

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/19/02733/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	39no. dwellings, including demolition of existing buildings (outline – all matters reserved except access)
<b>NAME OF APPLICANT:</b>	Lichfields
<b>ADDRESS:</b>	Land to the rear of Attwood Terrace, Spennymoor, Co Durham
<b>ELECTORAL DIVISION:</b>	Tudhoe
<b>CASE OFFICER:</b>	Mark O’Sullivan, Senior Planning Officer, 03000 261056, mark.o’sullivan@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application relates to a parcel of land (some 1.6Ha) located to the rear (west) of residential properties on Attwood Terrace, Tudhoe Colliery, on the edge of the wider Spennymoor settlement. Attwood Terrace comprises an established row of predominantly 2 storey terraced properties fronting the main road, with relatively long and narrow gardens extending to the rear, beyond which lies open countryside. This terrace faces a separate terrace to the east (North Road) across the B6288 carriageway.
2. The application site presently forms undeveloped agricultural fields bounded to the north and west by existing hedgerow with further agricultural land beyond. To the south lies a parcel of land where permission was granted in March 2019 for the construction of 3no. detached dwellings (planning approval ref: DM/18/03610/FPA) with works having recently commenced on this site. To the east, the site also includes No’s 17-20 Attwood Terrace (a further 0.15Ha) comprising a commercial premises, vacant retail unit and first floor flat.
3. This application seeks outline permission (all matters reserved except access) for the erection of up to 39no. dwellings on the site. An indicative layout plan is submitted alongside the application detailing access to the site would be taken from North Road to the east. This would involve the creation of a new opening in the existing terrace, requiring the demolition of no’s 17-20 Attwood Terrace. The current proposals represent a slight variation to the outline scheme as originally submitted, reducing the total number of units proposed and omitting a previously proposed retail unit fronting Attwood Terrace adjacent to the proposed access.
4. The application is being reported to the Planning Committee in accordance with the Council’s Scheme of Delegation as it falls within the definition of a major development and has attracted a significant level of public interest.

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## PLANNING HISTORY

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5. Historical planning records detail previous refusals of planning permission for outline residential development on this site and for the erection of 44no. dwellings (planning ref: 7/1990/0045/DM and 7/1990/0406/DM). These applications were refused in April and December 1990 respectively in light of LPA objections over the undesirable physical and visual incursion into the open countryside to the west of Tudhoe Colliery, with the LPA seeking to prevent coalescence of the settlement with Tudhoe Village to the west. Proposed development would extend beyond the physical framework of the settlement and also result in increased traffic congestion which would prejudice highway and pedestrian safety. It was further concluded that at the time there was sufficient land for housing development on approved sites in more suitable locations elsewhere within the Spennymoor settlement.
6. More recently, an informal planning enquiry was considered by the LPA in February 2017 concerning the development of approximately 50-60no. dwellings on the site. The site was conformed to have an amber rating in the SHLAA which concluded housing development would be unsuitable in this location. The development of this site would represent an incursion into the countryside which would have an adverse landscape impact. The site is not accessible and therefore unsuitable. There are also a large number of existing commitments within Spennymoor which may impact on the deliverability of this site.

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## PLANNING POLICY

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### NATIONAL POLICY

7. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
8. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
9. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in

principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

11. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
12. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
15. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
17. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

Sedgefield Borough Local Plan (1996) (SBLP)

18. *Policy D1 - General principles for the layout and design of new developments* - requires the layout and design of all new developments to take account of the site's relationship to the adjacent land uses and activities.
19. *Policy D3 - Design for access* - seeks to ensure new development makes satisfactory provision for all road users and pedestrians.
20. *Policy D5 - Layout of new housing development* - sets criteria for the layout of new housing developments.
21. *Policy D9 – Art in the environment* – seeks to encourage the incorporation of artistic elements in development schemes.
22. *Policy E1 – Landscape Protection and enhancement* - seeks to encourage the maintenance of distinctive landscape areas.
23. *Policy E15 – Safeguarding of woodlands, trees and hedgerows* - seeks to ensure that new proposals retain areas of woodland, important groups of trees, copses and hedgerow wherever possible, replacing any trees which are lost.
24. *Policy H14 - Maintenance and improvement of housing stock* – seeks to support the maintenance and improvement of the Boroughs housing stock, granting permission that would lead to improvement of housing areas through the redevelopment, conversion or modernisation of buildings, environmental improvements, improvements to access, traffic circulation and parking arrangements.
25. *Policy H17 - Backland and infill housing development* - sets criteria for new backland and infill housing development.
26. *Policy H19 - Provision of a range of house types and sizes including affordable housing* – seeks to support proposals which would provide an appropriate variety of house types and sizes, including the provision of affordable housing where a need is demonstrated.
27. *Policy L2 – Provision of open space in new housing development* – seeks to ensure open space provision in housing developments of 10 or more dwellings.
28. *Residential Amenity Standards SPD (2020 Adopted version)* – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

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

29. The County Durham Plan

The County Durham Plan (CDP) which in time will replace the existing saved Local Plans in County Durham commenced its Examination in Public (EiP) in Winter 2019. The programmed hearing sessions subsequently closed on 06 February 2020, and the Inspector's issued his post hearing advice on 20 February 2020. An amended CDP has been prepared to take account of the specific instructions from the Inspector, and all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. Consultation on the CDP (Main Modifications) commenced on Tuesday 26 May and will last until 21 July 2020 (an eight-week period). All comments that are received during this consultation period will be sent to the Inspector to inform his final report. 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. 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 until the Inspector's final report has been received.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at <http://www.durham.gov.uk/article/3270/Sedgefield-Borough-Local-Plan>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

30. *Spennymoor Town Council* – Objects to the application raising concerns over traffic generation and highway safety, noise disturbance from increased site use and construction, loss of trees, ecological impact and the coalescence of Tudhoe Colliery into neighbouring settlement. Further, concerns are expressed over encroachment into the countryside, loss of the village shop and the potential for this development to lead to a further increase in new build housing development in the area outside of the scope of the draft County Durham Plan. It is also highlighted that the development would lead to a loss of a view for residents.
31. *Highway Authority* – Objections are raised to the development, advising that the introduction of the new access would impact residential amenity by displacing on-street car parking. Any attempt to address these amenity concerns through the retention of roadside parking serving adjacent dwellings would likely result in site visibility concerns at the site access, detrimental to highway safety.
32. *NWL* – Advise that a Flood Risk Assessment has been submitted with the application. However, the planning application does not provide sufficient detail with regards to the management of foul water from the development for Northumbrian Water to be able to assess capacity to treat the flows from the development. Subject to condition requiring the approval of surface and foul water drainage details no objections are raised.
33. *The Coal Authority* – Offer no objections, subject to the imposition of a condition relating to the undertaking of a scheme of intrusive site investigation, the submission of a report of findings of such investigation and details of any remedial works necessary, and implementation of these remedial works.

### **INTERNAL CONSULTEE RESPONSES:**

34. *Spatial Policy* – Advise that at the present time the LPA can demonstrate a 5-year supply of deliverable housing sites, which means that the weight to be given to boosting the supply of housing is not as significant as it would be in instances where there is not a 5 year housing land supply. Issues of deliverability/achievability are therefore relevant. For this proposal to be acceptable, the impacts in terms of landscape, townscape and integration with the settlement pattern/form would need to be within acceptable parameters. A key issue will be how acceptable this will be from a settlement morphology perspective, and impact on the setting of the Tudhoe Village Conservation Area.
35. *Landscape* – Advise that the application is submitted alongside a Preliminary Landscape Appraisal which is considered to represent a fair and accurate of description of the proposals and effects of the local landscape. Subject to details of

landscaping and enclosures being considered through reserved matters the proposed mitigation planting would be an appropriate approach to the development.

36. *Arboriculture* – Advise that the proposed development has specified the retention of all the significant trees on the site, but the close proximity of the construction to some root protection areas means their realistic retention with no associated root damage is unlikely. In addition, the proposed SUDS area is close to identified root protection areas, and any regrading of the land or use of heavy machinery in this area is unlikely without causing damage to these trees. Whilst some development of this site is feasible without causing damage to the surrounding mature trees, the density of the proposed layout presented with this application and the close proximity of construction to trees, risks their sustainable retention and potentially conflicts with Saved policy E15 of the SBLP.
37. *Ecology* – Advise that the required offsite offset is noted to be 0.4ha of species-rich/neutral grassland. The cost of creation of this amount of habitat on DCC owned land will be £8203. It is recommended that the proposed contribution be agreed and together with a detailed management and monitoring strategy, included in a S106 agreement. It is also considered that the mitigation recommendations detailed in the updated Ecological Report be conditioned.
38. *Environmental Health and Consumer Protection (Contaminated Land)* – No objections, subject to conditions with respect land contamination.
39. *Environmental Health and Consumer Protection (Contaminated Land) (Nuisance)* – Advise that the granting of planning permission for the development may potentially result in a statutory nuisance being created during the construction phase. However, the imposition of a condition relating to the submission and agreement of a Construction/Demolition Management Plan (CDMP) would be sufficient to mitigate the potential of a statutory nuisance.
40. *Housing Development (Affordable Housing)* – No information has been provided in the application detailing the type and location of houses that will be delivered as affordable housing. If approved, further discussions will be needed with the developer and Housing Development Team to ensure that the affordable housing requirements of the area are met. The location of affordable housing should be dispersed throughout the development to avoid a concentration in one area. This should be in small clusters of housing rather than single units pepper potted through the development. Where discount market sale is being considered as affordable home ownership the required percentage discount will need to be agreed.
41. *Drainage and Coastal Protection* – Advise that insufficient information has been provided to confirm that a satisfactory sustainable surface water management system would be included in the proposed development. Approval should be withheld until such time as a satisfactory strategy is provided and approved.
42. *Design and Conservation* – Concerns raised over the proposed site access in terms of its resulting impact on the character of the plan form of the surrounding area, potential for coalescence of settlement, and the impact of proposed detached and semi-detached dwellings in terms of their relationship to the surrounding residential setting. Whilst this is an outline application, the development should create a sense of place through locally inspired or otherwise distinctive design.
43. *Education* – Advise that 39no. houses would produce 12no. pupils of primary school age and 5no. pupils of secondary age. 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 there would not be sufficient space to accommodate the pupils generated by the development in relation to primary schools, whilst maintaining a 5% surplus. In order to mitigate the impact of the development a contribution of £176,436.00 would be required to facilitate the provision of additional teaching accommodation for primary schools. No contribution for additional secondary school places would be required.

44. *Archaeology* – Advise that in the event of approval, a condition should be applied relating to the completion of a post investigation assessment in accordance with the previously agreed Written Scheme of Investigation.

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

45. *NHS* – The increase in resident population should not have a material effect on the local GP surgeries and their abilities to provide care.

#### **PUBLIC RESPONSES:**

46. The application has been publicised by way of site notice, press advertisement and notification letters to neighbouring residents, including a further re-consultation exercise on receipt of amended plans.
47. In response, 77no. separate representations have been received citing objection to the scheme, in addition to 2no. petitions of objection to the development have been submitted totalling 231 signatories. A summary of the key areas of concern raised is as follows:

- Deliverability  
Objectors express concerns over the large number of existing housing commitments within the Spennymoor settlement which may impact upon the deliverability of this site. This development could contribute to saturation of the local housing market with sufficient provision of more suitable brownfield sites nearby such as the former Tudhoe Grange School site, and recently approved sites such as the Tudhoe and Victory WMC and land to the immediate south behind the Black Horse PH.
- Highways impacts  
Proposals would result in highway and pedestrian safety concerns resulting from intensification of the local highway network and the removal of an existing pedestrian crossing island close to the proposed site entrance impeding pedestrian and disabled access across this busy road. Given the close proximity of a Primary School to the north of the application site, proposals would also increase child, pedestrian and public safety concern resulting from intensification of road use through the settlement, particularly at drop off and collection times.

Given the proximity of the Tudhoe Industrial Estate to the north of the proposed site entrance, heavy goods vehicles and associated industrial estate traffic movements would mix with increased traffic flow along the B6288. Furthermore, increased traffic flow along this road would also impact public transportation services using the highway network with a bus stop located close to the site entrance, and potentially block access for emergency service vehicles.

Proposals would see the removal of a number of roadside parking spaces used by local residents in an area where there is already a lack of suitable parking provision,

forcing residents to park elsewhere, further afield increasing security concern to private vehicles.

Objectors also raise doubts over the accuracy of the applicants supporting transport statement and request that further traffic assessments be carried out in the area, particularly during school term times.

- Landscape impacts

Proposals would result in an adverse landscape impact resulting from the loss of trees and landscaping on the site, and the raising of land levels resulting in a notable incursion into, and loss of the open countryside which is claimed by some to be greenbelt land. There are calls for those mature trees along the northern and western boundaries of the site to be protected by a TPO.

- Ecological impacts

A number of concerns are expressed over the ecological impacts of the development in terms of harm to local wildlife and the resulting loss of biodiversity.

- Impact on local services

Concerns are expressed over the demolition and subsequent loss of the village shop and the affordable flat above, and to the loss of an established Royal Mail Post Box to the front of this retail unit. In addition, concerns are expressed over the ability of local healthcare and educational services to cope with such an increase in local resident population with questions raised over the perceived effectiveness of a single one—off S106 monetary contribution to sustain year on year high quality educational provision.

- Impact on amenity

Concerns have been raised over disruption caused by construction work associated with the development of the site and noise and air quality pollution arising from increased use of the land and traffic increase. Those residents backing onto the site on Attwood Terrace raise concern over the impact of development on their privacy and amenity in terms of overlooking and overshadowing. In particular, concerns are raised by residents of property immediately adjoining the proposed site entrance whose mid-terrace property will now become an end terrace, opening up views of their property, and with significant traffic flow and resulting noise to the side of their home at the newly created estate road junction. Such concerns have raised further objections from local residents in terms of the perceived impact on their mental health and wellbeing, resulting from the loss of the open aspect to the rear of the existing terrace.

- Heritage impacts

Concerns are expressed over the proximity to and therefore impact on the character and setting of the Tudhoe Village Conservation Area. Proposed works would have a detrimental impact upon the residents of Tudhoe Colliery and the surrounding environment and see the demolition of a historic building on Attwood Terrace which although is in a poor condition should be retained and reinstated to better condition. This premises has a plaque on its primary elevation and should not be demolished.

- Misc.

There exists a history of planning refusals for this site and little has changed in terms of the reasons given.

Increased flood risk resulting from the development of agricultural land in a location where there is a history of flooding and drainage issues.

There is a lack of proposed social and affordable housing, with all housing to be for market sale.

Increased pressure for future applications to develop adjoining land resulting in the coalescence of Tudhoe Colliery and Tudhoe Village. Both settlements would lose their distinct character and identity.

Confusion over the number of houses proposed and the site parameters.

Lack of neighbour consultation.

Lack of compliance with policy 6 of the emerging County Durham Plan.

- Other matters

Loss of view and reduction in property value are not considered material planning considerations relevant to the determination of the application. Likewise claims of an alleged restrictive covenant on the land restricting future development of the land cannot be considered as a material planning consideration.

48. In addition, objections have been received from both local members for the area (Cllrs Neil Grayson and Alan Gardner) who object on the following grounds:

- Future residential development would be outside of the scope of the draft County Durham Plan with sufficient housing provision and other large residential development sites already approved in the local area.
- Coalescence of Tudhoe Colliery and Tudhoe Village would have a significant impact on the area.
- Loss of the village shop (Tudhoe Mini Mart).
- Encroachment into the countryside.
- Loss of valued natural habitat, trees and wildlife.
- Traffic generation and suitability of site access.
- Noise disturbance resulting from intensified use of site.
- Disturbance from increased traffic and construction.
- Agreement with all other concerns expressed by local residents.

49. *CPRE* – The site is not identified for further housing development in the SBLP and should not be considered as ‘backland development’ given the scale of the development proposed. The NPPF seeks to protect the countryside from being developed and the emerging County Durham Plan makes no provision for this site to be developed, representing an unwarranted incursion into the countryside. Consideration should be given to the loss of the commercial premises which is a historic building with a plaque.

**APPLICANTS STATEMENT:**

50. This outline application was submitted in August 2019 and amended in January 2020. The revisions addressed detailed comments raised by consultees and provided further evidence to demonstrate the deliverability of the site for housing. The design team also sought to respond to issues raised by local residents where possible. The applicant has responded positively throughout the process and the scheme has resolved all outstanding technical issues. There are no objections from consultees to the current proposals.

51. The development will deliver a range of social, economic and environmental benefits as follows:
- In social terms, the development will deliver 39 new homes, including affordable housing - boosting the supply of housing; attracting new households to the area; and helping to sustain the local community. The site is located within an established residential community and forms a logical addition to the settlement. It is well situated in terms of proximity and accessibility to local facilities, supporting local connectivity and sustainable modes of travel.
  - The development incorporates positive environmental measures to provide net ecological gains through habitat creation; enhanced landscaping; and tree and hedgerow planting. The proposal also includes provision for Sustainable Urban Drainage.
  - In economic terms, the development will generate direct and indirect construction jobs and support for local businesses. It will result in an uplift in GVA, increasing expenditure in the local economy. The scheme will result in additional Homes Bonus payments and increase Council Tax revenues. In addition, the scheme will also provide considerable contributions to support local initiatives for offsite open space, biodiversity enhancements and educational provision.
52. These benefits carry additional weight in light of the current climate. The spread of Covid-19 and the measures put in place to contain it are having a significant economic impact – at the UK level and globally – which will be felt for some time. The UK economy is expected to shrink by 14% over the course of 2020, exceeding the annual falls precipitated by World Wars I and II and the 2008/09 financial crisis. Development such as this will be crucial in boosting the economy, stemming unemployment and supporting the house-building and construction industries.
53. In terms of the principle of development, the NPPF sets a clear commitment to encourage housebuilding and support the delivery of much needed new homes across the country. Relevant policies relating to windfall sites were not saved in the adopted plan, but the application fully accords with the requirements of Emerging Policy 6 (Development on Unallocated Sites) as it is located on the edge of the built-up area of Tudhoe; relates well to the settlement; and meets the relevant criteria. The application should however be determined under paragraph 11(d) of the NPPF which confirms that permission should be granted as the site is not subject to any specific designations or special protections, and there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal. We trust that the Committee will therefore approve this application without delay.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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54. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance

relate to the principle of development, deliverability/achievability, urban/landscape impact, highways impact, privacy/amenity flooding and drainage, ecology, contaminated land, planning obligations and other issues.

The principle of the development:

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 statutory development plan comprises the Sedgefield Borough Local Plan (SBLP) (1996). 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, albeit this position will be subject to review upon receipt of further correspondence from the Inspector.
56. The SBLP was adopted in 1996 and was intended to cover the period up to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. Paragraph 213 also sets out that due weight should be given to existing policies, according to their degree of consistency with the Framework, the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
57. In relation to the locational strategy of housing Policy H1 of the SBLP set criteria that development sites in and around Spennymoor should comply with, to be considered acceptable. However, Policy H1 is not a saved policy and does not now form part of the Development Plan. Saved Policy H17 of the SBLP is however considered relevant to the proposal, setting out that residential development on backland and infill sites can to be supported where they can achieve a satisfactory means of access and parking provision, satisfactory amenity and privacy for both the new dwellings and existing adjacent dwellings, and where development is in keeping with the scale and form of adjacent dwellings and the local setting of the site. The approach of Policy H17 of the SBLP is considered consistent with that of the NPPF which seeks to facilitate the supply of housing which ensure development proposals have acceptable environmental and social impacts. Given the consistency of Policy H17 with the NPPF, and that the policy is not based on time limited information, it is considered up to date, and full weight should be afforded to it in the decision making process.
58. Part 11 of the NPPF (Making effective use of land) seeks to promote an effective use of land in meeting the need for homes and strives to make as much use as possible of previously-developed land. Paragraph 118 expects planning decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing.
59. The application site concerns greenfield land located to the rear (west) of properties on Attwood Terrace which presently form a strongly defined western boundary to the Tudhoe Colliery settlement. Although the site is located in a sustainable and accessible location in terms of proximity to neighbouring services, public transportation links and opportunities, without over reliance upon private vehicle use, a key consideration is how the creation of gap within the terrace and development of these fields will impact the character of the settlement in terms of settlement evolution, whilst viewing the associated landscape impact in terms of the potential for coalescence with neighbouring settlements (namely Tudhoe Village to the south west).

60. The site was previously considered through the SHLAA process (ref: 7/SP/101) and given an amber rating. It was concluded that the development of this site would represent an incursion into the open countryside which would have a resulting adverse landscape impact. The site was also deemed to be inaccessible and therefore unsuitable (albeit the applicant has since demonstrated that the site may now be accessible through the demolition of a section of the existing terrace). It was also considered that there are a large number of existing housing commitments within Spennymoor which may impact on the deliverability of this site (a detail for which the LPA have maintained a consistent stance in opposing the development of this site for residential use, citing previous refusals dating as far back as 1990).
61. In summary the suitability of the development of the site rests upon assessment against the criteria set out in Policy H17 and other relevant policies of the SBLP, whilst taking into account the policies of the NPPF as a material consideration and all other material planning considerations as considered in detail below.

#### Deliverability/achievability

62. Paragraph 73 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
63. Within County Durham all the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,308 dwellings per annum (dpa). Presently the Council is able to demonstrate 6.37 years supply of deliverable housing land against this figure. Overall, the Council has commitments of 16,346 dwellings, 1,495 of which are in Spennymoor. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated, particularly in the Spennymoor area.
64. Further to this, Annex 2 of the NPPF sets out that to be considered deliverable, sites for housing should be available now and have a realistic prospect that housing will be delivered within 5 years. In particular where a site has planning permission for major development it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.
65. The Government has also recently published its Housing Delivery Test (HDT) results in February 2019. The HDT outcome for the Council indicates that housing delivery has been above the requirement over the last three years, which is evidence that delivery of housing on the ground is on track and exceeding DCC housing targets.
66. Given that the NPPF (para 59) seeks to boost significantly the supply of housing, it was highlighted by the LPA in September 2019 that the current application contained no clear evidence that there is a realistic prospect that housing will be delivered on this site taking account of the plethora of housing commitments within the wider settlement, with a number of these large sites still to be built out. Given the outline nature of the application, concerns were also expressed over the deliverability of the site.

67. It is recognised that Spennymoor currently has a high level of housing commitments, and that some of the larger approved schemes including Gladman/Gleeson at Middlestone Moor; the former Electrolux site, Barratt at the former Thorn Lighting site on Merrington Lane, Barratt at Whitworth and Taylor Wimpey/The Acorns at Durham Gate, all have a significant number of dwellings still to be built out. In addition, smaller scale residential approvals include detailed approval for 3no. dwellings on land to the immediate south of the site (planning ref: DM/18/03610/FPA), outline approval for 5no. dwellings at the Tudhoe and District WMC site some 150m to the south (planning ref: DM/20/00075/OUT), and the construction of 7no. apartments and 1no. two storey dwelling at the former Woodlands site some 400m to the west (planning ref: DM/19/00816/FPA). In addition, informal talks are ongoing regarding the redevelopment of the Tudhoe school site for residential development, some 500m to the south.
68. In response, the applicant's planning consultant submitted a letter which attempts to provide a Local Housing Market Analysis. This letter sets out the applicant's case as to why the site should be considered to be deliverable, asserting that that the site is available, that the site is in a suitable location for development, and that the development is achievable. With specific regard to the latter of these points, the applicant's analysis of the local housing market seeks to make the case that Tudhoe is a distinct housing market, different from Spennymoor, and this has a direct bearing on the deliverability of the scheme. It is stated by the applicant that Tudhoe is characterised by detached, owner-occupied properties with higher income households and higher house prices. Spennymoor meanwhile is said to have a higher proportion of terraced housing and flats and lower house prices.
69. It is important to recognise that this is a critique of the existing housing stock and does not take account of the schemes still to be built out, nor the house types to be provided by those developments. Furthermore, no distinction is made between Tudhoe Village (characterised by its Conservation Area and large detached properties) and Tudhoe Colliery (characterised by two established terraced rows of smaller properties), with questions raised over what exactly is included as "Tudhoe" in this analysis. To analyse nearby Tudhoe Village is potentially misleading in relation to the application site which is positioned more towards the Colliery and would also take its vehicular access from it. Whilst development will clearly take place in the field between the village and the Colliery, and bring the two closer together, this application site shares more characteristics with the latter. This being the case, the erection of 39no. detached residential properties in open fields to the immediate rear of the terraces would not be characteristic of the Tudhoe Colliery settlement. To further develop this argument, and whilst it is recognised that the application is outline in nature, it would not be possible to physically develop 39no. dwellings on this particular site of the size and type contained within Tudhoe Village.
70. Having given the applicant sufficient time and opportunity to address initial concerns raised over the achievability and deliverability of residential development on the site, whilst having read and considered all of the additional points put forward, there is no clear evidence to suggest that this site is deliverable. This is an outline application, submitted by a land agent on a speculative bases, with no clear evidence that the site is deliverable or can indeed be built out within a 5 year period, delivering all 39no. proposed units or indeed securing developer interest.
71. Significant concerns are also raised regarding the costs of the development arising from site remediation requirements in relation to previous coal mining activity, significant costs associated with the onsite open space provision, biodiversity mitigation requirements, education contributions, potential off site highway

improvement works, extensive SUDS work, and how this would impact on the viability and attractiveness of the site in a challenging housing market area.

72. Overall it is considered that the development would not meet the NPPF deliverable definition in the absence of any clear evidence to suggest otherwise, and the site would make any meaningful contribution to housing land supply.

#### Urban / Landscape impact

73. Policies H17, D1 and D5 of the SBLP jointly seek to ensure good design in new developments, having regard to a sites natural and built features and the relationship to adjacent land uses and activities. They also require that development is in keeping with the scale and form of adjacent dwellings and the local setting of the site, with attention to be given to the spatial relationship of buildings in creating a sense of place. Policy E1 of the SBLP seeks to encourage the maintenance of distinctive landscape areas. Policy E15 of the SBLP seeks to ensure that new proposals retain areas of woodland, important groups of trees, copses and hedgerow wherever possible, replacing any trees which are lost.
74. These policies are also considered consistent with Parts 12 and 15 of the NPPF which jointly seek to ensure that development is sympathetic to the local character and landscape setting, while seeking to protect valued landscapes and recognising the intrinsic character of the countryside. Due to their consistency, full weight should be afforded to all of these policies in the decision making process.
75. The application site is not located within a Conservation Area or area of special control. The application is outline in nature with all matters reserved except access and specific details of layout, scale, landscape and design would be considered at a later date if approved. However, for the purpose of the current submission, regard must be given to the existing character of the surrounding locale.
76. In this respect, the proposed development would disrupt and punch through an established terraced row of buildings forming Attwood Terrace which links the wider Spennymoor Settlement to the south and Croxdale to the north. Although one of the buildings to be removed does seem to have some historical value, possessing a plaque to the front elevation, as a group the buildings to be removed are considered unsightly in their present form and do detract from the character of the wider street scene. Although concerns have been raised over the loss of a Royal Mail post box to the front of these buildings to facilitate the proposed access point, such matters relating to the resiting of this facility would be detailed further at the reserved matters stage.
77. Notwithstanding the above, the distinct character of this part of the settlement is clearly represented by its strongly defined and historic terraces in a linear form offering an established street frontage. The creation of 22m wide gap in the western terrace to form a new vehicular access and associated visibility spays to serve a development of detached residential units with views of green space, visitor parking and new, modern elevational treatment, is considered to be entirely out of character with the established plan form of the area.
78. It is also considered that the indicative layout of detached and semi-detached dwellings does not respond to the simple plan-form of Tudhoe Colliery and any resulting move away from these proposed house types would likely result in pressure for development of further linear rows of terracing on this backland site, again impacting the residential character of the area.

79. In landscape terms, the application site was previously considered through the SHLAA process (ref: 7/SP/101) and given an amber rating. It was concluded that the development of this site would represent an incursion into the open countryside which would have a resulting adverse landscape impact. Since this time, and in the context of the current application, a more detailed and up to date landscape impact analysis of the site has been undertaken. The applicant has submitted a Preliminary Landscape Appraisal in support of the application which landscape officers considers represents a fair and accurate representation of the proposals in its description of the effects of the local landscape.
80. The application site is not in a locally or nationally designated landscape and is not within the designated greenbelt. Visibility at close quarters from public viewpoints is limited to those from the PH car park to the south east and the Church Hall and its car park to the west. There are low angle views across fields at distances of around 300m from the public footpaths that run to the west and north. In these views the development would largely be seen in the context of, or against, the existing development that runs to the south and east of the site.
81. Whilst landscape officers advise that the mitigation proposed in terms of structural planting would be appropriate, it is considered that there remains residual landscape harm through the encroachment into the perceived countryside, presenting an undesirable development form which is exacerbated by the current simple linear form of the settlement which would be disturbed.
82. In addition, it is considered that the development of the site would contribute to increased coalescence of overall settlement, by bringing this part of the settlement closer to that of Tudhoe Village to the south west. Until circa 1970's, there was a clear definable break between the north-south linear development of Tudhoe Colliery and Tudhoe Village to the south west. Whilst there would be no definable encroachment of the site into the Tudhoe Village Conservation Area to the south west, the extension of the settlement to the west of Attwood Terrace would bring the settlement form closer to that of Tudhoe Village, giving the perception that the settlements are read as one. However, the development at proposed is not considered to impact on the setting of Tudhoe Village Conservation Area.
83. With regards Arboricultural impact, the proposed development has specified the retention of all the significant trees on the site. However, the close proximity of the construction to some root protection areas (RPA) means their realistic retention with no associated root damage is unlikely. In addition, the proposed SUDS area is also in close to identified RPA's of trees and any regrading of the land or use of heavy machinery in this area is unlikely achievable without causing damage to these trees. Whilst some development of this site is feasible without causing damage to the surrounding mature trees, the density of the proposed layout presented with this application and the close proximity of construction to trees, risks their sustainable retention resulting in a negative visual impact.
84. Although only outline in nature, for the reasons specified, the development of this site is considered to harm the distinct character and urban form of the Tudhoe Colliery settlement, and result in an encroachment into the countryside and further coalescence with Tudhoe Village contrary to Policies H17, D1 and D5 of the SBLP and Parts 12 and 15 of the NPPF.

## Highways

85. Policies H17, D1, D3 and D5 of the SBLP seek to ensure that new developments achieve a satisfactory means of access, manoeuvring, turning and parking provision

for the number and type of vehicles using the development, and a safe and attractive environment for all users. These policies are considered consistent with Part 9 of the NPPF which states that a safe and suitable access can be achieved for all users and should only be prevented or refused on highway grounds where there is an unacceptable impact on highway safety, or the residual cumulative impacts of development are considered to be severe.

86. Access to the site is shown to be achieved via the creation of a new road into the site, punching through the existing terrace involving the demolition of no's 17-20 Attwood Terrace. Further details relating to the internal estate layout of this road would be left to reserved matters. Notwithstanding this it is accepted that any reserved matters scheme would need to include sufficient car parking provision which complies with the minimum requirements outlined within the County Durham Parking and Accessibility standards 2019, including non-allocated visitor parking (VP) provision of 25% dispersed evenly through the development. In addition, all new residential developments must be subject to a 20mph speed limit controlled by a Traffic Regulation Order. The creation of the 20mph zone will form part of the Section 38 Agreement Highways Act 1980 procedure.
87. Significant local objection has been raised over the suitability of the existing highway network to serve the application site in terms of highways safety. The views of the highway authority have been sought in this regard, who consider that it is possible to create a safe access into the site from the location shown, subject to the creation of a protected right turn ghost island in the carriage ways and satisfactory junction visibility splay onto Front Street to the north and south. However, submitted plans demonstrate that in order to achieve such visibility, existing and established roadside parallel parking on Front Street serving the adjacent terrace in the location of the access would need to be displaced.
88. In supporting documentation (dated 06 April 2020) the applicant confirms proposals would result in the loss of 7no. on-street spaces along Attwood Terrace. 4no. of these to accommodate the new access, with a further 3no. required to be removed to preserve visibility splays. These 7no. spaces currently serve 8no. properties comprising 5no. terraced dwellings, 1no. flat, 1no. shop and 1no. commercial unit. The shop, flat and commercial unit will be demolished to facilitate the access, removing demand from these units as well as any associated vehicle movements including service and delivery vehicles. The remaining 5no. residential properties affected would benefit from 6no. new parking bays to be provided within the site, correlating to direct provision for each of the 5no. properties as well as an additional VP space. These spaces would be located between 25m and 70m of Attwood Terrace and can be allocated if necessary. Existing spaces on Front Street are presently unallocated with no guarantee of securing a space.
89. The applicant further explains that the proposed scheme will reduce parking demand whilst increasing parking provision, replacing existing sub-standard on-street parking bays with 6no. larger bays, compliant with parking standards. Furthermore, the proposals will remove residential parking from Front Street, a busy main road, onto a secondary residential street - supporting safer vehicle movements on Front Street and reducing pedestrian / vehicular conflict along the footpath and carriageway. The proposed works to the highway would also secure an improved pedestrian environment for all residents along Front Street, an improved outlook for those properties affected by loss of on-street parking; and improved compensatory parking.
90. Notwithstanding the above, highways engineers maintain objections to the proposals. Historically, residents of Attwood Terrace have utilised roadside spaces on Front Street to park their private vehicles as close to their properties as possible. The

displacement of these spaces would see their relocation to a notably greater distance of up to 70m within the development away from Attwood Terrace in areas of poorer natural surveillance.

91. Whilst the displacement of spaces ensures provision for those effected is to be maintained, this does come at the expense of their amenities. Submitted plans detail only 5no. allocated spaces for these dwellings up to a distance of 70m away from the properties they would serve with no details provided by the applicant as to how these spaces will be created. At this distance it is considered to discourage existing residents from using these spaces, increasing existing demand of existing spaces and likelihood of unsafe parking within the protected visibility spays. At present there is no recorded history of accidents associated with the existing parking arrangements.
92. Overall, whilst the proposals could achieve a satisfactory means of access, the displacement of residents car parking required to achieve adequate site visibility splays and formation of the new access would adversely impact on the amenities of residents and highway safety contrary to the provisions of Policies H17, D1, D3 and D5 of the SBLP, and Part 9 of the NPPF

#### Privacy / Amenity:

93. Policies H17, D1 and D5 of the SBLP seek to ensure that new developments provide satisfactory amenity and privacy for new and existing adjacent dwellings. Supplementary Planning Guidance Note 3 sets minimum separation criteria between dwellings. Such provisions have been superseded by the Councils recently adopted Residential Amenity Standards SPD which provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed. These Policies are considered consistent with Part 12 of the NPPF which seeks to create safe, inclusive and accessible developments with a high standard of amenities of future users which do not undermine the quality of life or community cohesion. Given the consistency with the NPPF full weight should be given to these policies in the decision making process.
94. The Councils Residential Amenity Standards SPD sets out that all new development, including new dwellings, will have some bearing on neighbouring properties, however it is important to ensure that the impact does not result in a significant loss of privacy, outlook or light for occupiers of new dwellings and existing dwellings. The design and layout of new development should therefore ensure that reasonable privacy and light is provided for surrounding residents and occupiers, particularly in relation to residential use and enjoyment of dwellings and private gardens. Spacing between the windows of buildings/dwellings should achieve suitable distances for privacy and light, whilst also preventing cramped and congested layouts. In order to achieve these objectives, the following minimum standards should be applied to new residential developments:
  95. Main facing elevation to main facing elevation containing window/s serving a habitable room:
    - 21 metres between two storey buildings
    - 18 metres between bungalowsMain facing elevation to gable wall which does not contain a window serving a habitable room:
    - 13 metres to two storey gable
    - 10 metres to single storey gable
  96. In addition, new developments should incorporate usable, attractively laid out and private garden space conveniently located in relation to the property or properties it

serves. It should be of an appropriate size, having regard to the size of the dwelling and character of the area. The length of gardens will generally be dictated by the minimum distancing standards but should be no less than 9m unless site specific circumstances allow for a reduction in size.

97. The application is outline in nature with all matters reserved except access. Indicative layout plans provided by the applicant demonstrate that 39no. units could be achieved on the site whilst maintaining satisfactory levels of separation in excess of the aforementioned minimum spacing requirements between all existing and proposed new dwellings. The positioning of dwellings (to be confirmed through reserved matters) could ensure that there would be no overlooking windows or unreasonable overshadowing of neighbouring property. Furthermore, satisfactory levels of enclosed private amenity space can be provided with a further area of public open space to be created to the northern extent of the site. Details of landscaping would be submitted through reserved matters alongside a finalised site layout.
98. Notwithstanding this, concerns are raised over the impact of the proposals on the amenities of existing residents of Attwood Terrace who reside adjacent to the site, and in particular those immediately adjacent to the north and south of the proposed site entrance (no's 16 and 21), and who have expressed objection to the application. This issue relates to the passing of traffic alongside 2no. newly created gable ends positioned immediately adjacent to a new access serving all 39no. units, with currently private rear garden spaces and side and rear facing windows to be presented with a busy access road in close proximity, detrimental to the future occupants of these dwellings. In particular, at no.21 Attwood Terrace, this issue would be exacerbated further by low boundary enclosers and the presence of a rear sunroom extremely close to the southern property boundary immediately adjacent to this proposed access road. As eluded to further within the highways section of the report, concerns are also raised over the amenity impacts of displacing established roadside parking to the front of properties on Attwood Terrace further afield and out of direct sight.
99. The views of the Councils EHO have also been sought who advise that the development is likely to breach the thresholds within the TANS (Noise TANS section 3.7 pg 18,) during construction. This indicates that the development may, without further controls, lead to a significant impact.
100. With regards to the demolition and construction phases, it is inevitable that some level of disturbance to neighbouring residents would result from site operations. No details of the proposed gable end wall reinstatement are provided, although it is expected such details could be resolved through reserved matters or condition. Further construction details can be appropriately controlled in terms of site operations and hours of working so as to ensure the limitation of noise emission from the site during more sensitive hours. The imposition of a condition to secure the submission and LPA approval of a CDMP would be sufficient to mitigate the potential of a statutory nuisance.
101. Whilst many privacy/amenity issues are able to be addressed through reserved matters and/or by way of condition, it is considered that the cumulative impact of the displacement of established roadside parking and disturbance alongside newly created end terrace properties would adversely impact on the amenities of existing residents. For this reason, proposals are considered to conflict with the principles of H17, D1 and D5 of the SBLP and Part 12 of the NPPF.

Flooding and Drainage:

102. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, whilst ensuring that new development does not give rise to increased flood risk elsewhere. The application site is located in a Flood Zone risk 1 area with areas of known surface water flooding that will need to be avoided and mitigated should the application be approved. The application is supported by a Flood Risk Assessment (July 2019) which confirms risk of flooding from sewers, overland flow and groundwater to be low. There are no identified local site-specific risks that would adversely affect the Flood Zone categorisation. Similarly, there are considered to be no significant increased off-site flooding risks as a result of the development. The site is therefore considered suitable, in terms of flood risk for the type of development proposed
103. Notwithstanding this, given the scale of the development, the proposed development falls into the major development classification where proposals should incorporate SuDS unless there is clear evidence that it would be inappropriate. An approved SuDS system should take account of advice from the Lead Local Flood Authority (LLFA), have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
104. A surface water drainage strategy is provided which details the applicants approach to surface water management of the site. It is considered that subject to layout, a surface water drainage design can be achieved to serve the development and surface water storage will be required to support this without impacting flood risk on and off the site. However, whilst indicative plans confirm the creation of SuDS on the site, no specific details have been provided.
105. In the absence of a detailed drainage layout plan, further confirmation is necessary to demonstrate how the proposals will include and be designed around SuDS in accordance with CIRIA Guidance and the Councils Sustainable Drainage Guide. For compliance at this outline stage, a statement and a plan should be made available, confirming that the proposal will include, as a minimum, SuDS features, for example:
- Permeable paving to all private drives and shared surfaces.
  - Swales, filter drains, rain gardens etc to treat and transmit surface water across the site (routes and land locations to be identified on a plan).
- Such commitment can then be taken forward to be designed and detailed for approval by the LLFA for compliance at a later stage.
106. Presently there is insufficient information provided to confirm that a satisfactory sustainable surface water management system will be included in the proposed development other than an area designated as a SuDS on the indicative site layout. The Council's Drainage Engineers advise that approval is withheld until such time a satisfactory strategy is provided and approved by the LLFA. At present the development would conflict with Part 14 of the NPPF, whilst recognising this matter could be addressed through the submission of a detailed drainage plan for consideration.

## Ecology

107. Part 15 of the NPPF seeks to ensure that when determining planning applications, local planning authorities seek to conserve and enhance biodiversity. The application is submitted alongside an updated Ecological Impact Assessment Report (E3 Ecology, May 2020) identifying the retention of trees which are of moderate risk for use by bats along the northern and western boundaries of the site. A habitat also identified as being of risk of use by white-letter hairstreak is to also be retained as part of the indicative site design, although an area of originally intended neutral grassland

appears to be omitted from the proposals. Such confirmation allays initial concerns raised regarding likely presence of and hence impact on bats by the proposals with no risk identified within the buildings to be removed. No ecological objections are raised subject to the conditioning of the recommendations included in section H of the report.

108. The Defra metric has been used to calculate biodiversity losses/gains as a result of the proposals. With some onsite provision (as detailed in the Recommendations section H of the Ecological Report), there remains a residual offset of 0.4Ha of species rich/neutral grassland that will be required in order to ensure a net gain is achieved in line with the requirements of the NPPF and emerging Environment Bill. The cost of creation of this amount of habitat on DCC owned land will be £8203.
109. The applicant has confirmed in writing that they would be willing to enter into a S106 agreement to secure this contribution. Subject to this contribution and adherence to the mitigation measures in submitted Ecological Report (detailing precautionary working methods and habitat creation to be conditioned) the proposals are considered to satisfy Part 15 of the NPPF.

#### Archaeology:

110. Paragraph 199 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) by a development in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. The ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.
111. The applicant has submitted the results of an archaeological investigation of the site which confirms there to be no archaeological remains on the site warranting further fieldwork. However, whilst the work was done in accordance with a Written Scheme of Investigation (WSI) agreed with the Councils Archaeology departments, not all aspects of the WSI have been fully complied with (e.g. uploading report to OASIS, sending hard and digital copies to the HER, etc). In the event of approval, a condition should be applied to ensure outstanding elements of the WSI relating to dissemination of results and archive deposition are appropriately carried out. Subject to the above, proposals would be considered to comply with Paragraph 199 of the NPPF.

#### Contaminated Land:

112. Part 15 of the NPPF seeks to prevent unacceptable risks from pollution and land instability. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. The application is submitted alongside available information and historical maps with respect to land contamination, namely the Dunelm Preliminary Investigation (ref D7729, dated 06 December 2016). The findings of this investigation are accepted with the conclusion that a Phase 2 assessment is required agreed with. Should the application be recommended for approval this would need to be subject to condition ensuring the submission of a Phase 2 site investigation, and any other works which may be subsequently determined as necessary such as Phase 3 remediation strategy and Phase 4 verification report. Subject to the above, the application would satisfy the provisions of Part 15 of the NPPF.

#### Land Stability

113. Part 15 of the NPPF seeks to prevent unacceptable risks from pollution and land instability. Where a site is affected by contamination or land stability issues,

responsibility for securing a safe development rests with the developer and/or landowner. The application site falls within the defined Development High Risk Area in an area of recorded and likely unrecorded coal workings at shallow depth. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

114. The application is supported by a Preliminary Investigation Report, dated 06 December 2016 and prepared by Dunelm Geotechnical & Environmental. This report has been informed by an appropriate range of sources of information and concludes that there is a potential risk posed to the development by past coal mining activity. The report authors therefore recommend that intrusive site investigations are carried out in order to establish the exact situation in respect of coal mining legacy issues with the findings of the intrusive site investigations to inform any remedial measures which may be required. The Coal Authority further consider that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development.
115. The Coal Authority offers no objection to the proposed development subject to the imposition of a condition to secure the undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity; the submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; and implementation of those remedial works. Subject to the above, proposals would be seen to satisfy the provisions of paragraphs 178 and 179 of the NPPF, ensuring the safety and stability of the development.

#### Planning obligations

##### *Affordable Housing*

116. As the proposed development is for 39no. dwellings, it exceeds the size threshold (10no. or more dwellings) where there is a need to provide affordable housing as part of the scheme (paragraph 63 of the NPPF). Saved Policy H19 of the SBLP requires affordable housing on allocated housing sites identified within Policies H2 and H9, however, it is considered justifiable to seek affordable housing on windfall sites too. The Strategic Housing Market Assessment (SHMA) (2019) identifies the need for affordable housing within County Durham which it defines as one housing market area. While the percentage of affordable housing required is not set out within an existing Policy, it is nevertheless based on viability evidence which confirms that 15% is appropriate within this part of the County given that it is a medium value area. NPPF paragraphs 20, 34, 61 – 64 and 71 establish the need for affordable housing provision where a need has been identified and affordable provision at 15% is considered to be at a level which would normally enable schemes to be developed viably in this part of the County. Such provision equates to a need for 6no. affordable units to be provided across the scheme, to be secured buy s106 legal agreement.
117. The SHMA (January 2019) evidences housing needs in County Durham and sets out that as much as 30% of affordable housing in County Durham should be delivered as intermediate housing to provide affordable home ownership. In this context, the remaining 70% of affordable housing should be provided as affordable homes to rent. Therefore, the initial proportion of affordable provision is required for affordable home ownership in accordance with paragraph 64 of the NPPF. In order to, as far as possible meet the needs in the SHMA the remainder of the affordable housing should be provided as affordable homes to rent. In accordance with Paragraph 64, 4no. affordable units should be affordable home ownership, with 2no. affordable rent. The

applicant has indicated that this level of provision would be delivered, with the delivery and tenure to be secured through a planning obligation under S106 of the Town and County Planning Act 1990 (as amended).

118. There is also a requirement to provide 10% of the private and intermediate properties for older people. Although the application makes no reference to this, such matters could be addressed through a S106 agreement to secure affordable housing in perpetuity and Building for Life provision.

#### *Educational provision*

119. Paragraph 94 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to seek this. Based on the methodology set out in the Councils adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 39no. houses would produce 12no. pupils of primary school age and 5no. pupils of secondary age. 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 there would not be sufficient space to accommodate primary school pupils generated by the development, whilst maintaining a 5% surplus. In order to mitigate the impact of the development a contribution of £176,436.00 would be required to facilitate the provision of additional teaching accommodation. The applicant has agreed to enter into an agreement to secure this contribution which is to be paid in a single installation upon first occupation of the dwellings. Sufficient space is considered to be available to accommodate secondary school pupils generated and the development is not required to mitigate its impact in this respect.

#### *NHS*

120. Local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of any S106 funds secured. Local GP Practices are keen to maintain/improve their access, and an increase in patient numbers may require adjustments to existing premises/access methods. The NHS advise that the increase in resident population arising from an additional 39no. dwellings should not have a material effect on the local GP surgeries and their abilities to provide care. There is therefore no requirement for NHS contribution in this case.

#### *Open Space contributions*

121. The OSNA (2010) sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site specific basis. This is a relevant material consideration in conjunction with Policy L2 of the SBLP. Policy GANP H9 states that where appropriate, proposals for new housing should demonstrate provision of necessary new facilities on-site and/or provision of, or contribution to, necessary off-site facilities for example improved drainage, parks, play areas or footpaths as required to make the development acceptable in planning terms. New development proposals must contribute towards sustainable development. This would need to be provided in accordance with the Open Space Needs Assessment (OSNA).
122. A scheme of 39no, units would generate 86no. residents (based on 2011 census data of 2.2 persons per household) requiring an expectation of amenity open space to be provided on-site, and an off-site contribution for the other typologies of open space. With a notable lack of public open space provision in the immediate area, the proposed scheme should deliver 1290m<sup>2</sup> of on-site open amenity space as part of the

development. Indicative plans detail the retention of an area of open amenity space to the far north of the site, measuring in excess of 2000m<sup>2</sup> (approx. figure), meeting the requirement for on-site open space provision. Taking this into consideration, an off-site financial contribution of £61,533.00 would be required, to be paid in a single instalment upon first occupation of the dwellings. The applicant has agreed to enter into an agreement to secure this contribution.

### *Provision of public art*

123. Saved policy D9 of the SBLP seeks to encourage the incorporation of artistic elements in development schemes. Given the application is outline in nature with the majority of matters reserved for later consideration, details of public art cannot be considered at this time.

### *Other issues*

124. Concerns have been raised regarding the potential loss of view and outlook of the countryside from residential properties and loss in value of properties are not material considerations.

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## **CONCLUSIONS**

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125. It is concluded that the development would harm the distinct character and urban form of the Tudhoe Colliery settlement, result in an encroachment into the countryside and further coalescence with Tudhoe Village contrary to Policies H17, D1 and D5 of the SBLP and Parts 12 and 15 of the NPPF. It is also concluded that whilst the proposals could achieve a satisfactory means of access, the displacement of residents car parking required to achieve adequate site visibility splays and formation of the new access would adversely impact on the amenities of residents and highway safety contrary to the provisions of Policies H17, D1, D3 and D5 of the SBLP, and Parts 9 and 12 of the NPPF
126. The NPPF is a material planning consideration which is capable of outweighing conflict with the development plan. Paragraph 11 sets out for decision making, that development that accords with an up to date development plan should be approved without delay, or, where there are no relevant development plan policies or the policies most important for determining the application are out of date, planning permission should be granted unless:
- i: the application of policies in this Framework that protect areas or assets of particular the benefits, when assessed importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh against the policies in this Framework taken as a whole.
127. In this respect there would be conflict with the development plan. A suite of policies most important for determining this application have been identified, these include Policies H17, D1, D3 and D5 of the SBLP. In the round, in line with case law, this suite of policies is considered up to date, and therefore the balance tests of paragraph 11d of the NPPF are not engaged.
128. The NPPF seeks to achieve sustainable development through the application of three overarching objectives (economic, social and environmental), which are

interdependent and need to be pursued in mutually supportive ways. In this respect it is recognised that:

- The application site is located within a sustainable and accessible location on the edge of the Tudhoe Colliery settlement close to existing shops, services and public transportation linkages, reducing any overreliance upon private vehicle use.
- Although outline in nature, with layout plans indicative at this time, the proposed layout is capable of achieving acceptable relationships between dwellings, both internally and externally to the site resulting in acceptable levels of privacy and amenity for existing and future residents.
- Typical of any residential housing development, there would be direct and indirect economic benefits within the locality and from further afield through increased expenditure. This would include the creation of construction jobs, as well as indirect employment over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area. However, given the significant amount of housing commitments within the County, specifically in Spennymoor, these benefits are considered limited.
- There would be a residual amount of publicly accessible open space over and above the minimum targets of the 2018 OSNA, to mitigate the impact of the development, subject to delivering the required typologies on site.
- Based upon the ecological works proposed and off-site contribution, it is considered that the development would lead to net gain in terms of biodiversity.
- Development of this site would also see the demolition of an existing and unsightly, vacant commercial unit on a prominent terraced frontage to allow access to a site where a mix of 39no. residential units can be provided, adding to the mix of house types in the area including some affordable housing provision which would meet an identified short fall within the County. Although the removal of this unsightly structure may be classed as a benefit, the loss of an existing business premises that could serve the local community is recognised.
- Whilst the development would assist in maintaining housing land supply, this is at a time when the Council can demonstrate 6.37 years of deliverable housing against an objectively assessed need. It is recognised that Spennymoor currently has a high level of housing commitments, and that some of the previously approved larger schemes still have a significant number of dwellings to be built. A number of smaller schemes have also been approved in the locality on previously developed sites and other well positioned brownfield land in the vicinity has been identified for possible future residential development. The current application contains no clear evidence that there is a realistic prospect that housing will be delivered on this site taking account of the plethora of housing commitments within the town, and the large sites still to be built out. Furthermore, the application is outline in nature, having been submitted on a speculative basis by a land agent, with no clear evidence that the site is deliverable or can indeed be built out within a 5 year period, delivering all 39no. proposed units or indeed securing developer interest. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is significantly reduced.
- Significant concerns are raised regarding the costs of the development arising from site remediation requirements in relation to previous coal mining activity, significant costs associated with the onsite open space provision, biodiversity mitigation

requirements, education contributions, potential off site highway improvement works, extensive SUDS work, and how this would impact on the viability and attractiveness of the site in a challenging housing market area further impacting on likely deliverability.

- The proposed development would result in harm to the amenities of existing properties on Attwood Terrace in the vicinity of the proposed access junction as a direct result of the positioning of the proposed access and the displacement of established off-street parking provision to the front of dwellings.
- Development would be attached to and punch through a strong, continuous and long established terraced row of buildings forming Attwood Terrace resulting in a negative impact the established settlement form and would be out of character with the established plan form of the area.
- There is a landscape impact of developing a greenfield site on the edge of the settlement which would be at odds with the existing linear form of the settlement and would contribute to coalescence of Tudhoe Colliery and Tudhoe Village.

129. Overall it is considered that the proposal does not constitute sustainable development when assessed against the NPPF, there are no material considerations which outweigh the conflict with the development plan and therefore the application is recommended for refusal.

130. The proposals have generated significant public, elected member and Town Council opposition and all representations received have been taken account and addressed within the report.

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## **RECOMMENDATION**

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

1. The Local Planning Authority considers that the development would harm the distinct character and urban form of the Tudhoe Colliery settlement, result in an encroachment into the countryside and further coalescence with Tudhoe Village contrary to Policies H17, D1 and D5 of the Sedgefield Borough Local Plan and Parts 12 and 15 of the NPPF.
2. The Local Planning Authority considers that the proposed development, due to the displacement of existing residents car parking, required to achieve adequate site visibility splays, and the formation of the new access, would adversely impact on the amenities of residents and highway safety contrary to the provisions of Policies H17, D1, D3 and D5 of the Sedgefield Borough Local Plan, and Parts 9 and 12 of the NPPF.
3. The Local Planning Authority considers that insufficient information has been provided to demonstrate that a satisfactory sustainable surface water management system serving the development site can be achieved, contrary to Part 14 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

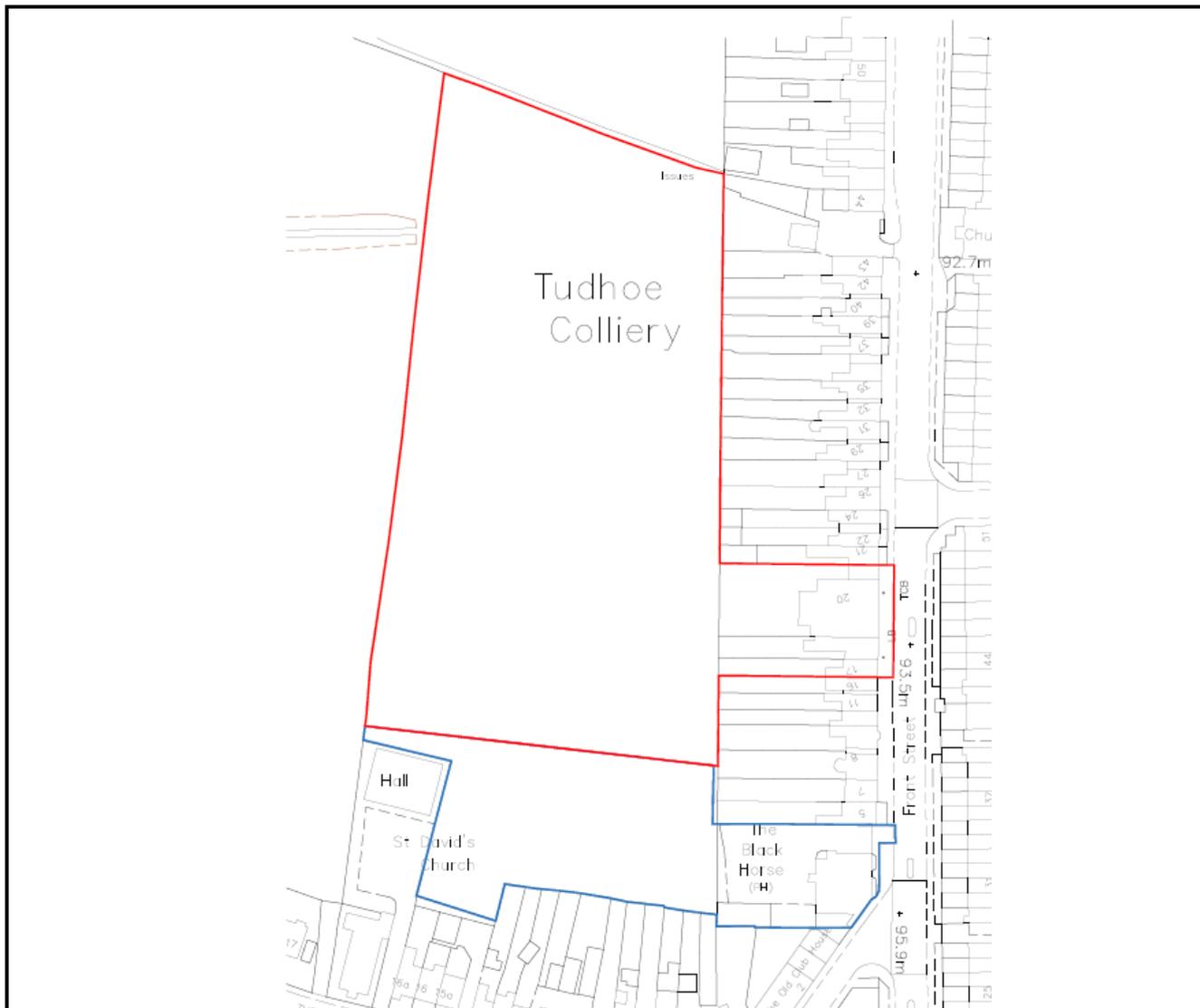
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The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive 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. However this has not been possible in this instance. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## BACKGROUND PAPERS

- Submitted Application Forms, Plans and supporting documents provided by the applicant.
- The National Planning Policy Framework (NPPF)
- The Sedgfield Borough Local Plan (SBLP)
- Statutory, internal and public consultation responses



 <p><b>Planning Services</b></p>	<p>39no. dwellings, including demolition of existing buildings (outline – all matters reserved except access)</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>16 July 2020</p>	