

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/19/03091/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Demolition of Graham Court and construction of 25 residential dwellings and associated landscaping
<b>NAME OF APPLICANT:</b>	Karbon Homes Graham Court
<b>ADDRESS:</b>	Sacrison Durham DH7 6LW
<b>ELECTORAL DIVISION:</b>	Sacrison
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is 0.55ha of land east of the village centre crossroads formed of the B6532 and B6312 in Sacrison. Sacrison is a large, well connected village offering a good range of services, facilities and employment opportunities. The village has schools, a community centre, a range of shops and cafes including a small supermarket, and small employment areas. The site and the village are 1.8 miles west of the Pity Me area of Durham where a large edge-of-settlement retail centre provides extensive large-scale retail opportunities and the A167 dual carriageway that connects to the A1(M) motorway.
2. The site is currently occupied by Graham Court, proposed demolished, which has provided sheltered accommodation for older residents. The current buildings are formed of three inter-linked blocks, one and two storeys in height, cut into the slope of the hill. An ancillary entrance block on the north elevation is flat-roofed. The building complex is of a tired and dated appearance. The facility is mainly communal open-plan with scattered mature specimen planting around it. There is a car park accessed from the B6312 north of the buildings within the site.
3. The site, and the development around it are cut into the slope, which drops to the north-west. Two of the boundaries are formed by the aforementioned classified roads – facing across to a public house with a small industrial estate behind it to the north and a Medical Health practice, with a two storey detached dwelling set within a large garden surrounded by a high stone wall to the west. South is the site of a cleared public house which has an existant consent for a residential accommodation block, and a small car park and bus turning area with shelter. A pair of extended semi-detached local authority

built two storey dwellings are sited adjacent the turning area, their rear elevations and gardens facing towards the site, being separated from the private housing development to the east by a garage and parking courtyard. The private development forms the east boundary of the site and consists of large detached dwellings. These face back towards the site with the exception of that on the north-east corner that faces the main road, this being an older house that pre-dates the estate.

## The Proposal

4. The application proposes erection of 25 dwellings, described by the applicant as, 'entry-level, family and older-person 'empty nester' homes'. In detail there would be ten 2 bed 4-person split level houses nominally three storeys in height but with those on the south part of the site cut into the slope, thirteen 2 bed 4-person houses two storeys in height facing the Plawsworth Road (north) elevation and two 3 bed 5-person two storey semi-detached houses which present a gable end to existing dwellings in Fynway. The scheme proposes a contemporary form of architecture at the prominent crossroads location.
5. This application is reported to Committee as a 'major' planning application.

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## PLANNING HISTORY

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6. The planning history of the site relates to the development of the sheltered accommodation, and changes to that facility.

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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 NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
9. The following elements of the NPPF are considered relevant to this proposal;
10. *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.

11. *NPPF Part 5 - Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
12. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. It should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Developments should be safe and accessible, 'so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion'.
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.* Planning policies and decisions should ensure that developments achieve a range of aims including, 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.
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.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

18. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. These documents provide planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; design process and tools; determining a planning application; flood risk; health and well-being; land stability; housing and economic development needs assessments; housing and

economic land availability assessment natural environment; noise; open space, sports and recreation facilities, planning obligations; use of planning conditions and; water supply, wastewater and water quality.

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

19. The following is a summary of those saved policies in the Chester-le-Street District Local Plan 2003 (saved policies) relevant to the consideration of this application:
20. *Policy HP6 – Residential within settlement boundaries* – identifies Sacriston as a settlement where residential development will be allowed on non-allocated sites that are previously developed land and meet the criteria of Policy HP9.
21. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
22. *Policy HP13 – Affordable Housing* - the Council will seek to negotiate affordable housing within windfall sites.
23. *Policy HP15 – Community Provision* – On developments of more than 10 units a contribution will be sought for the provision and subsequent maintenance of social, infrastructure and/or recreational and leisure facilities in the locality where directly related to the development being proposed.
24. *Policy RL5 – Provision in New Developments* – subject to dwelling sizes and types proposed, and the level of local provision, the Council will require provision of open space or contributions for such, within developments.
25. *Policy BE22 – Planning Obligations* – Where necessary the Council will seek to enter into planning obligations to either enhance the quality of a proposal, or to enable a development to proceed that may otherwise be refused.
26. *Policy T6 – Provision for public Transport, General* – requires development to be consistent with a safe and accessible public transport network, encouraging its use by all members of the public in order to reduce reliance on the private car.
27. *Policy T8 – Car Parking Provision* – The design and layout of new development should seek to minimise the level of parking provision.
28. *Policy T15 – Access and Safety Considerations in Design* – sets a range of criteria including that: a safe access to the site and the classified road system should be provided, the development should not create levels of traffic which would exceed the capacity of the local road network or create a road safety hazard, make adequate provision for service vehicle turning and allow effective access at all times for emergency vehicle access.
29. *Policy T17 – General Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.
30. *Residential Amenity Design Standards SPD* – In advance of the emerging County Plan the County has adopted new residential amenity standards to inform residential

development layouts. This application was significantly advanced when these were introduced and it is considered unreasonable to assess it against them.

#### **RELEVANT EMERGING POLICY:**

31. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress. The programmed hearing sessions closed on 6<sup>th</sup> February 2020. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at*

<http://www.cartoplus.co.uk/durham/text/00cont.htm>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

32. *Highways* – The scheme has been redesigned to provide additional visitor parking and meet the detailed requirements of Highways. A part of the adopted highway verge that extends into the site at the crossroads will need to be stopped-up to facilitate the development.

33. *Northumbrian Water* – have no issues to raise with the above application, provided the application is approved and carried out within strict accordance with the submitted document entitled ‘Below Ground Drainage Layout’ secured by an appropriate condition, and an informative.

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

34. *The Coal Authority* – concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site, secured by condition.

35. *NHS* – indicate there is sufficient space to accommodate any increase in patient numbers from the development.

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

36. *Spatial Policy* - The site is located within the defined settlement of Sacriston and well located in relation to local services and sustainable transport routes. The principle of development on this site appears acceptable in principle in respect to Policy HP6 of the Local Plan (LP). Nevertheless, the housing delivery strategy in the LP has expired and therefore Paragraph 11 of the NPPF would be engaged. Providing there are no overriding issues, in accordance with criteria (d)ii, the decision-maker should grant permission unless there are any adverse impacts of doing so which would significantly outweigh the benefits of the scheme (when assessed against the NPPF as a whole).

Additional relevant LP policies can still be afforded some weight should the scheme progress ahead of further developments with the County Durham Plan.

37. Open space may be expected within the site for schemes of more than 20 dwellings. While the site is within the threshold for providing a small area of amenity green space it appears that a pocket park is also proposed. Off-site contributions would be required for the remaining typologies. Working to a projected population of around 55 people, indicative calculations suggest these offsite contributions would amount to £37,015. Separate negotiations would determine whether maintenance contributions would be required.
38. Evidence suggests that a requirement of 10% affordable housing would be expected on this site (tenure mix of 70% affordable rented housing to 30% immediate products) - this would equate to 2-3 units. Two units would be expected as specialist dwellings.
39. *Affordable Housing* - Affordable Housing provision should reflect the requirements of local residents in respect of property type, size and location. The site at Graham Court is proposing to provide a 100% affordable housing scheme. The Housing Development Team are committed to continuous partnership working with Registered Providers and maximise the affordable housing offer of the county.
40. Information provided in the application indicates that Rent to Buy products will be delivered on this scheme. The Housing Development Team are happy that these proposals meet the affordable needs of the area in relation to bedroom requirements and affordable demand in the area.
41. *Design* - The proposal positively addresses Plawsworth Road and Durham Road, following the layout and form proposed as part of the pre-application enquiry. In addition, the gables of plots 1, 11, 12 and 15 have been detailed to ensure they turn the corner and avoid blank gables on publicly visible elevations. The orientation of Plots 24 and 25 now allow for a stronger gateway into the site with active frontage to the street. In addition, the applicant has ensured that units 23 and 24 turn the corner, allowing passive surveillance of the proposed public open space.
42. The internal layout of the site is of concern. In particular, the ability of the street to function as a social space is impacted upon by resident and visitor parking, and the green space indicated appears small and therefore its use may be limited. Should additional parking bays be required, the dominance of parking and hardstanding will be increased. In addition to the issues relating to public space, the private rear gardens of plots 12-19 are particularly small. Therefore, the opportunity to use external private or public space is limited.
43. The proposed house-types reflect those indicated in the pre-application documents and are considered to be of otherwise distinctive design which will contribute positively to the street.
44. *Drainage* – Officers require further information and agreement to ensure that the scheme goes through the sustainable drainage hierarchy to meet the required surface water run-off rates to ensure NPPF compliance. These requirements are under detailed debate as this report is written but appear capable of resolution.
45. *Environmental Health (contamination)* - agree with the submitted reports and conclusions for gas protection measures to be installed and that further site investigation is required when the building footprint is demolished, requesting a contaminated land condition should apply to any approval.

46. *Environmental Health (noise)* - The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. The granting of planning permission for the development may potentially result in a statutory nuisance being created, but this can be mitigated by the imposition of appropriate conditions.
47. *Environmental Health (nuisance)* – A road traffic emission impact assessment is not required.
48. *Education* – Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.
49. *Ecology* – confirm there are no ecology issues.
50. *Trees* - Majority of trees within the site are healthy, all mature specimens add value to the site in its current usage, existing trees were most likely part of the original planting for Graham Court. The proposed has not retained any trees within the central, front or north east boundaries. For construction, removal of all mature trees will be required. The one ash tree to be retained will receive various degrees of infringement within its root protection area and most likely perish within 5/8 years of completion. Newly planted trees within new hard standing urban situations normally do not last more than 10 years due to lack of rooting and soil volume available.
51. *Landscape* - The development fails to acknowledge the individual and collective value of mature trees with long safe useful life expectancies near the entrance to the site. An opportunity to contribute to this townscape character has not been taken at the Durham Road/ Plawsworth Road junction and village focal point. No tree or shrub hedge planting has been included in the landscape scheme within the area facing the road junction and against the proposed acoustic fence.
52. *Durham Constabulary* – have provided no comments.

#### **PUBLIC CONSULTATION EXERCISE:**

53. A public consultation exercise consisting of 38 direct letters was undertaken. Site notices were posted around the site boundaries adjacent footpaths. The application was advertised in the Northern Echo. This resulted in no responses.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PYFV2NGD0BK00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### The Principle of the Development

54. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is

considered that the principle of development, design, highway safety, residential amenity and trees. Other issues in the application process will also be considered.

## The Development Plan

55. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester-le-Street District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
56. This Local Plan was adopted in 2003 and was intended to cover the plan period until 2006. However, the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.
57. This is an application for housing development. The most important Policies within the Development Plan relating to this topic are considered out of date either because their evidence base is too old, or because they are contrary to the advice in the NPPF – i.e. where they relate to overly restrictive planning restraints such as settlement boundaries and restricting windfall development to previously developed sites. Consideration of the development must therefore be led by paragraph 11 of the NPPF.

## The NPPF

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

## Sustainability

59. In terms of locational sustainability, the proposed development is at the crossroads which forms the southern extent of the village centre which has a range of commercial, leisure, social and retail facilities including a community centre, a small supermarket and playing fields. The village is well served by public transport. There is a range of schools in the area. The site is brownfield. A residential development in this location is considered to have strong resonance with the three overarching objectives set out at paragraph 8 of the NPPF.

## Housing

60. The application proposes erection of 25 new dwellings by Karbon Homes, a registered not-for-profit social landlord, regulated by Homes England. The developer's Affordable Housing statement, submitted with the application, sets out, 'the development will consist of 23 no 2 bed houses and 2 no 3 bed houses, which will be available for Rent to Buy. This means that the new homes will be let at an affordable rent (which for reference is currently 80% of open market rent) for an initial 5-year period, after which tenants are able to purchase the property, should they wish to do so. The new homes will be allocated by Karbon Homes, in accordance with Homes England requirements for

grant funded affordable housing schemes. Karbon Homes will manage and maintain the new homes. The developer has indicated that the development would not be viable without funding from Homes England’.

61. The proposals have been assessed by both Spatial Policy and Housing Officers. Policy note that that in light of the Council’s positive housing land supply position, 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. The Housing Development Team are happy that these proposals meet the affordable needs of the area in relation to bedroom requirements and affordable demand in the area.
62. Members will be aware that there is a complex relationship between the planning requirements to secure policy compliant affordable housing within schemes, difficulties in securing apparent overprovision through legal agreements and developer’s requirements to meet Homes England (HE) criteria. Acknowledging the nature of the applicant, and that the scheme is presented as 100% affordable, The wording of the recommendation has been discussed and agreed as meeting the requirements of all parties – applicant, Homes England, Local planning authority – to ensure that the scheme will provide the policy required level of affordable housing (10%), and that it meets the requirements of HE for the not-for-profit social landlord to build and administer it.
63. It is the imperative of the Government through the NPPF and the wider corporate aims of the Council to drive economic growth and provide housing, and this is of positive material weight. For the purposes of this planning assessment, the proposal meets basic requirements, and benefits from the ‘tilted balance’ at paragraph 11 of the Framework.

#### Highways

64. The scheme has been redesigned to better meet the requirements of Highways Officers, with additional visitor parking at the expense of gardens and open space the main reflection of this. There are still some detailed discussions taking place as this report is written on small issues such as an awkward drive access and a flight of stairs not considered capable of adoption. It is expected these issues will be resolved, and any implications for conditions or matters of note will be reported verbally to Members. Highways have noted that part of the scheme overlaps onto the adopted highway, and a mechanism is required to resolve this. This is a legal process, the need for which has been passed to the developer.
65. Providing the requirements of Highways Officers are met, the scheme can be reasonably concluded to meet the requirements of policies T8, T15 and T17 of the development plan and paragraph 109 of the Framework. A Highways Engineering condition is proposed to ensure the development is constructed to adoptable standards.

#### Scale, Character and Residential Amenity

66. The application proposes a modern and contemporary architect designed scheme of dwellings that derive additional character for how their design relates to the site’s slopes. Part 12 of the Framework advises that great weight should be given to outstanding or innovative design which helps to raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Officers consider this to be the case in this instance. The modern elevational design and massing is integrated into the local vernacular by a strong and carefully chosen palette of materials.

67. However, the design suffers from some particularly small private garden areas, exacerbated by redesigns to meet highway requirements. Policy HP9 requires that new development proposals will, 'provide adequate privacy in the rooms, gardens and other outdoor areas' of proposed dwellings, with the Framework requiring 'a high standard of amenity for existing and future users'. The development would not meet the layout standards set out in the Council's new design guidance document, but this application pre-dates this advice. The applicant contends that the dwellings worst affected are those aimed at older-person and 'empty nester' occupants, whose expectations of and desire for external garden areas are reduced, this bringing variety into the scheme. Officers consider that these groups would use external private amenity space in different ways but would still require it. It is concluded that this part of the proposals is deficient, but in the absence of a direct policy that can reasonably be applied to it, this is an adverse impact to be weighed in the planning balance.
68. The development bounds existing development on two sides. South of the site two extended local authority-built semi-detached dwellings sit higher than the site, separated from it by rear gardens 17.8m in length. One of these dwellings faces the gable end of plot 22, but because of the layout of that unit, this gable has living room windows in it, looking over its side garden. This side garden is 7m long (in addition to more gardens to the rear – plot 22 being a corner unit. The cumulative garden lengths exceed the usually expected 21m separation distance for facing elevations including living rooms. A levels condition is also proposed to ensure the expected relationships are implemented on-site.
69. Facing back towards the modern detached houses in Highfield, on the north east boundary, plots 22/23 have gardens nearly 15m in length, which cumulatively with the existing dwellings' 12.5m gardens, exceeds the requirements to a degree that compensates for the existing development's lower elevation. The existing dwelling potentially most affected by the proposed development is 18 Highfield, which currently sits below the ground levels of the site and the existing building. That dwelling has a 4.6m single storey rear extension, the length of the garden being 13.4m from the main rear elevation (measured on the Council's GIS mapping system). Inside the site, 1.5m is the proposed separation between the fence and the gable of plot 25, with the finished floor level of the new dwelling 1.2m higher than that of the existing. Plot 25 has a ground-floor wc window and a first-floor landing window facing towards the existing dwelling, both of which can be made subject to a planning condition to be obscure glazed to ensure the privacy of both dwellings. The proposed separation distance of 14.9m between the proposed dwelling and the main elevation of 18 Highfield, at 14.9m exceeds the required 12.5m separation to a degree that mitigates the 1.2m rise in elevation and is concluded acceptable subject to the aforementioned condition. It is noted that there has been no representation from any neighbour.
70. In terms of scale, character and residential amenity, the proposals are concluded on balance compliant with the requirements of Policies HP6 and HP9 in so far as those policies are compliant with the NPPF and with part 12 of that document.

## Open Space

71. Whilst the development does provide small areas of open space within it, it's residents will generate demand for a wide range of open space types far in excess of this – especially where some private open space provision is limited. The village is well provided with a range of existing facilities – well equipped playgrounds and formal sports pitches are evident 250m to north-west. Unfortunately access to these involves crossing two main roads – albeit with zebra and pedestrian traffic-light controlled crossings available. The scheme cannot be considered sustainable development without

mitigating this demand, the importance of which is set out in parts 8 and 12 of the Framework.

72. The development plan also drives this requirement with the partially NPPF consistent policy RL5. Policy BE22, the NPPF and the NPPG allow for the imposition of planning obligations to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms, subject to a number of tests: they must be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The developer has offered the £37,015 identified by Spatial Policy as the figure necessary to mitigate the open space provision deficit. Officers consider the scheme would be unacceptable without this mitigation. The legal agreement can make sure the financial mitigation is directly related to the development, and its imposition meets all the tests set out in legislation.

#### Other Issues

73. Both colleagues in Education for school places and the NHS for local health provision have confirmed that for their respective requirements, there is sufficient capacity in the Village. A demand for additional mitigation would not meet the required tests.

74. The NPPF requires schemes to be implemented with sustainable drainage systems to ensure the development does not result in wider flooding issues. Agreement has not yet been reached in the technical detail required for the surface water drainage scheme, with discussions on-going as this report is written. Members will be advised of any requirements for additional conditions or plan changes to achieve the required surface water discharge rate. The requirements are considered capable of resolution to ensure the scheme meets the requirements of the advice in part 14 of the Framework.

75. The brownfield site, in an area with coal mining legacy issues requires stabilisation and remediation for new residential development to be built. Conditions are proposed attached to any approval to ensure these issues are comprehensively mitigated and required by part 15 of the Framework.

76. Environmental Protection Officers have further suggested working hours and noise conditions to ensure reasonable expectations of residential amenity to meet the requirements of part 15 of the Framework. These are appended.

77. Ecology Officers are content with the information provided and have no further requirements. Part 15 of the Framework is again satisfied.

78. Landscape and Tree Officers note the matured planting scheme planted around the existing development and regret this is to be lost. There is however no suggestion in their advice that the existing trees justifies formal protection. The submitted landscape plan extends beyond the site boundary and is based around a superseded site layout. Officers are confident that an acceptable landscape scheme can be achieved, however this will have to be discussed via imposition of a condition in light of the inaccurate plans submitted.

79. The developer undertook a public consultation exercise at the Fulforth Centre, Sacriston, encouraged by the Council and the Government as good practice. It was noted that this was not well-attended, but what response there was positive.

80. Whilst there is no assessment of the potential benefits the scheme will bring either through the economic activity generated by the build process, neither of that of the economic activity of prospective residents in the occupation of the scheme in adding to

the local economy, and in principle positive weight is added to the planning balance form this.

## The Tilted Balance

81. The policies most important for determining the application in the Development Plan, i.e. the housing policies, are out-of-date and as a consequence, the 'tilted balance' set out in paragraph 11 of the Framework and the resultant presumption in favour of sustainable development is engaged.
82. The application site is considered a sustainable location. The application proposes housing, in a form that adds variety to the local housing supply and market and includes the necessary affordable element. The proposals provide a high-quality scheme in a prominent location on a brownfield site. These elements are of significant positive weight.
83. The scheme mitigates shortfall in public open space provision through off-site mitigation. Without the contribution this element would be of negative weight – the agreement renders it neutral. Restricted private open space provision is one of the issues that must be considered as one of the weak points of the layout. As this application is assessed, this issue falls between the out of date policy requirements for such in the Development Plan and the emerging requirements for amenity standards emerging in the County Plan. Tree and Landscape Officers comments on the tree's loss and restricted opportunities for meaningful replacement must also be weighed as negative – replacement landscape planting to be secured through condition could only mitigate this issue by degree. These issues are not such that they outweigh the positive elements of the proposals.
84. Officers consider that the adverse impacts of the scheme do not significantly and demonstrably outweigh the benefits.

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## **CONCLUSION**

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85. The proposals represent sustainable development and therefore benefit from the Framework's 'presumption in favour'. Some weaker elements of the scheme, such as landscaping can be addressed post decision via condition, some – such as the private open space restrictions are accepted within the planning balance assessment. The quality of the elevational design has been attributed positive weight in the assessment.
86. The scheme has been assessed for implications to residential amenity, notwithstanding the lack of response to the consultation exercise – apparently mirroring the developer's pre-submission efforts. Amenity issues have been concluded acceptable (subject to a condition addressing a specific relationship).
87. Conditions can address technical implications and ensure an acceptable form of development. Pre-commencement type conditions are only proposed where the nature of the issue requires agreement in advance of site works.

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## RECOMMENDATION

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88. That the application be APPROVED, subject to the applicant entering into a legal agreement consisting:

- Securing 10% of the scheme as affordable housing.
- A contribution to secure open/ play space mitigation of £37,015,

and the conditions detailed below:

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy NE11, HP6, HP9, HP13, HP15, BE22, RL5, T6, T8, T15 and T17 of the Chester-le-Street Local Plan 2003 (saved policies) Local Plan.

3. Notwithstanding any details of materials submitted with the application no erection of dwellings hereby approved shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy HP9 of the Chester-le-Street Local Plan 2003 (saved policies).

4. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

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

5. No development of plots 22/23 shall commence until detailed drawn sections, showing the existing and proposed site levels and the finished floor and garden levels including any garden retaining structures of the proposed development and the boundary marker and existing dwelling at 15 Fynway, 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 HP9 of the Chester-le-Street District Local Plan and Parts 12 and 15 of the National Planning Policy Framework.

6. All windows on the gable elevation of plot 25 must be obscure glazed to a level meeting Pilkington Standard level 3 or greater before that dwelling is occupied, being thereafter retained as such in perpetuity.

Reason: In the interests of residential amenity as required by policy HP9 of the Chester-le-Street District Local Plan 2003 (save policies) and the advice of part 12 of the Framework.

7. Before development of the approved highways layout commences, full engineering details of the roads and footpaths within the scheme must be submitted to the Local Planning Authority and agreed in writing. The layout must thereafter be implemented to an adoptable standard in full accordance with said agreement and be completed in full before occupation of any dwelling hereby approved.

Reason: In the interests of highway safety and Policy T15 of the Chester-le-Street Local Plan 2003 (saved policies)

8. Current British standards/relevant guidance shall be used to set appropriate levels to minimise noise, vibration, light and dust nuisance or disturbance to local residents resulting from construction/demolition site operations.

Reason: In the interests of residential amenity in accordance with part 15 of the Framework.

9. Before any dwelling is occupied, all sound attenuation measures detailed in the noise assessment [Professional Consult noise assessment dated 4/12/19 ref 19.081.1.R2] relating to that dwelling must be implemented in full and permanently retained thereafter.

Reason: In the interests of residential amenity in accordance with part 15 of the Framework.

10. No new building work shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. 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.

11. Remediation works shall be carried out in accordance with the full approved remediation strategy. No part of the development shall be occupied 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.

12. To secure the implications of coal mining legacy, before new building works commence, the developer must undertake an appropriate scheme of intrusive site investigations (noting the need to secure agreement with the Coal Authority's Permitting Team), submit a report of findings arising from the intrusive site investigations, and where identified submit a detailed scheme of remedial works and schedule for implementation for the written approval of the Local planning authority and thereafter implement those approved remedial works in full.

Reason: In order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework

13. Development shall be carried out in line wholly with the drainage scheme contained within the submitted document entitled "Below Ground Drainage Layout" dated "26/06/18". The drainage scheme shall ensure that foul flows discharge to the combined sewer upstream of manhole 1004 and ensure that surface water discharges to the surface water sewer upstream of manhole 1005. The surface water discharge rate shall not exceed the available capacity of 5.3l/sec that has been identified in this sewer.

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

14. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan, based details of the following:

- Trees, hedges and shrubs scheduled for retention and details of RPAs.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.
- Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester-le-Street Local Plan 2003(saved policies).

15. 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: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester-le-Street Local Plan 2003 (saved policies).

16. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity in accordance with part 15 of the Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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



<p><b>Planning Services</b></p>	<p>Demolition of Graham Court and construction of 25 residential dwellings and associated landscaping Application DM/19/03091/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p><b>Comments</b></p>	
	<p><b>Date</b> 27<sup>th</sup> February 2020</p>	<p><b>Scale</b> NTS</p>