

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/21/02574/RM
<b>FULL APPLICATION DESCRIPTION:</b>	Application for reserved matters consisting appearance, landscaping, layout and scale from approval DM/19/00118/VOC
<b>NAME OF APPLICANT:</b>	Dr. Amy Izycky Plot 12 The Pastures
<b>ADDRESS:</b>	Lanchester Durham DH7 0BT
<b>ELECTORAL DIVISION:</b>	Lanchester Steve France
<b>CASE OFFICER:</b>	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. This is an application for 'Reserved Matters', these being details of Appearance, Landscaping and Layout, on an individual plot following the grant of 'Outline' permission for a development of up to 14 dwellings on land to the south of The Paddock in June 2017.
2. The development site within which this plot sits was granted Outline consent on appeal in 2017 for up to 14 dwellings with all matters reserved except access which was agreed at that time. Subsequent reserved matters and s.73 applications agreed the subdivision of the site and the extent of the individual plots and their levels, along with details of common elements of the scheme, including drainage, highways and landscaping, setting up the development to be built as plot-build self-build on serviced plots through the submission of applications on individual plots.
3. Parts of built development required to service the plots was undertaken before application for and development of the individual plots commenced. This included the road layout, levelling of individual plots and parts of the required drainage system. The root protection zone of the trees adjacent The Paddock was fenced to the relevant British Standard. The access road and pavement from The Paddock has therefore been built up to all but its final surface. Two extensions of this highway approved as shared private driveway serving dwellings at the top and the bottom of the site are at present part finished in base layer aggregate, during the development process. Large drainage attenuation tanks have been installed at the

lower part of the site to the rear of existing dwellings in Ford Road to control surface water drainage. These will be complimented by additional tanks on each plot.

4. Five of the plots have been approved to date and are in various states of development, with two essentially complete and occupied. These are all sited on the south boundary of the site on the village edge facing agricultural land (one overlapping the rear garden of a dwelling to the south-east). All these dwellings have grey roofs, but otherwise display a range of styles and scale, from a bungalow, to larger two-storey houses and dwellings that present a two-storey appearance into The Pastures but use roof accommodation to have three storeys of windows on the rear.
5. The individual plot subject to this application, no.12, sits at the north west of the site, in between plot 11 which is nearing completion and 8 The Paddock, an extended bungalow in a low-density single storey older development to the north, set within a Tree Preservation Order. 7 The Paddock was demolished to provide access to the site granted consent by the Planning Inspector. The application site borders countryside to the west, facing towards the Roman fort on the hill. Plot 12 is 694sqm in area

### The Proposal

6. The planning application seeks approval for a single detached dwelling. Formed of two parallel blocks with simple apex roofs and plain gables joined by a flat-roofed central component with lantern rooflights, the dwelling has a single storey extension to it's rear.
7. The larger of the two blocks on the higher part of the site includes in-roof accommodation and provides three floors internally, the ground floor is cut into the slope. Windows in this block are arranged to overlook the farmland to the west, including a cut-out balcony in the roof slope. The plot's private garden to the rear is 10.7m in length. The upper, second floor window in the roof gable has been amended in process to present obscure glazing on the rear elevation.
8. The smaller block is sited and scaled so that the dwelling 'falls' visually with the slope of the site. The height to this ridge is 7.6m, and to the eaves 5.4m. The footprint is set 2.7m from the boundary with the adjacent, lower building plot. This two-storey block is again set 10.7m from the rear boundary, shared with 8 The Paddock. A flat roofed rear extension with lantern rooflight projects 5.4m into the rear garden
9. The front of the dwelling includes a permeable parking area under which the required sustainable drainage storage system will be sited. There is an integral double garage. The building presents a blank gable with a separation distance of 14m to the facing development at plot 11, with car port associated with the neighbouring development in between.
10. This application is reported to Committee upon the request of Councillor Douglas Oliver to consider the impact of this development in terms of: overlooking; loss of light; visual amenity; landscaping and impact on trees in a public forum.

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## **PLANNING HISTORY**

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11. DM/16/00871/OUT - Outline planning permission for residential development (C3) of up to 14 dwellings with all matters reserved except access, including demolition of no. 7 The Paddock. Application Refused, Appeal Allowed.
12. DM/18/03847/RM - Reserved matters for outline planning permission DM/16/00871/OUT. Approved.
13. DM/19/00118/VOC - Variation of condition 1 pursuant to DM/16/00871/OUT and propose an additional condition. Approved
14. DM/19/00779/AD - Erection of free standing, single sided temporary non-illuminated sign (1525mm x 1220mm x 4mm) on wooden frame. Approved.
15. DM/19/01005/RM – Plot 10, 3 Bedroom detached bungalow with integrated garage and off-street parking. Approved.
16. DM/20/00044/RM – Plot 9, Reserved matters of appearance, landscaping, layout and scale for erection of single residential dwelling. Approved.
17. DM/20/00110/RM – Plot 11, Reserved Matters consisting Appearance, Scale, Landscaping and Layout for one two storey detached dwelling. Approved.
18. DM/20/01106/RM – Plot 8, Reserved matters application pursuant to DM/16/00871/OUT for erection of one detached dwelling. Approved.
19. DM/20/01973/RM – Plot 7, Application for Reserved Matters consisting: appearance, landscaping, layout and scale. Approved.
20. DM/21/00251/RM – Plot 1, Approval of access, appearance, layout and scale for proposed new dwelling and landscaping. Withdrawn under threat of refusal.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

21. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
22. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
23. The following elements of the NPPF are considered relevant to this proposal;
24. *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.

25. *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.
26. *NPPF 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.
27. *NPPF Part 8 - Promoting healthy and safe communities.* Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.
28. *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.
29. *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.
30. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* advises, 'New development should be planned for in ways that: avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures...'
31. *NPPF Part 15 - Conserving and enhancing the natural environment.* Recognises the wider benefits from natural capital and ecosystem services – including the economic and other benefits of trees and woodland.

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

32. National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up-to-date advice of Ministers and Government.

33. Of particular relevance to the consideration of this application is guidance for 'Self-build and custom housebuilding', last updated in February 2021. It advises: 'self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home, and can be innovative in both its design and construction'.

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

34. The following policies in the Durham County Plan (adopted October 2020) are relevant to the consideration of this application:
35. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
36. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
37. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. Relevant to policies 29 and 31 is the adopted *Residential Amenity Standards 2020*, which sets out requirements to ensure amenity and privacy through the use of separation distances and garden lengths amongst other tools.
39. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
40. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New

sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

41. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.

#### **LANCHESTER NEIGHBOURHOOD PLAN:**

42. There has been a change in National Planning legislation which now states that local people may wish to influence development in their area through the preparation of a Neighbourhood Plan (Localism Act 2012). The Lanchester Neighbourhood Plan provides the local community with a powerful tool to guide the long-term future of Lanchester Parish for the period 2019 to 2034. The Plan contains a vision for the future and sets out clear planning policies to realise this vision. The Vision and Objectives for the Lanchester Neighbourhood Plan were developed following community consultation in 2015 and subsequently endorsed in a second Parish wide consultation in 2016.
43. The Neighbourhood Plan sets out a Vision and Objectives, with topics including Design of New Development, Historic Environment and Green Space and the Rural Environment.
44. *Policy LNP2 - Design of New Development* requires that proposals for built development should demonstrate that the following criteria have been taken into account: that Design, Layout and Appearance. Positively responds to the local vernacular, materials and landscape features including green spaces and trees; It is of a scale and density that reflect the rural character and setting of the development; it integrates into the Built Setting, delivering accessible and well-connected environments that meet the needs of users; it provides a mix of housing types to provide flexibility for diverse family structures and styles of living and an ageing population, in accordance with the policies in the County Durham Plan; and demonstrates how they have had regard to a specified list of local design guidance, including the 'Guide to Significant Aspects of Local Character' within the Plan document.

*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*

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

45. Highways have raised no objection to the proposals but require submission of a plan showing the two required parking spaces can be achieved on-site.

## **INTERNAL CONSULTEE RESPONSES:**

46. The County Tree Officer writes, Providing the recommendations of the submitted Tree report are adhered to regarding tree and root protection, trees protected by a tree preservation order within neighbouring property should be adequately protected as per BS 5837 2012.

## **PUBLIC RESPONSES:**

47. Consultation letters were sent to the two immediate neighbours. Thirteen objections have been received to the application, from 7 neighbouring addresses plus Cllr. Douglas Oliver local Ward Member, Lanchester Parish Council, and Campaign for Rural Lanchester.
48. The Objections relate to the scale and impact of the proposal on residents of The Paddock, specifically the impact of this development in terms of: overlooking; loss of light; visual amenity; landscaping and impact on trees. Each of these is contended a material planning of sufficient impact as to require the application to be rejected.
49. The proposed building is of a differing style to the existing bungalows and are to be far larger in size leading to an unnecessary dominance and affecting the visual amenity of the site. The proposals are considered oversized and 'out of sympathy with the location, which is formed of bungalows and small houses. The proposal is extremely large, both in relation to the plot and the general area. Proposed ridge lines are excessive. Development in the form of new bungalows is suggested. Objectors contend the generous layout of the bungalows in The Paddock that have a good house to garden ratio set the semi-rural character of the area, with the proposal 'of excessive house footprint'. Objectors claim that 'one of the original conditions imposed when The Pastures was approved was that the footprint of each house (which includes associated garages and conservatories etc) must not exceed 25% of the plot size upon which the buildings sit'. The proposal is contended to fill 36% of the site.
50. It is contended that 'If this massive house is allowed in such close proximity to the smaller bungalows in The Paddock, it is likely that Article 8 (of the Human Rights Act 1988 and the European Convention on Human Rights) will be breached. Failure to impose suitable conditions may also be evidence of a breach of the Act. It is important the Committee consider the possible consequence of any such breach of the Act and Convention by Durham County Council'.
51. The proposal will affect privacy and allow overlooking into existing bungalows living rooms, as a 'wholly inappropriate and massive intrusion into the privacy at 8 The Paddock', with the upper floors and attic room identified in particular. 'Another aspect of there being so much glass in the north elevation of No.12 is the potential for light pollution'.
52. Neighbours refer to restrictions on the enlargement of their own homes.
53. The proposal will detract from the visible amenity value of the existing protected tree canopy which can be seen from 'many different directions' and will damage the protected pine trees.
54. There is a 'request for Mandatory Condition concerning flooding and a need for attenuation tanks and drainage for each individual property in The Pastures.

55. Concerns are also raised regarding about traffic generation on this narrow piece of road, designed and occupied as a cul-de-sac, for the period of the property's development, as residents have complained of noise pollution and dust from the contractors involved on existing developments. There are concerns raised for the management of conditions relating to working hours and road cleaning and likewise landscaping – it requested that all landscaping works at the estate entrance be completed before works on plot 12 commence.
56. The Parish Council reflect Residents' concerns, considering the proposals contrary to the requirements of the Residential Amenity SPD and policy LNP1 of the neighbourhood Plan, asking for a Committee Site Visit to better appreciate the issues involved. Again, the Parish Council and Campaign for Rural Lanchester ask that the dwellings on plots 12,14,15,1,2,3 and 4 are single storey in height. The Parish Council is concerned that the current application will set a precedent for the other plots on the inner edge of The Pastures.

#### **APPLICANT'S STATEMENT**

57. The proposed site is Plot 12 of The Pastures development in Lanchester. The Plot is located at the top of the development overlooking the fields to the West, opposite Plot 11 which is now built. The Plot is 720sq.m in size, however when taking into consideration the tree protection area to the Northern boundary and the turning head that encroaches the site, leaves 550sq.m to build a property within. The site borders the side garden of No 8 The Paddocks, with a section of TPO trees between both properties. The applicants have worked collaboratively with the planning department through the pre application advice service and since for over a year to ensure a design is appropriate to the development and can be supported.
58. The design has been carefully considered in terms of its massing and scale, to respect the fall across the site and each plot, so that the overall development respects the graduation of the levels across the whole site development to where it meets Ford Road on its eastern boundary. Plots 11 and 12 are the two upper most sites that overlook the western boundary of the development and the agricultural land beyond. The existing TPO trees that stand between No 8 The Paddocks and Plot 12, by virtue of their location and height provide privacy and reduce light. This property does not impact of the light levels of No 8 as the property is angled away from Plot 12 and faces Plot 14 & 15 of the development.
59. The topography of Plot 12 has a difference of approximately 2m from the western boundary to the eastern boundary where it adjoins Plot 14, so the property has been designed to reflect the site and the stepping down of each plot down the hill through the various plots. The 2.5 storey element is on the Western Boundary and furthest away from The Paddocks development helping create the uppermost viewpoint on entering The Pastures and creating a stop end to the development. The massing and design have changed considerable during the development stages, taking onboard the advice and removing the central roof to replace with a lightweight 2 storey atrium with roof light to link the 2 storey smaller element to the Eastern boundary with adjoins Plot 14, stepping down the levels of the site through a play of roof lines. Whilst this was not necessary as all SPD terms were met or exceeded. The applicants wanted to offer additional consideration to No 8 The Paddocks in terms of light, height and mass. The massing of each block was deliberately designed to create two smaller gable elements facing The Paddocks to help minimise scale and mass when viewed from The Paddocks though the trees rather than having a larger bulk form.



60. All windows have been placed to ensure privacy is respected, with the majority of windows being placed to enjoy the western aspect across the fields or to respect design distances whilst capturing the sun path to encourage as much natural daylight as possible. The vertical glazing elements to the rear are set 11m back from the northern boundary line and the fact no windows from No 8 directly face Plot 12, the concern of overlooking the living space is not relevant to this property and light pollution will be minimal.
61. The proposed dwelling is to be a family home for the applicants, one of which is from Durham and works in Durham and wishes to return and become part of the vibrant community that Lanchester is known for. The other is a clinical psychologist with a well-established practice that she would like to relocate to the local area providing support to the residents of Lanchester and beyond.

*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=QWC2JRGDH9P00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### The Principle of the Development

62. 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 noted the principle of development has been accepted by the Outline consent.
63. It is considered that the main planning issues in this instance relate to the detailed implications of the proposals in terms of scale, character, appearance and effects on privacy and amenity.

### The Development Plan

64. The County Durham Plan 2020 was adopted in October that year, with the policies therein fully up to date in terms of the required consistency with the NPPF. The NPPF and NPPG guidance is a material consideration in its own right. The Lanchester Neighbourhood Plan 2019 – 2034, was 'made' (adopted) in June 2021 and now has material weight in the decision-making process.
65. It is noted that the policy context against which the original application and subsequent agreement of site details and individual plots has changed since the original consent in 2017. That approval was assessed against the requirements of the Derwentside District Local Plan 1997, with subsequent applications assessed against emerging weight being given to the County Durham Plan. The Neighbourhood Plan is also now relevant.

### Scale, Character and Appearance

66. In allowing the appeal for the overall development the Planning Inspector imposed conditions and restrictions on the extent of the approval granted. If strict design codes or restrictions in scale were considered required, these could have been imposed at that time. Instead, the Inspector noted, 'these would all be appropriately addressed as part of any future reserved matters application rather than at this stage'.
67. The application proposes a modern architect designed dwelling that has been subject to some pre-submission discussion. The elevations have a contemporary modern character, with fenestration directed to the west elevations to take advantage of the uninterrupted views over countryside and towards the Roman Fort, and to the north to overlook the private garden and the boundary with 8 The Paddock.
68. The two main massing elements of the design reflect the fall of the slope. Cut into the slope at its higher part, the dwelling presents a two-storey scale to the farmland beyond (albeit there are no public viewpoints from outside the village) in line with the requirements of policy LNP2 and the Neighbourhood Plan Local Character Guide in terms of its height and scale.
69. The dwelling has a clear separation buffer to plot 13 to allow the dwelling to sit clearly detached from any structure on that plot, and to ensure that a solid 'wall' of development is not presented to the existing bungalow in The Paddock. The separation also mitigates potential overshadowing of plot 13.
70. In its own right the proposal is considered an innovative reflection of the site constraints that follows both Part 12 of the NPPF and PPG where they encourage innovative design and allows for a suitable degree of variety and flexibility in not stifling design choices.
71. The application site is within a plot-build development where self-builders would expect and be expected to express individual design choices, particularly in the absence of a design code. Officers have been of the opinion that as the overall development will be seen in the public domain in longer views, it is the materials palette, and the roofs in particular, that will help visually bring the overall development of the different plots together. To this end a range of elevational treatments, scales and massing is, within reason considered acceptable. The predominant materials in this part of the existing settlement are buff bricks, brown concrete roof tiles, and render and plain hung tile panels. The few vernacular buildings are stone with slate roofs. The proposal is considered to present a contemporary take on elements of the wider surrounding materials palette. Strict adherence to the now somewhat dated and restricted range of materials exhibited by adjacent development is considered contrary to Part 12 of the Framework's and policy 29's intent to raise design standards. The elevational and materials approach is therefore concluded acceptable, subject to confirmation in detail via imposition of an appropriate condition ensuring detailed compliance with the requirements of policies 29 and LNP2.
72. Objectors opine that the development should follow the scale of dwellings in The Paddock, an opinion previously offered in objection to those plots already approved. In terms of the existing development setting the scale of the new, it is relevant that of the 23 dwellings on the settlement boundary between Cadger Bank and Ford road before this site was approved in outline, only the 4 in The Paddock are single storey, and those were heavily screened. The dwellings in The Paddock no longer form the settlement boundary. The Paddock also shares a boundary with the existing large, detached dwellings in Ford Road, to the east.

Officers are of the opinion that a hierarchy of development is appropriate across the site, with single storey appropriate if desired – as approved at plot 10 – but in general approach, an overall two storey character is appropriate.

73. Further, whilst the dwellings in The Paddock were designed and approved as single storey and are apparently still restricted to such by a covenant, it is relevant that: any covenant is a legal restriction and not a planning restriction, and; current permitted development rights would allow any of the existing bungalows to add an additional storey without the need for planning permission.
74. Where sites present an elevation to boundaries with no neighbours if a design can accommodate an additional internal in roof floor without compromise to the two-storey appearance of the development overall this has been accommodated in deference to the flexibility suggested by the NPPG to allow, 'Self-build and custom housebuilders choose the design and layout of their home'. Out of the public domain, in pre-application discussions proposals for three storey dwellings and other high structures have been resisted.
75. Whilst what represents an acceptable scale of development is a matter of judgement, this judgement led in the first instance by the separation standards set out in the Residential Amenity SPD. The relationship to both 8 The Paddock and plot 13 is critical. Privacy relationships will be considered below. They do also inform the implications for the effect of massing on overshadowing potential.
76. The Design SPD sets out requirements for direct facing distances informing both massing and privacy relationships – of 21m between directly facing habitable windows and 13m between windows facing blank gables. The finished floor level of the proposed dwelling sits 1.9m higher than that of 8 The Paddock, but the existing bungalow faces away from the proposal at an oblique angle, with the separation between the lower end gable of the proposed and the windows of the existing a distance of 21m at an angle of over 45 degrees, the relationship further interrupted by the existing protected tree canopy.
77. Rights to light refer to expectations of such within dwellings through windows. With the distance between the existing and proposed dwellings, the angled separation between them, and with the main private garden where maximum outdoor amenity could reasonably be expected to the south-east of the bungalow and the existing tree cover, the potential for the massing of the proposal to unreasonably affect the residential amenity of the bungalow and their right to light has been considered in the design, with the effect concluded compliant with the requirements of policy 31 of the County Plan.
78. The nature of the site is such that almost every plot has different implications for scale and adjacent relationships. It is considered there is no basis to enforce a moratorium in principle on two storey development adjacent the existing bungalows where policy compliant separation distances can be achieved. Where this plot presents a second floor of roof accommodation to the boundary and land beyond, it is in the context of being cut into the slope, reducing the apparent massing implications when viewed from off-site. Policy LNP2 requires regard be had to the 'Village Character Assessment' and which specified 'modest' development of up to two storeys as appropriate at the village boundary. The proposal must also be viewed in the context of those dwellings already built and under construction on the site that have been found acceptable in the planning process (albeit these predate adoption of the Neighbourhood Plan). Whilst not 'modest' – an unusual term in assessing development – the dwelling is in scale with others on the site, and in presenting a largely two-storey form when viewed

from outside the site boundary, it is considered due regard had been given to the newly adopted policy balanced against the need for consistency in decision making.

## Residential Privacy

79. The aforementioned Residential Amenity Guide SPD is also the appropriate tool for assessing Residential Privacy issues. The required separation distances are set out above, but whilst a tolerance is given for differences in levels, there is no advice for angled relationships. Reasonable separations are also set by the requirement for a 9m garden length.
80. The proposed dwelling has a garden of over 10m in length. It faces an upper garden area belonging to the bungalow, used in addition to the main garden area immediately to the rear of that dwelling. The higher of the two built elements in the proposal that includes in-roof accommodation was submitted with a second-floor window looking towards this upper garden area. This has been amended during the course of the application in deference to the use of the upper garden area and the privacy of the neighbour.
81. Overlooking secondary garden areas over a standard-length garden, the impacts on the privacy of the existing neighbour are concluded acceptable and policy compliant.

## Highway Safety

82. Highway safety issues have largely been dealt with through the Outline consent and subsequent Variation of Condition and Discharge of Condition applications. The development provides sufficient space to meet County Highways Standard off-street parking to meet County Highways Standards, with Highways Officers asking for submission of a plan to show this. The required plan has been requested and can be conditioned. On this basis the proposals are considered compliant with the requirements of part 9 of the Framework and policy 21 of the County Plan.
83. Where there have been shortcomings with ensuring compliance with the road-cleaning conditions imposed on the main consent, the issue lies with monitoring end enforcement, and should not count against new developers. A mechanism to cope with the sporadic need to meet this requirement is being discussed with the main developer.

## Other Issues

84. Complaints regarding landscaping appear to relate to the overall site. The upper site boundary is part of the area under review for an amended landscaping scheme that has been discussed over a period of months that should be submitted as this application is determined. The scheme will cover amended proposals for the site entrance and site boundaries. It has been discussed between the applicant's landscape advisors and County Landscape Officers and has been amended to meet the requirements of the latter.
85. The required separation from the trees in The Paddock was set by the Outline consent, reflected on the site by the Heras fencing. Changes to site levels to form

the individual plots has likewise already been set. With the development outside the root protection zone and using the agreed levels, the required assessment of the relationship to trees arrives at residential amenity. The trees are to the north of the new dwelling, ensuring light is not an issue. There will be maintenance implications to their presence, but that dwellings can coexist with the trees is indicated by the homes in The Paddock.

86. A number of objectors claim the original consent granted by the Planning Inspector includes a restriction of 25% of the plot for built development – with a detailed analysis of all plots approved to date, and the current application site set out. Appeal Decision APP/X1355/W/16/3160472 sets out 14 conditions but does not impose such a restriction.
87. Breaches of the Human Rights Act 1988 and the European Convention on Human Rights are claimed for the proposed relationship between existing and the proposed dwelling. This was an aspect of the Outline consent considered by the Inspector, who found that there was no issue in principle with the grant of outline consent, as achievement of an acceptable relationship was achievable. The above planning assessment concludes that it is Officer's judgement that the proposed relationship is acceptable in terms of the requirements of national and local planning policy, and this could reasonably lead to a similar conclusion in terms of assessment of impingement to the right to a private family life under Article 8.
88. A change in the context within which the trees within the Tree Preservation Order would be viewed from within and outside the village was implicit within the grant of outline consent – the trees no longer forming the boundary of the built development of the village. This objection to the application is considered untenable.
89. The relationship to the protected trees in The Paddock has already been set by the approved root protection zone as erected on site. The submitted tree report details extra site-specific protection measures that will protect during construction. These can be conditioned.
90. Conditions applied to the Outline consent apply to each of the individual plots. Therefore, the requested drainage condition is already in place led by conditions 5 and 6 of approval DM/16/00871/OUT. Each developer must carry out their part of the agreed scheme. Requirements of the existing Sustainability Condition require additional attention by the applicants. 'Informatives' attached to an approval can be applied to remind the individual developers of their responsibilities to the remaining and overarching conditions applied to previous consents that they are bound by.
91. Consistent with the approval of other plots, it is considered appropriate to remove residential permitted development rights to give the Council as Local Planning Authority control over any future extensions and alterations that may be imposed. The new dwelling would not benefit from permitted development rights allowing additional storeys.

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## **CONCLUSION**

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92. With Outline consent in place, the detailed assessments required by the Development Plan Framework: i.e. The County Durham Plan and the Lanchester

Village Neighbourhood Plan of matters of scale, character, appearance and effects on residential amenity and privacy, informed by the National Planning Policy Framework and Planning Policy Guidance are set out above.

93. The policy Framework has evolved significantly from the granting of Outline consent, and Officers have sought to give this appropriate regard in terms of consistency whilst meeting legal requirements. The opinions expressed against the proposal have been considered and given due regard, but ultimately, in effectively trying to impose additional restrictions on development not intended by the Planning Inspector, are not considered sustainable for the suggested refusal.
94. The proposal has been assessed in detail and is considered an innovative response to the constraints of the site, and acceptable in relationship to existing dwellings on and adjacent the site. It is recommended approved subject to appropriate conditions.

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## RECOMMENDATION

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95. That the application be **APPROVED** subject to the following conditions:
1. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.  
*Reason:* Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
  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 Policies 21, 29, 31, 35, 36, and 40 of the Durham County Plan, 2020, Policy LNP2 of the Lanchester Neighbourhood Plan 2021 and parts 2, 4, 5, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.
  3. Notwithstanding any details of materials submitted with the application no development 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 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. The condition is required pre-commencement to ensure that the visual impacts from the development are controlled from the outset, maintaining the character of the area.
  4. Prior to the first occupation the development hereby approved, details of all means of enclosure and retaining structures of the site shall be submitted to and approved in writing by the Local Planning Authority. These shall be constructed in accordance with the approved details thereafter.  
*Reason:* In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
  5. Before first occupation of the development hereby approved a plan showing a standard double width driveway 5.5m long x 4.7m wide must be submitted to the

Local Planning Authority for approval in writing. Access to the drive must not be obscured by gates or boundary markers.

*Reason:* In the interest of Highway safety in accordance with Policy 21 of the Durham County Plan 2020 and part 9 of the National Planning Policy Framework.

6. The vehicular hard-surfacing areas hereby approved must be built of a permeable construction.

*Reason:* To assist in the Sustainable Drainage of the site, as required by part 14 of the NPPF.

7. Before the development hereby approved is commenced protective barriers as described in section 5.1 of the submitted tree report to a standard required by BS 5837 2012 must be erected. To avoid compaction damage to the underlying roots during construction ground protection measures as per section 5.2 of this report are required in the areas shown as hatched orange on the Tree Protection Plan (TPP) to provide both a working area and space for scaffolding and allow access around the building. This methodology should be implemented at the time of barrier erection, remain in situ throughout the build and only removed when all construction activity has finished.

*Reason:* To ensure protection and longevity trees adjacent the site protected by Preservation Order, as required by Policy 40 of the Durham County Plan and part 15 of the Framework and is therefore required pre-commencement.

8. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, E, F, Part 2, and Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwelling hereby approved and any buildings, and boundary markers within and around the curtilage of the dwelling house(s) shall be submitted to and approved by the Local Planning Authority.

*Reason:* In order that the Local Planning Authority may exercise further control in this locality in the interests of the visual amenity of the area and to comply with Policy 31 of the County Durham Plan.

9. The in-gable window on the north-west corner of the development must be implemented and retained in perpetuity as obscured glazing to a minimum of level 3 on the Pilkington Obsuration scale.

*Reason:* In the interests of the residential amenity of 8 The Paddock in accordance with Policy 31 of the County Durham Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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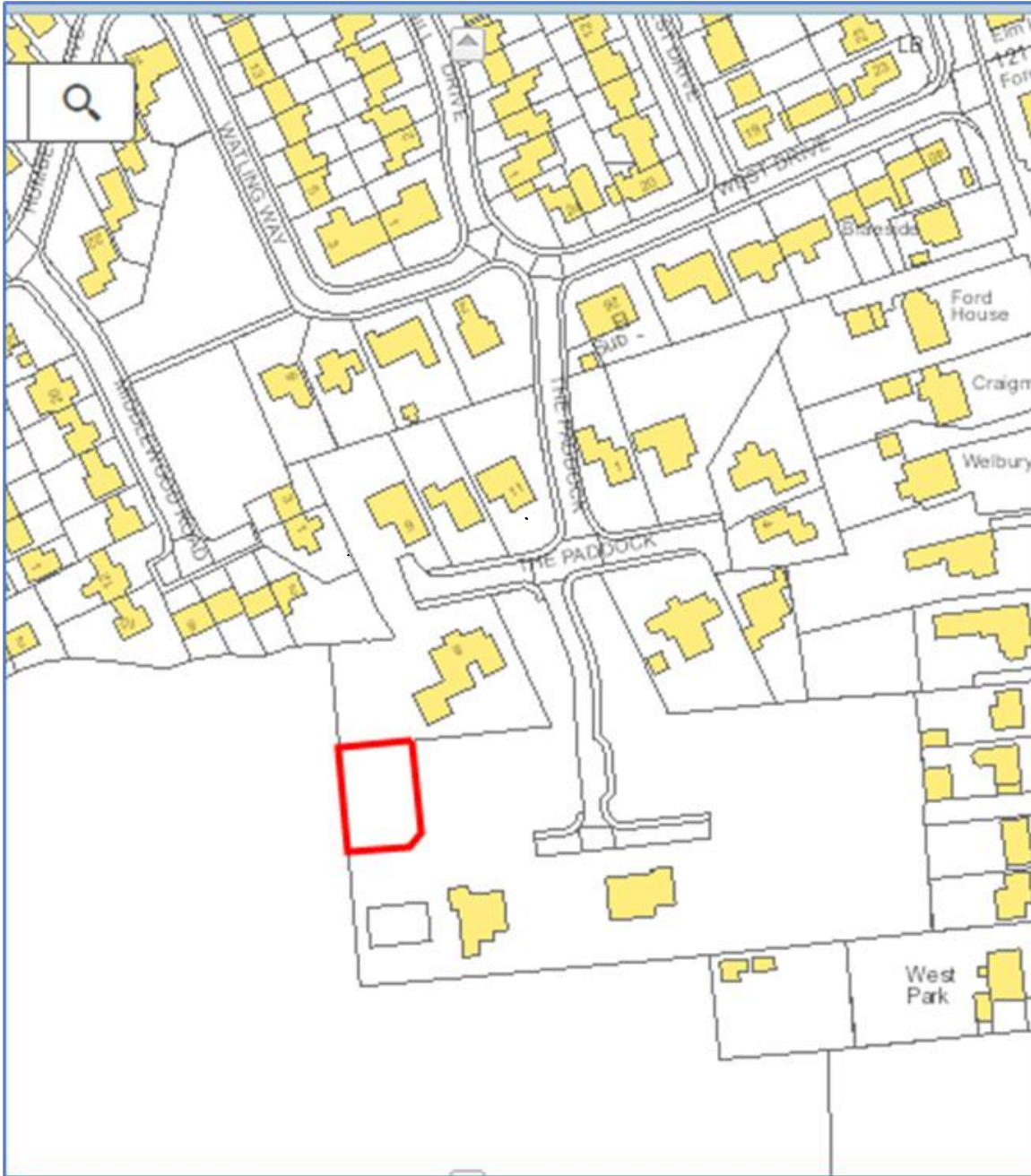
## **BACKGROUND PAPERS**

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The National Planning Policy Framework (2021)  
National Planning Practice Guidance Notes

Durham County Plan 2020  
Lanchester Village Neighbourhood Plan June 2021  
Statutory, internal and public consultation responses  
Submitted forms, plans and supporting documents





**Planning Services**

DM/21/02574/RM

Application for reserved matters consisting appearance, landscaping, layout and scale from approval DM/19/00118/VOC

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**Comments**

**Date** 28 September 2021

**Scale** NTS