

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/19/01781/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline Planning Permission for the demolition of existing buildings and the erection of 5 No. dwellings with all matters reserved (Amended Description).
<b>NAME OF APPLICANT:</b>	Mr David Head, 1 South Green, Hett, Durham DH6 5LY
<b>ADDRESS:</b>	Garage And Yard To The Rear Of 1 To 2, Linden Terrace, Coxhoe DH6 4DT
<b>ELECTORAL DIVISION:</b>	Coxhoe
<b>CASE OFFICER:</b>	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site comprises a parcel of land to the rear of Nos.1 to 2 Linden Terrace, Coxhoe covering an area of approximately 0.19 hectares spread across 2 distinct areas. The northern part of the site is set at a notably lower level than that to the south and within a cul-de-sac of several bungalows and presently hosts a terrace of single garages and takes an access via Linden Grove. The southern part of the site is located to the rear of Cornforth Lane and Linden Terrace and is understood to have previously been used as the operational base for a bus company although this appears to have ceased some years ago. However, the remnants of this use remain in the form of 3 No. timber clad sheds which are now disused and appear to have been so for some time. This part of the site also retains a narrow access via Cornforth Lane which itself is characterised by linear terraces of properties which follow the route of the C67.
2. The site also hosts a large mature tree, an area of hardstanding and areas of mown grass.

### The Proposal

3. Outline planning permission is sought with all matters reserved for the erection of 5 dwellings (reduced from 9 as originally submitted) on land to the rear of Nos. 1 to 2 Linden Terrace, Coxhoe.
4. Whilst this application relates solely to the principle of development with all matters reserved it is nevertheless supported by an indicative site layout, indicative floor plans along with elevational detail showing 2 No. bungalows and a short terrace of 3 No. three storey dwellings incorporating habitable space within the roof void.

5. The application is reported to the Planning Committee at the request of Councillor Jan Blakey who considers the application should be considered by planning committee due to concerns that it represents overdevelopment of the site and Cllrs Maura McKewon and Stuart Dunn who raise concerns regarding highway safety and the suitability of town houses in this location.

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## PLANNING HISTORY

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

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## PLANNING POLICY

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### NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
9. *NPPF Part 5 Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
10. *NPPF Part 6 Building a Strong, Competitive Economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
11. *NPPF Part 8 Promoting Healthy 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
12. *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.
13. *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.

14. *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.
15. *NPPF Part 15 Conserving and Enhancing the Natural Environment:* Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
16. *NPPF Part 16 Conserving and Enhancing the Historic Environment:* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

17. The following policies of the City of Durham Local Plan (CofDLP) are considered relevant to the determination of this application.
18. 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.
19. Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.
20. 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.
21. Policy H3 (New Housing Development within the Villages) allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.
22. Policy H10 (Backland and Tandem Development) sets out that such development will not be permitted unless a safe and satisfactory access is provided, the amenities of existing and prospective occupiers are not adversely affected and finally, that the development would be in keeping with surrounding development.
23. 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.

24. Policy T1 (Transport: General) The council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant affect on the amenity of occupiers of neighbouring property.
25. Policy T10 (Parking) Vehicle parking off the public highway in new development or redevelopment should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development. On average, in residential developments, off-road provision should not exceed 1.5 spaces per dwelling.
26. 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.
27. 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.
28. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.
29. 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.
30. Policy U12 (Development near Contaminated Land) states that development will only be permitted adjacent to
31. Policy U13 (Development on Unstable Land) states that development on unstable land will only be permitted if it is proved that there is no risk to the development or its intended occupiers or users.

#### **EMERGING COUNTY DURHAM PLAN:**

##### **The County Durham Plan**

32. 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 and the EIP is currently proceeding. 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.

*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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

33. The Highway Authority raises no objection to the application noting that access and parking as indicated in the submitted drawings would be acceptable in accordance with the Council's standards.
34. With regard to vehicle movements and highway safety they note that the site would generate in the region of 20 trips per day, equating to an average of two trips per hour which it is not considered would have any unacceptable impact upon highway safety.
35. The Coal Authority has no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a scheme of intrusive investigations which is adequate to properly address the ground conditions and the potential risk posed to the development by past shallow coal mining activity, the submission of a report of findings arising from the intrusive investigations and a scheme of proposed remedial works for approval and the implementation of those remedial works.
36. Northumbrian Water Limited offer no objection to the application subject to a planning condition which requires the submission and agreement for a scheme of foul and surface water disposal noting also that a public sewer crosses the site and may be affected by the proposed development.
37. Drainage and Coastal Protection Section confirms that the application is not one which requires consultation with the Lead Local Flood Authority.
38. Coxhoe Parish Council objects to the application on the grounds that the town houses are too close to Linden Terrace to the extent that they would adversely affect the amenity of residents.

### **INTERNAL CONSULTEE RESPONSES:**

39. Spatial Policy Section confirms that the planning balance test contained in paragraph 11 of the NPPF is engaged and whilst originally advised that an affordable housing contribution was required this is no longer applicable given the reduction to a total number of dwellings below the appropriate threshold.
40. Landscape Section raises no objection to the application after it was amended to reduce the number of units and retain an existing mature tree towards the centre of the site.
41. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of a planning condition which restricts the hours of working during the construction phase.
42. Contaminated Land Section has no objection to the application subject to the inclusion of the standard planning condition relating to the need for a contaminated land risk assessment, intrusive site investigations and remediation and verification where need is identified.
43. Ecology Section notes that the further bat activity surveys advised by the applicant's ecologist are unwarranted given the initial site survey found the buildings to have low bat roost potential and that the habitats present offer low bat foraging potential and that the four bat roost units to be included in plots 1 and 9 of the development and sufficient mitigation for a development of this size.

## **NON STATUTORY RESPONSES:**

44. Police Architectural Liaison Officer raises no objections to the application and offers general advice with regards to good design and crime prevention.

## **PUBLIC RESPONSES:**

45. The application has been publicised by way of site notice, press notice and notification letters sent to neighbouring properties. 16 letters of objection were received in response to the application as originally submitted raising the following points of concern;

Concerns regarding highway safety, insufficient parking provision and loss of garages.

Adverse impact upon residential amenity from loss of privacy, overshadowing, overbearing and loss of outlook.

Noise and disturbance post development and during the construction phase.

The development represents the overdevelopment of the site and the density is not in keeping with the surrounding area and there is no need for additional housing.

Adverse impact upon protected species, namely bats.

Existing infrastructure including schools and health care facilities are unable to accommodate any further increase in population.

The site was previously reserved for bungalows.

The developer does not live within the locality.

46. The application was subsequently amended to reduce the number of dwellings shown on the indicative plan and replace some of the two storey dwellings with bungalows, to which 3 additional letters of objection were received citing the following areas of concern;

Adverse impact upon residential amenity of proposed and surrounding occupiers from overlooking and loss of privacy and cites the proximity of a 1.8 metre high boundary fence adjacent to the external door of an neighbouring property.

The development is out of character with the surrounding area citing the style and height as being the main points of concern.

Confirmation that the points of concern raised in previous objections remain relating to parking, congestion, access and ability of existing infrastructure to accommodate additional housing.

The proposal appears to propose the loss of access to the rear of an adjacent property which is presently unrestricted.

The bungalows are significantly larger than the existing and the use of rooflights would suggest an intention to extend into the roof space in future.

The development does not propose any street lighting.

47. In addition, a 99 signature petition has been submitted in objection to the application referencing the reasons for objections which mirror those listed above.

## **APPLICANTS STATEMENT:**

48. I David Head on behalf of the Head family would like to apply for approval to develop the land at the rear of 1-2 Linden Terrace Cornforth Lane Coxhoe, which we inherited from our late father Colin Head. The land has been the site of a coach transport business since the 1920s and was used for vehicle storage and maintenance with access onto Cornforth Lane, family are still resident in the Lane.
49. Currently the garages are an eyesore in a derelict and potentially dangerous condition with a high risk of collapse during the next winter period. Development of the land would remove the eyesore and improve the outlook for the local residents.
50. We are seeking planning approval for residential dwellings on the site and the adjacent local housing group lock up garage site which is already scheduled for demolition. We are aware of the objections made by residents, Believe Housing and comments from the planning office which have been taken into consideration. In doing so the revised layout has a reduced number of dwellings and those on the North side adjacent to Linden Grove are now bungalows in keeping with the current building layout.
51. We were pleased to see the requirement from the Council Landscape section and arboricultural report to retain the mature tree on the site as this was planted by our late Father in the 1930s.

*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 <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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52. 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 Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, locational sustainability of the site, residential amenity, design and visual amenity including impact on existing trees, highway safety, ecology, drainage and land contamination.

### **Principle of Development**

53. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CofDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the degree of weight to be afforded to existing Local Plan policies will depend upon the degree of consistency with the NPPF.
54. The City of Durham Local Plan (CofDLP) was adopted in 2004 and was intended to cover the period to 2006. The 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.

55. On this basis, given the age of the CofDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
56. Saved policy H3 (New Housing Development in Villages) is permissive of development of sites on previously developed land within the Settlement Limit of Coxhoe subject to scale and design.
57. However, the out of date evidence base which underpins this policy and the application of settlement limits means that it must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.
58. Notwithstanding the above, the proposal needs to be determined in accordance with the LP unless material considerations dictated otherwise including the National Planning Policy Framework 2018 (NPPF).
59. As the local plan policies most important for determination of this application are out of date, regard must therefore be had to Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for the determining the application are out-of-date, granting planning 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 impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.
60. There are no specific policies in the NPPF that indicate development should be restricted and therefore the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits in paragraph 11(d)(ii).

#### Five year Housing Land Supply

61. Paragraph 73 of the updated 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.



62. Within County Durham all of 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 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
63. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.
64. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply in excess of 6 years supply of deliverable housing can be demonstrated when measured against this

#### Locational Sustainability of the Site

65. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing 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. In this respect, whilst recognising that the development is located on the edge of Coxhoe it is nevertheless noted that Coxhoe itself is a large town with access to a good range of shops, services, employment and education opportunities, and is well served by public transport. Consequently, the site is considered to represent a sustainable location capable of supporting additional residential development.
66. Residents have raised objection to the application citing concerns that the proposal would place additional pressure upon local facilities with Coxhoe. Notwithstanding these concerns it is noted that the scale of development is limited at 5 dwellings and any increase in demand on local services would be similarly limited. This can also be seen as a benefit to the local economy. As such it would not be sustainable as a reason for refusal of the application.

#### Impact upon Residential Amenity

67. Policy H13 of the CofDLP seeks to protect the amenity of adjacent users by resisting development which would have a significant adverse effect on the amenities of residents. This is considered to display a broad level of accordance with the aims of the NPPF at paragraphs 127 and 180 which require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution respectively. Therefore, significant weight can be afforded to this policy.

68. Whilst it is noted that detailed matters in relation to layout and scale are reserved for future consideration the application is nevertheless supported by an indicative site layout which shows a total of 5 properties and represents a reduction from the 9 as originally proposed. The submitted detail shows an arrangement which effectively splits the site into two areas; a northern area which is shown to accommodate two large detached bungalows presenting a principle elevation onto Linden Grove and a southern area which accommodates a short terrace of three 3 storey dwellings presenting a principal elevation to the north.
69. It is noted that objections have been raised by surrounding residents with regards to overbearing, overshadowing, loss of privacy and outlook. Objection is also raised in relation to disruption during the construction phase should planning permission be granted. Coxhoe Parish Council raise objection to the application noting that the development would result in dwellings which are too close to existing properties at Linden Terrace.
70. Whilst concerns in relation to overbearing, overshadowing and loss of privacy are noted this application relates only to the principle of development with details of layout and scale reserved for future consideration. However, the applicant has nevertheless submitted an indicative layout which demonstrates that a satisfactory arrangement could be achieved which meets minimum separation distances between existing dwellings and proposed dwellings. Whilst within the development the indicative arrangement shows a distance of 20 metres which is less than the minimum 21 metres required this is considered acceptable in this instance given it mirrors an arrangement between existing properties at Linden Grove.
71. Residents have also raised objection to the erection of 1.8 metre high timber fence to delineate boundary treatment between the application site and an adjacent dwelling. It is noted that the application relates to outline planning permission and as such detail of means of enclosure are not submitted for consideration at this time. The precise detail of all means of enclosure could be secured through planning condition. In any event, a 2m high fence could be erected under PD rights so this would not be a sustainable reason for refusal.
72. Although currently vacant part of the application site is understood to have last been used as a bus depot and in this regard its residential redevelopment may present some benefit through the removal of a non-conforming use in a predominantly a residential area.
73. The Council's EHO raises no objection to the application in relation to noise and disturbance during the construction phase subject to the inclusion of a planning condition to control the hours of working. However, given the proximity of neighbouring properties and the residential nature of the surrounding locale it is considered appropriate to require the submission and agreement of a construction management plan to adequately control environmental impacts during the construction phase.
74. Subject to the inclusion of a planning condition in this regard the development would not have any adverse impact in relation to residential amenity in accordance with the aims of policies Q8 and H13 of the CofDLP and paragraph 180 of the NPPF.

#### Landscape and Visual Amenity

75. The site occupies a predominantly residential position to the rear of Cornforth Lane. The northern part of the site is read in the context of the streetscene at Linden Grove which is characterised by several bungalows set around a cul-de-sac layout and has an open aspect. The southern part of the site is set behind existing two storey dwellings at Linden Terrace and as such is not visible from Cornforth Lane which is one of the main vehicular routes into Coxhoe.

76. Policy H13 of the Local Plan is relevant which states that planning permission will not be granted for new development which has a significant adverse effect on the character or appearance of residential areas. In addition, policy Q8 requires the design and layout of new residential development to take into account the need to retain existing features of interest within the site including trees and hedgerows and to be appropriate in scale, form, density and materials to the character of its surroundings and policy E14 requires the retention of existing trees wherever possible.
77. Both policies display a broad level of accordance with the approach contained within Part 12 of the NPPF which seek to promote good design, while protecting and enhancing local environments. In particular paragraph 127 states that planning decisions should aim to ensure developments function well and add to the overall quality of the area, therefore significant weight can be afforded to them.
78. The indicative site plan identifies 2 house types comprising bungalows and three storey dwellings, the latter incorporating habitable rooms in the roof space and appearing externally as two storey dwellings. Although indicative the submitted information demonstrates that the application site is capable of accommodating the 5 dwellings proposed, subject to review of a reserved matter application relating to access, layout, scale, landscape and appearance.
79. Residents have raised concern that the proposal represents the overdevelopment of the site and achieves a density of housing which is not in keeping with the surrounding area. The indicative plans have been amended to reduce the number of units from 9 down to 5 and now includes two bungalows to Linden Grove which would achieve a density reflective of the locality. The amended arrangement is considered to sit more comfortably in the surrounding streetscene and mirrors the bungalow style of housing which frames the northern part of the site. Noting that the use of bungalows to Linden Grove is particularly important in achieving a development which assimilates sympathetically into its surroundings a condition should be included to ensure that those dwellings which present a front or rear elevation directly onto Linden are restricted to single storey height.
80. Submitted plans also show a short terrace of 3 dwellings across the southern part of the site and whilst these would be 3 storey use habitable space within the roof void they would have an external appearance reflective of a two-storey home. Given the southern part of the site is framed by similar properties along Cornforth Lane and Linden Terrace this approach is considered acceptable in principle. However, the access, layout, scale and appearance of the development are all reserved for future consideration and given the change in levels across the site it is also considered appropriate to include a condition requiring the submission and agreement of finished floor levels across the site.
81. The southern part of the site is currently occupied by several dilapidated timber structures which are no longer fit for any positive use having fallen into a state of disrepair and as such currently have a negative visual impact in the immediate locality. Whilst the site is not particularly visually dominant its redevelopment and the removal of these structures would present some benefit in terms of visual amenity.
82. The amended layout demonstrates that the large existing tree towards the centre of the site could be retained which is welcomed by the Council's Landscape Section who offer no objection to the application. Precise detail in relation to landscaping (including tree protection during the construction phase) could be appropriately secured through planning conditions.

83. Therefore, the residential redevelopment of the site would sit acceptably in the wider streetscene and would not appear as incongruent addition subject to consideration of future reserved matters applications in accordance with CofDLP Policies Q8 and H13 and Part 12 of the NPPF.

#### Parking, Access and Highway Safety

84. Whilst the application shows a means of access from Linden Grove it is noted that matters relating to access and layout are reserved for future consideration. However, the applicant must sufficiently demonstrate that a safe and suitable means of access to the development is achievable and that sufficient space exists within the development site to provide adequate car parking.
85. Several residents have raised objection to the application noting that the additional vehicle movements generated by the 5 dwellings would have a negative impact upon highway safety and generate a demand for parking within the surrounding residential streets given the loss of the existing terrace of garages which currently occupy part of the site which would negatively impact upon highway safety for existing residents, most of whom are elderly.
86. In this regard policies T1 and T10 of the CofDLP are relevant. Policy T1 states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant impact on the amenity of adjacent occupiers of neighbouring property. Policy T10 seeks to ensure that vehicle parking in new development is sufficient whilst promoting sustainable transport choices and reducing the land-take of development. This approach is considered to display a broad level of accordance with the aims of paragraph 108 of the NPPF and accordingly significant weight can be afforded to this policy.
87. Despite the concerns raised by residents it is nevertheless considered that sufficient information has been submitted in support of the application to demonstrate that a safe and sufficient access could be provided from Linden Grove to the north. With regard to parking provision, whilst the development would result in the loss of 15 garages these are understood to be redundant and scheduled for demolition on 2 December 2019 regardless of the current application. Consequently, it is considered that adequate parking provision could be included in accordance with the Council's Parking Standards. The Highway Authority has been consulted and offers no objection to the application noting that full details of access and layout are reserved for future consideration.
88. In response to highway safety concerns raised by residents the Highway Authority confirms that a total of 20 additional vehicle movements per day would be anticipated and that such an increase could be safely accommodated on the surrounding road network. Consequently, the development is considered to accord with the requirements of policies T1 and T10 of the CofDLP and paragraph 108 of the NPPF.

#### Ecology, Biodiversity and Protected Species

89. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests. As the application involves the demolition of existing buildings a Bat Risk Assessment supports the application.
90. The impact of the development upon protected species, namely bats and biodiversity has been raised in objection by local residents who considered the proposal would have a negative impact in this regard from the loss of existing habitat.

91. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
92. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where the proposed development is likely to result in an interference with an EPS must consider these tests when deciding whether to grant permission. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
93. The supporting Preliminary Ecological Appraisal concludes that the site offers low bat roosting potential but does however offer limited bat foraging and commuting potential therefore two additional bat activity surveys are recommended to fully inform the proposal. The results of these surveys have not been supplied with the application and the bat activity season is now over for 2019 therefore the surveys can only be done in summer 2020 now.
94. However, the Council's Ecologist has been consulted and advised that in his opinion the proposed bat activity surveys are unwarranted for a development on this site as the survey found the buildings to have low bat roost potential and the habitats present offer low bat foraging potential and that even if surveys were undertaken very low numbers of bats are likely to be recorded at best and, that being the case, suitable mitigation could be provided in the form of bat roost units being included into the new buildings.
95. The application therefore proposes the inclusion of bat roosts across the development and the Ecologist considers that the provision of a total four roost units and two bird boxes would be sufficient mitigation for a development of this size. The submission and agreement of precise detail in this regard could be satisfactorily secured through planning condition.
96. Consequently, it is not considered that the proposed development would have an adverse impact on protected species or their habitats and therefore there is no need to consider whether an EPS licence would be granted. The development would be in accordance with part 15 of the NPPF.
97. Notwithstanding the above, there would be some net loss to biodiversity which could not be offset by on site mitigation. As such the applicant has agreed to provide a commuted sum of £1332.80 for offsite mitigation at a scheme identified in Durham County Council's Local Biodiversity Compensation Strategy Document. The development would therefore accord with the requirements of paragraph 175 of the NPPF which requires that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

#### Land Contamination

98. Policies U11 and U13 of the CofDLP seek to protect development from contamination and previous mine workings respectively which is an approach which displays a broad level of accordance with the NPPF at paragraph 178 which requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.

99. The application is supported by a Coal Mining Risk Assessment and a Contaminated Land Screening Assessment which have been reviewed by the Coal Authority and the Council's Contaminated Land Section. With regard to the Coal Mining Risk Assessment this concludes that risk from previous mine working is low. However, as the report is not able to totally dismiss the risk from previous shallow workings the Coal Authority advise the inclusion of a planning condition which requires further intrusive site investigations which could be secured through planning condition.
100. With regard to the Contaminated Land Screening Assessment the Council's Contaminated Land Risk Section offer no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of a Contaminated Land Risk Assessment with intrusive site investigations, remediation and verification where need is identified.
101. Therefore, subject to the inclusion of planning conditions requiring the submission agreement and implementation of intrusive site investigations in relation to previous mine workings and further detail in relation to Contaminated Land the development is considered to accord with the aims of paragraph 178 of the NPPF.

#### Drainage

102. Policy U8A of the CofDLP states that development proposals will only be approved if they include satisfactory arrangement for disposing of 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.
103. The development proposes the disposal of surface water to soakaway but provides no detail in relation to the means of foul water disposal. The Council's Drainage Section notes that the development is not of a scale which requires consultation and NWL raises no objection to the application subject to a condition requiring the submission and agreement of precise detail with regard to foul and surface water disposal. They do however also note that NWL plant and apparatus crosses the application site but that they will contact the applicant direct to confirm its precise location.
104. Subject to the inclusion of a planning condition requiring the submission and agreement of precise detail in relation to foul and surface water disposal the application is considered to accord with the requirements of policy U8A of the CofDLP in this regard.

#### Other Matters

105. Whilst some residents have raised objection to the application citing concerns that the site was previously reserved for bungalows it should be noted that this is not reflected in any current planning policy and as such cannot be afforded any weight in determination of the application. The site is not allocated for any specific use within the current local plan. However, it is noted that the applicant has amended the indicative plans to identify an intention to provide bungalows over the north part of the development and a planning condition which restricts the height of those dwellings across the northern part of the application is proposed should planning permission be granted.

106. Residents have also raised concern that the applicant does not live within the locality. Again, this is not a matter which is material to the consideration of the application and cannot be afforded weight in its determination.
107. Some residents have raised concern that the proposal does not include any street lighting. In response, it is noted that the Highway Authority and the Council's EHO do not raise any objection to the application in this regard and that the requirement for street lighting would be the subject of agreement through Section 38 of the Highways Act where positioned within the Highway.
108. Concern has been raised in relation to the inclusion of roof lights to the bungalows as shown on the indicative plans which residents consider represents an intention to extend the properties if permission is granted. As this application relates only to the principle of development with all matters reserved for future consideration this is not a matter to which any weight can be afforded in determination of the application. However, should planning permission be granted the total number of dwellings would be restricted to 5 no. through planning condition with precise scale, massing and appearance of the dwellings subject to a separate reserved matter application.

#### Planning Balance

109. As the relevant policies of the CofDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

#### *Benefits*

110. The development would provide some limited benefit in terms of a boost to housing supply, although it is noted that this could be considered limited at 5 dwellings in the context of the Council's ability to demonstrate a 5 year supply of housing land. Less weight should therefore be afforded to the benefits of delivering new housing in this regard as such than would otherwise be the case if any shortfall in supply existed.
111. The application of the site would present some benefit to the visual amenity of the surrounding area through the removal of existing dilapidated structures and its residential redevelopment.
112. Whilst the site is currently vacant the proposal may present some benefit to residential amenity through the removal of a non-conforming use in a predominantly a residential area.
113. To a limited degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area supporting existing facilities in Coxhoe. As such this can be afforded some limited weight.

#### *Adverse Impacts*

114. In all other respects the applicant has demonstrated that there would not be any adverse impacts subject to mitigation through inclusion of planning conditions.

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## CONCLUSION

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115. When applying the planning balance contained in paragraph 11 of the NPPF it is considered that any adverse impacts of the development would not significantly and demonstrably outweigh the benefits and as such planning permission should be granted.
116. The site occupies a sustainable location within Coxhoe which is served by a good range of shops, services, employment and education opportunities and benefits from good local transport links. The introduction of additional residential development in this location would help support these facilities and as such is acceptable in principle being considered sustainable development in accordance with guidance contained within the NPPF.
117. The proposal presents some limited benefits in terms of a boost to housing supply and the local economy both in the short term, through the creation of construction jobs, and more long term through increased spending in the local economy from future residents. There would also be some benefit in terms of visual amenity through the redevelopment of a vacant site and the removal of dilapidated structures.
118. Sufficient information has been presented to demonstrate that a suitable arrangement could be achieved which maintains adequate separation distances between existing and proposed dwellings, ensuring that there would be no adverse impact in terms of residential amenity in accordance with policies H13 and Q8 of CofDLP and paragraph 180 of the NPPF.
119. Similarly, with regard to access it has been satisfactorily demonstrated that safe and sufficient access could be provided to the site and that an internal layout and parking provision could meet the standards required to serve a residential development of this type. Consequently, the proposal is considered to accord with the aims of policies T1 and T10 of the CofDLP and paragraph 108 of the NPPF.
120. Objections have been raised by local residents who cite concerns in relation to the impact of the development upon residential amenity, the character of the area, protected species or existing health and education services in Coxhoe through increased demand. However, it is not considered that the issues raised are sufficient to sustain refusal of the application in the context of paragraph 11 of the NPPF given there would not be any unacceptable increase in demand upon local services, residential amenity or the character of the locale in particular.
121. The scheme would therefore comply with all relevant saved local plan policy, general aims of the NPPF and in the context of paragraph 11, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions and to the completion of a Section 106 Legal Agreement to secure the provision of:

- i) The sum of £1332.80 to be used by the Council towards biodiversity enhancements in line with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy document.



1. Approval of the details of the appearance, landscaping, layout, scale and access of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced other than remediation works and site access works.

*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. Application for approval of reserved matters of the development shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last reserved matter to be approved.

*Reason: Required to be imposed pursuant to section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

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

Drawing No.	Description	Date Received
	Location Plan	30 July 2019

*Reason: To define the consent and ensure that a satisfactory form of development is obtained.*

4. The development hereby approved shall comprise a maximum of 5 dwellings.

*Reason: Required to define the consent and precise number of dwellings approved.*

5. Those dwellings which present an elevation directly onto Linden Grove shall be bungalows with a ridge height no greater than 4.8 metres.

*Reason: To protect the character and appearance of the existing streetscene in accordance with the aims of policy H13 of the City of Durham Local Plan and paragraph 127 of the NPPF.*

6. Prior to the first occupation of any of the dwellings hereby approved full details of all means of enclosure shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

*Reason: To protect the character and appearance of the surrounding area in accordance with the aims of policy H13 and Q8 of the CofDLP and paragraph 127 of the NPPF.*

7. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

*Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policies E14 and H13 of the City of Durham Local Plan.*

8. No construction work shall take place, nor any site cabins, materials or machinery be brought onto the site until all trees and hedges, as indicated on an approved tree protection plan to be submitted to and agreed in writing by the Local Planning Authority, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2012. The plan shall be accompanied by a method statement which clearly demonstrates how the development will be constructed without damage to existing trees.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

*Reason: To protect existing trees in accordance with the requirements of policy E14 of the City of Durham Local Plan and paragraph 175 of the NPPF.*

9. No development shall commence until such time as a detailed scheme for the disposal of foul and surface water from the development hereby approved (including full details of all Suds) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

*Reason: In the interest of the adequate disposal of foul and surface water in accordance Part 14 of the NPPF*

10. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority.

The agreed plan shall include as a minimum (but not necessarily be restricted to) the following:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.

- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 'Code of practice for noise and vibration control on construction sites' 2014.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council's accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

The management plan 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(s) shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

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

11. No development shall commence until such time as a scheme of intrusive site investigation, (adequate to properly assess the ground conditions and the potential risks posed to the development by past shallow mine coal mining activity) has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include a report of findings arising from the intrusive site investigation and a scheme of appropriate remediation. Thereafter the development shall be carried out in accordance with the agreed details.

*Reason: To ensure the site is capable of accommodating the proposed use in terms of ground stability in accordance with the aims of policy U12 and paragraphs 178 and 179 of the NPPF.*

12. 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 1 preliminary risk assessment (desk top study).

If the phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include 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.*

13. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

*Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy Q8 of the City of Durham Local Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.*

14. 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.*

15. No development shall commence until full details of the 4 No. bat roost units (comprising 2 No. built in wall roosts and 2 No. ridge units) and 2 No. bird boxes have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed detail.

*Reason: To protect biodiversity in accordance with the requirements of policy E16 of the CofDLP and paragraph 175 of the NPPF.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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

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## **BACKGROUND PAPERS**

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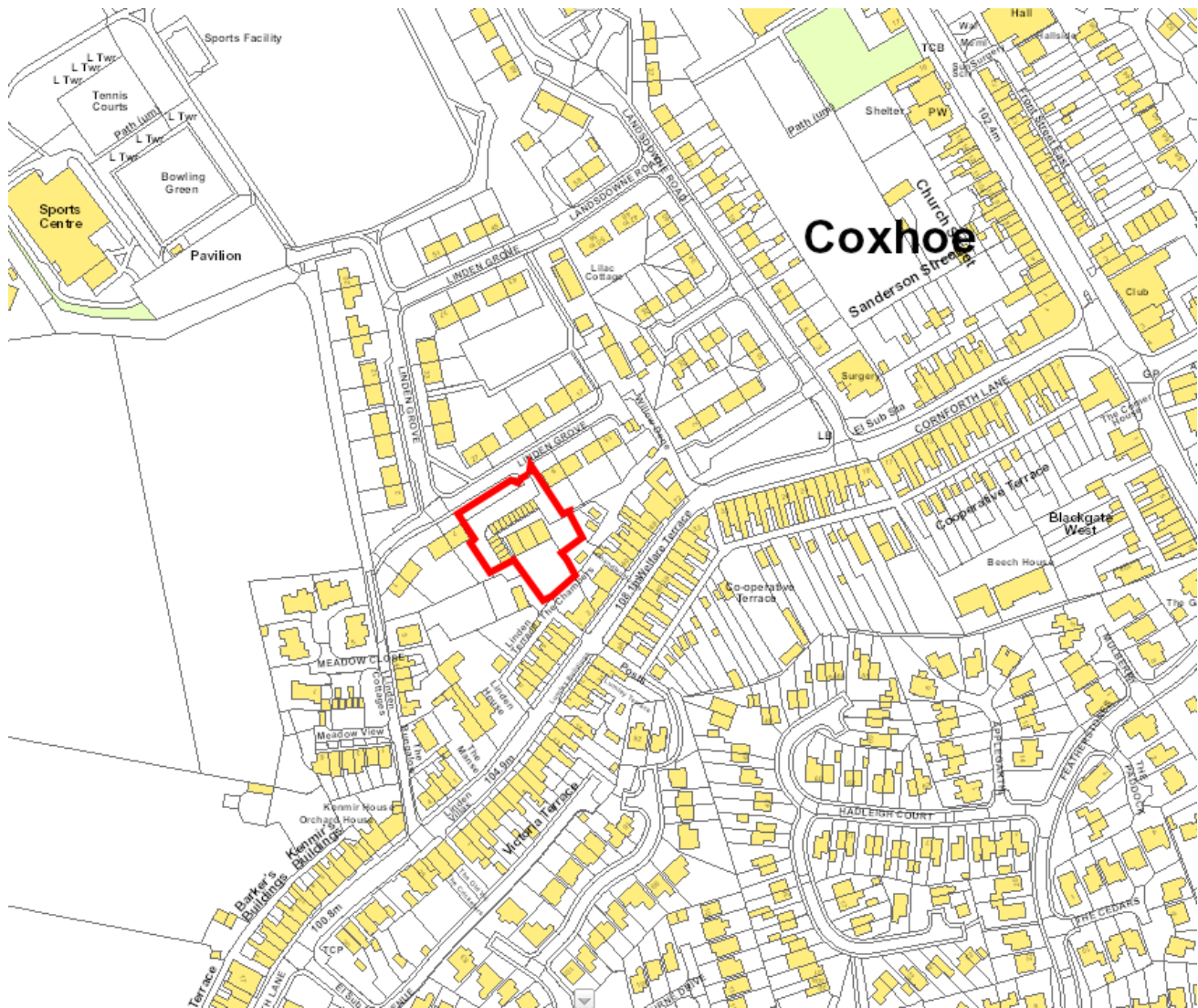
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham District Local Plan 2007

Statutory, internal and public consultation responses



## Planning Services

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Outline Planning Permission for the demolition of existing buildings and the erection of 5 No. dwellings with all matters reserved (amended description)

## Comments

## Date

12 November 2019