**

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172. As a consequence of policies within the CDLP most important to the determination of the application being out of date consideration needs to be given to the balance set out in paragraph 11(d) of the NPPF.
173. Paragraph 109 of the NPPF does not permit development where residual cumulative impacts upon the road network would be severe. The Highway Authority consider this to be the case in respect to the A690/A167 Neville's Cross Junction and Neville's

Cross Bank and with the applicant unable to satisfactorily demonstrate that the development would not have a severe impact upon the highway network, this represents a significant impact contrary to Policy T1 of the CDLP and Paragraph 109 of the NPPF.

174. Furthermore, the proposed vehicular access from Cockhouse Lane is considered by the Highway Authority to be unsafe, contrary to Policy T1 of the CDLP and Paragraph 108 (b) of the NPPF.
175. The development also would represent an encroachment into the surrounding countryside, having regard to the advice of the Council's Landscape Officer, resulting in conflict with Policies Q5, Q6, E10 and E7 of the CDLP in this respect, and Paragraphs 170 and 127 of the NPPF.
176. In this instance there are no policies in the NPPF that protect areas or assets of particular importance that provide a clear reason for refusing the application.
177. Overall on balance, in this instance the above adverse impacts are considered to significantly and demonstrably outweigh the benefits associated with the development.
178. 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.

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## **RECOMMENDATION**

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

1. The Local Planning Authority considers that the proposed development would result in levels of traffic that would contribute towards already saturated junctions on the A167 and A690 at peak times and would thereby lead to severe impacts upon the transport network in the form of exacerbated delays contrary to Policy T1 of the City of Durham Local Plan and Paragraphs 108 and 109 of the National Planning Policy Framework.
2. The Local Planning Authority considers that the proposed vehicular access arrangement to the B6302 (Cockhouse Lane) would be insufficient to ensure highway safety is maintained, contrary to the requirements of Policies T1 and T2 of the City of Durham Local Plan and Paragraph 108 of the National Planning Policy Framework.
3. The Local Planning Authority considers that the development would represent an encroachment into the surrounding countryside resulting in harmful landscape impacts in conflict with Policies E7, E10, Q5 and Q6 of the City of Durham Local Plan and Paragraphs 170 and 127 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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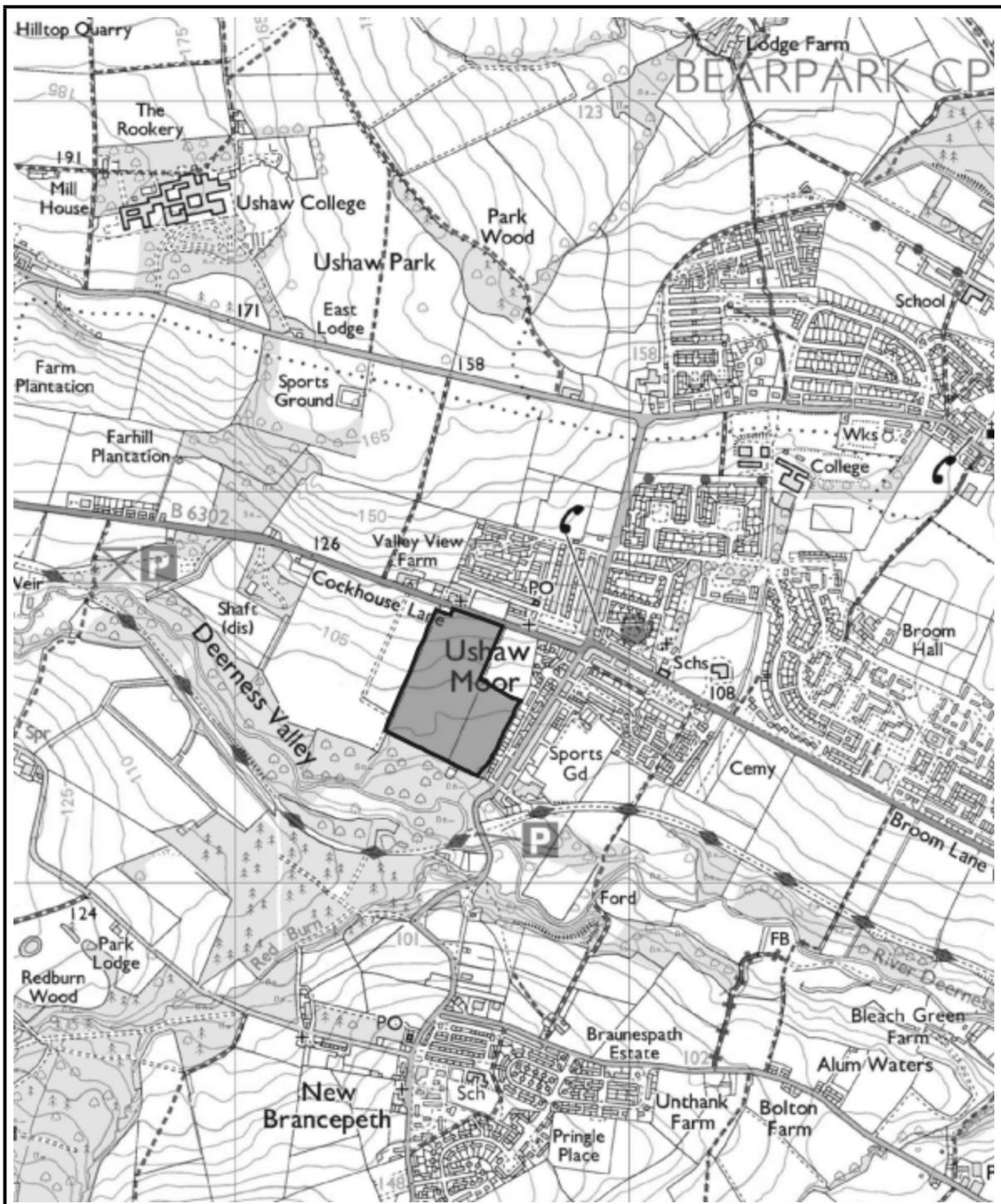
The Local Planning Authority in arriving at the decision to refuse the application has sought to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. This is evidenced by advising the applicant of objections to the proposal and encouraging discussions with the Highways Authority. However, the issue of concern could not be overcome and a positive outcome could not be achieved. (*Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.*)

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- City of Durham Local Plan
- DCC SuDs Adoption Guidelines (2016)
- DCC Highways Residential Design Guide (2014)
- Statutory, internal and public consultation responses



**Planning Services**

DM/18/02982/OUT

Outline planning application for the erection of up to 210 dwellings including public open space, landscaping and SuDS. All matters reserved except for means of access.

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**Comments**

**Date** 3 Sept 2019

**Scale** Not to scale