

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/21/02127/FPA

FULL APPLICATION DESCRIPTION: Development of 89 no dwellings including hard and soft landscaping, public open space, highways and associated works.

NAME OF APPLICANT: James Litherland c/o Placefirst

ADDRESS: Land at Rowen Court and The Oaks Esh Winning

ELECTORAL DIVISION: Deerness

CASE OFFICER: Leigh Dalby
(Senior Planning Officer)
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DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The site comprises approximately 2.1 hectares of previously developed land located on the western edge of Esh Winning to the north of Ridding Road, Esh Winning. The proposed development is located on land formerly occupied by 61 dwellings, known as The Oaks and Rowan Court. However, that estate has now been demolished, with the site now comprising of a mixture of grassland with remains of areas of hard surfacing, roads and footpaths. The topography of the site is relatively steep, with levels dropping by approximately 3-6 metres from west to the east.
2. The surrounding area is largely characterised by residential development with existing residential development to the south, east and north of the development site. To the east of the site is open fields with Dene Park located to the north.
3. The site is in relatively close proximity to Esh Winning Primary school, and local amenities.

The Proposal

4. The proposed development is for the erection of 89 dwellings on land north of Ridding Road, Esh Winning, Durham.
5. The proposal comprises a Build to Rent development comprising of a mix of two-bedroom bungalows and three-bedroom two storey dwellings. The proposed split onsite is as follows:
 - 54 bungalows; and
 - 35 two storey dwellings.
6. Access to the site will be taken via two separate access points on Ridding Road, the proposal will include 105 unallocated parking space for residents and visitors..

PLANNING HISTORY

7. No relevant site history

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
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 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.

13. 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.
14. 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.
15. 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.
16. 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.
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:

18. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
19. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
20. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. Policy 15 (Addressing Housing Need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.

22. Policy 19 (Type and Mix of Housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
23. 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.
24. Policy 25 (Developer Contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
25. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
26. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
27. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: 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.

Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area

Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety

Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

28. 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 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 locating of 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.
29. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
30. Policy 33 – Renewable and Low Carbon Energy – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
31. 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
32. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

33. 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. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
34. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

35. Policy 56 (Safeguarding Mineral Resources) states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY AND INTERNAL RESPONSES:

36. The following comments were received following consultation with Statutory and Internal consultees.
37. **DCC Highways** - The applicant has provided a site plan of 89 dwellings for highways comments which are as followings. I am aware that discussions have be held with DCC Highways in the past in relation to these proposals. There are two highway accesses proposed for the 89 units from Ridding Road which is street lit and traffic calmed with speed reduction features. The proposed level of car parking provision across the proposed development is set out as non allocated. A main parking court with a turning head feature is proposed next to plot 50 and is to be put forward for adoption. The turning head is however deemed substandard in terms of its design size, the tracking paths of the refuse vehicle provided clearly shows overrunning of the area next to plot 50.

There are 23 grouped communal parking spaces provided to serve the adjacent plot rows at plots 50, 51, 89 and 42 with private footway links leading into this area from the plot frontages. As it is more convenient to park on the main highway Ridding Road in the main at this part of the site rather than future residents walk along the private footway links to access the carpark a 1.0m wide strip is proposed to be added to Ridding Road. This strip is for half on half off parking on the running lane of the highway to leave a width of 4.8m for two vehicles to pass each other.

Generally the site plan provided has poor parking design measures. Parking to the fronts of plots 43-50 and plots 41, 42 and 83-89 would present parking and accessibility highway layout issues. The in-curtilage car parking space for a number of proposed plots appear to be some distance from the property entrance. This is likely to lead to indiscriminate on-street parking. A parking court has also been put forward for adoption however the Council as highway authority do not normally taken on private parking courts and the swept paths demonstrate this does not work for refuse wagons turning either. The overall layout does not seem to fit with the Councils current minimum parking standards for in curtilage and non-allocated provision requirements. The standard of which is 1 in curtilage space for a two bedroom dwelling with 0.33 space for non-allocated parking and 1 in curtilage parking space for a 3 bedroom dwelling with 0.66 space for non-allocated parking.

Overall throughout new estate roads the parking space design should be useable and accessible with well distributed non allocated parking spaces. Also in regards to EVC provision future access is generally needed for a combination of both active and passive charge points. The applicant is working around site level constraints and is introducing terraced rows on higher points with off curtilage shared non allocated parking, this does not lend itself well for a balanced parking design.

In summary It is recommended that the applicant review the concerns set out above, changes are needed of the proposed development layout as appropriate. Servicing would need to take place to the rear of the development. Given the central location, I would not object to the proposal on highway grounds.

Following submission of additional information the following comments were received:

In regards to our conversation the other day I have now discussed the housing scheme proposals at length with our Highway Adoption Engineer. All the issues raised we are now satisfied can be broadly dealt with at the Sections 38/278 detailed design stage. Whilst it is regrettable this was more drawn out in part the adoptions engineer is now aware of the layout and level issues arising from the scheme and at least they have been flagged up at this early stage come technical approval subject to permissions being granted. I would therefore suggest a condition is imposed similar to as follows.

No development shall commence until full engineering, drainage, highway structure details, street lighting and constructional details of the streets proposed for adoption by the local highway authority have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

38. **DCC Env. Health Statutory Nuisance** - I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows:

Having considered the information submitted with the application I am of the opinion that the granting of planning permission for the development may potentially result in a statutory nuisance being created, as clarified below.

Noise, dust and lighting associated with the construction of the development are likely to give rise to nuisance without adequate controls.

However, I consider that conditions are sufficient to mitigate the potential of a statutory nuisance and therefore if affixed will remove my objection to the development.

39. **Environmental Health (Contaminated Land)** - I would confirm that I have assessed the available information and historical maps with respect to land contamination. I have reviewed the following report:

Sirius (October 2012) Preliminary Geoenvironmental Appraisal Report for land at The Oaks, Esh Winning, County Durham

Tier Environmental Ltd. (5 November 2019) A ground investigation report for Riddings Road, Esh Winning

Terra97 (30/06/2021) A Phase 1 Preliminary Assessment for land at Riddings Road, Esh Winning, Durham

The Sirius report was prior to demolition. Demolition has now taken place and the Tier report post demolition. The Tier and Terra97 reports make recommendation for remedial works in relation to a clean cover system and ground gas protection measures. Given the above, the following contaminated land condition should apply.

40. **Drainage and Coastal Protection** – The surface water management for the proposed development as identified in the Flood Risk and Drainage Strategy Report is acceptable. However, to assess the proposal in full we require:

- All plot connection points to be identified with levels.
- Construction details of all SuDS features.
- Hydraulic calculations in digital format with the limiting surface water discharge from the proposed development complying with greenfield QBAR Rural Rate for up to the 1 in 100 year event plus 40% climate change and also 10% urban creep.

A Defender should also be included near the last Chamber before the outfall to treat highway drainage that is not directed through a swale.

Following the submission of further information the following comments were received:

Further to previous comments of 22nd July 2021, we still advise that the construction details of all SuDS features are supplied and the hydraulic calculations in digital format together with a fully detailed drainage plan is submitted for audit.

41. **Landscape** - There are fundamental layout issues relation to existing trees that need to be resolved before any further detailed landscape comments can be made.
42. **Trees** - It is accepted that tree 6, 15,16,17, 26,27 & 28, will need to be removed to facilitate development however, trees 7,14,18 & 19 must be retained; these trees warrant individual tree preservation orders as they add high amenity and maturity within the internal areas of the site.

Depending on the location layout some root incursion is shown (tree retention strategy). 20% complies with BS 5837 2012. If root protection is complied with and ground protection is placed along with protective fencing, retained trees should be adequately protected throughout construction (depending on layout choice).

Proposed footpath through trees 7,8,9 & 10 should not be implemented and remain as grass only, further construction within this small area will only increase compaction causing the eventual decline of mature trees.

Conclusion:

Tree retention within the site and the site boundary is paramount for mature tree cover within the site. Retention of mature oaks give the development height and maturity in terms of tree cover, the site will not then depend on young trees where a high percentage fail leaving a new development without its green infrastructure.

Proposed footpath through trees 7, 8, 9 & 10 should not be implemented.

43. **Ecology** - The ecological report by Rachel Hacking Ecology confirms the site is low risk for protected species however no information is supplied regarding biodiversity net gain.

No BNG assessment of either the extant habitats , or the proposed habitats has been made to detail how the applicant intends to achieve BNG as per the NPPF.

The applicants ecologists should use the DEFRA Biodiversity Metric 3 to determine if the development meets net gain requirements as per para 170 (d) of the NPPF, and planning policy. Ideally net gains should be achieved on site, if this is not possible an off-site location will be required to provide any compensatory habitats. Any required mitigation will need to be agreed prior to determination of the application. The LPA will also require an outline Biodiversity Management and Monitoring Plan to have confidence that all semi-natural habitats either on site or off site will be managed over a minimum of 30 years, and that target habitats are deliverable.

Following the submission of additional information the following comments were received: I'm happy to include the proposed bat and bird boxes as a contribution towards BNG and sign this off however I am not keen on the Schwegler 2F tree mounted units. The are not permanent and where they have been installed in other areas often appear missing after a couple of years, presumably vandalised. I've never heard of these boxes actually being used by bats either.....

I would much prefer some ridge tile or roof tile bat units installed into the fabric of the house or a bat roost unit attached to the apex of the gable wall. They are much more long lasting and potentially cheaper. I would suggest that the units are installed on the houses adjacent the woodland on the northern edge of the development.

44. **Public Rights of Way** - No recorded PROW are affected.
45. **Education** – Based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 89 dwellings would produce 27 pupils of primary school age and 11 pupils of Secondary age.

In relation to primary school pupils:-

The development is located within the Durham West local school place planning area, of which the following schools could serve the development based on a 2 mile safe walking distance:-

Esh Winning Primary School

In relation to secondary schools.

The development is located within the Sacriston – Ushaw Moor local school place planning area. The nearest schools to the proposed the development are

Durham Community Business College

Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

This reflects the current position based on information known at the time of responding. The council reserves the right however to review this if factors change before a final application is approved.

NON-STATUTORY RESPONSES

46. The following comments were received following consultation with non-statutory and consultees:

47. **Northumbrian Water** - Having assessed the proposed development against the context outlined above we have the following comments to make:

At the time of consultation, no drainage documents were available. Consequently, the planning application does not provide sufficient detail with regards to the management of foul and surface water from the development for Northumbrian Water to be able to assess our capacity to treat the flows from the development. We would therefore request the following condition:

CONDITION: Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

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

48. **Durham Constabulary (Architectural Liaison Officer)** – The majority of dwelling burglaries occur at the rear of the property, because of this SBD encourages private backs and public fronts when designing the layout of houses. Research has shown that houses set out in small cul-de-sacs not linked by footpaths are less likely to suffer crime.

It is recommended that the rear garden spaces are protected with a 2m high fence, this would be encouraged for the plots that back onto public space. Where more surveillance is needed from rear gardens, trellis topped fencing is recommended. Rear gardens should be fully enclosed with lockable gates.

Any communal alleyways are recommended to be gated at the start of the communal area, with lockable gates to every secondary gate accessing a private garden space.

Lighting is recommended to each dwelling elevation that contains a doorset and can also assist in identifying the door and operating locking mechanisms. The use of LED light sources is recommended with a colour temperature of no more than 4000 Kelvin and ideally below.

Consideration should be given to if the amount of pedestrian walkways proposed are necessary. From a crime prevention through environmental design (CPTED) point of view it looks to be excessively permeable. Although this will give the residents shorter routes to walk, this will also give potential criminals more entrance/ escape routes from the area. We recommend these links are reduced and the links that are kept are well overlooked by the proposed dwellings.

There are several areas on the proposed plan where the fencing to rear alleyways looks to turn at right angles, this could create hiding places and is recommended to be as straight as possible. As noted previously communal alleyways should be gated at the very start to denote private space.

49. **NHS** - I am writing in response to the above planning application currently being evaluated by you. Please see below for the required contribution to healthcare should the scheme be approved. 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. Please be advised that we would be unable to guarantee to provide sustainable health services in these areas in future, should contributions not be upheld by developers.

In calculating developer contributions, we use the Premises Maxima guidance which is available publicly. This assumes a population growth rate of 2.3 people per new dwelling and we link this increase to the nearest practice to the development, for ease of calculation. We use the NHS Property Service build cost rate of £3,000 per square metre to calculate the total financial requirement.

The Local GP Practice (The Medical Group) is struggling with space requirements to deliver services. S106 funding would assist them to provide appropriate services to patients. A contribution of **£42,987** is required to meet the patient increase created by this development.

50. **Coal Authority** - The Coal Authority's Planning Team concurs with the conclusions of the Ground Investigation Report; that coal mining legacy poses a potential risk to the proposed development and that remedial measures are required in order to ensure the safety and stability of the development.

As such, should planning permission be granted for the proposed development, we would recommend that the following conditions are included on the Decision Notice:

1. No development shall commence until remedial stabilisation works to address land instability arising from shallow coal mining legacy have been carried out in full in order to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.

2. Prior to the first use of the development a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

The Coal Authority therefore wishes to withdraw its objection to the proposed development subject to the imposition of the above conditions. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

PUBLIC RESPONSES

51. The application has been publicised by way of site notice, press advert and notification letters sent to neighbouring properties, in response 3no. letters of objection, were received a summary of the points of objection are as follows:

Objection

- Detrimental impact on environment and wildlife habitats through re-development of the site
- Loss of open land used for recreational purposes by local residents
- Unallocated site, that will put additional strain on local services and facilities
- Unsustainable location, requiring a dependence on private vehicles
- Deficit of in parking provision
- Highway safety concerns
- Access issues for HGVs and Emergency vehicles in poor weather
- Cramped layout with minimal dedicated garden space
- No identified need for the development contrary to County Durham Plan
- Contrary to Policy 6 of the Country Durham Plan, in loss of open space, inappropriate scale of development, prejudicial to highway safety, reliant on private vehicles, does not minimise climate change
- Coal mining area safety issues

52. **Local Ward Members –**

Cllr Dan Nicholls - I write in support of this development. The development will provide a large number of greatly needed Bungalows within Esh Winning and for the the wider ward area of Deerness more broadly. The land in question is a brownfield site, making it ideal for redevelopment. The land was previously used for social housing and significant work has been undertaken to allow it to be utilised once again. In addition, great effort has been made by the developers to minimise any environmental damage and to retain many key ecological features such as the Oak trees

Cllr Marion Wilson - I write in support of this application. This development will be located on the site of previous social housing and will bring much needed bungalows and housing to the Deerness Ward. Building 89 homes will help to support and retain local businesses and bring economic benefit to the area.

APPLICANTS STATEMENT:

53. Placefirst is an award winning regeneration specialist. Our track record of placemaking and building sustainable communities is reflected in our plans for Esh Winning; the largest delivery of bungalows in a generation, as well as larger family homes for rent on a heavily constrained brownfield site which has laid vacant for over a decade.

Other housebuilders have dismissed the site and planning permission for its redevelopment back in 2013 was never implemented due to its inherent viability constraints.

Placefirst see the potential of the site and have been discussing the project with the Council for over two years. We come with a new approach; an investment for the long term of over £12m for a multi-generational neighbourhood which is managed and maintained by Placefirst in perpetuity, where residents can thrive and put down roots.

A core principle of our masterplan is placemaking and fostering community engagement and inclusion. The Oaks will be a neighbourhood where residents can enjoy the company of one another within unique open spaces framed by existing and new landscape features including high value Oak trees and Sustainable Urban Drainage features including swales.

Placefirst create places, not just homes. Our approach to public realm, landscape and communal areas allows our neighbourhoods to address issues of social isolation and loneliness which have become increasingly prevalent during the COVID-19 pandemic. We remain ingrained within our communities via our dedicated resident service managers, who on top of the day-to-day management of the neighbourhood, promote community events, local campaigns and charity fundraisers. This plays an invaluable role in integrating new neighbourhoods within existing communities.

We welcome the proactive approach officers have taken during the application period and their recognition of the overriding benefits of the development. We are also pleased with the support received from ward members with whom we have been in regular discussions with during the development of the project.

The site's constraints (namely levels, the need for remediation including drilling and grouting, existing trees and drainage), make the development particularly challenging from a viability perspective. We have been fully transparent with the Council on the costs involved in redeveloping the site and how our long term investment model can deliver and bring about wide reaching socio-economic benefits to Esh Winning.

Three residents have objected to the development. In response to points raised on highways we have worked closely with County Highways to ensure all matters have been addressed. In relation to landscaping and ecology we have integrated as many high value trees as possible into the layout and will be planting an additional 40 trees as well as native landscape planting and biodiversity enhancement measures including 20 bird and bat boxes and log piles.

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>

PLANNING CONSIDERATIONS AND ASSESSMENT

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 Paragraph 47 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, the impact on residential amenity, highway safety, the character and appearance of visual amenity.

Principle of Development

55. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with uses on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
56. As detailed above policy 6 of the CDP permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal can draw in principle support from this policy given that the site is located within close proximity to compatible residential uses and would not be prejudicial to any existing or permitted adjacent uses (criteria a), it is within the existing built framework of Esh Winning and would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and has easy access to sustainable transport and local facilities (criteria f). The site makes best use of previously development (criteria i). Consideration of criteria d, e, h of policy 6 is considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.
57. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.
58. Policy 15 of the CDP establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
59. The applicant has submitted a detailed viability assessment and business model to support the application, this highlights that the business model is a build to rent methodology. Paragraph 65 of the NPPF states that where developments are purely build to rent the requirement to provide affordable housing should be waived. This assessment has been considered by CP Viability, who have agreed that the scheme is not viable. As such it is considered that the proposal is acceptable with this element of Policy 15.

60. Policy 15 additional requires that all housing developments provide a minimum of 66% of the units to be Building Regulation M4(2) compliant and 10% suitable for older persons. In this regard the applicant has provided detailed assessment of the dwellings against the M4(2) requirements, that shows that whilst the dwellings are not fully compliant, they only fail to meet the requirements in the two storey units not having level access showers, and the bungalows not having outward opening doors in the bathroom, and reduced circulation space width in the bedrooms.
61. In relation to the older persons the proposal provides contain over 50% of the units as level access bungalows, and as such would comply with Policy 15.
62. However, given the that the proposal in not fully compliant with all aspects of Policy 15 it must be considered that the application is contrary to Policy 15.
63. Policy 19 of the County Durham Plan requires that developments secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes. In this regard the development has provided sufficient evidence to identify a need for the types of dwelling proposed as part of this development. It is therefore considered that the mix of two storey and bungalows proposed is acceptable and in accordance with the provision of Policy 19.

Developer Contributions

64. Policy 25 (Developer Contributions) of the County Durham Plan advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Para 5.253 of the supporting text for policy 25 state "There should be no instances where essential site-specific infrastructure and mitigation cannot be secured because of viability concerns. However, in these situations where the infrastructure is an essential prerequisite to enable the site to be developed, a scheme will be deemed unacceptable in planning terms." In view of this the following developer contributions were requested in accordance with the Council's policies

Open space / Green Infrastructure

65. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
66. In accordance with Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA) it was considered that the development should provide a minimum **3,034.9sqm** of amenity/natural green space which should include **97.9sqm** of play space for children on site, and a financial contribution of **£131,773.00** towards off-site facilities such as allotments, parks, sports and recreation grounds and youth play space.
67. In response the applicant has confirmed that the proposal will provide **4,092sqm** of opens space for public and communal space, that will include an area of children's play space where natural wooden obstacle course like equipment will be provided. Whilst it is acknowledged that this is an over provision of open space, this space is compensatory space in lieu of the reduced private amenity space (as detailed below). In addition, the applicants have stated that due to the constraints of the site and the financial viability they will not be willing to provide any contributions towards the development in relation to Open space and Green Infrastructure.

Education provision

68. Paragraph 95 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 proactively meet the requirement. The Councils Education team have confirmed that there is sufficient existing educational provision within the area and that no contributions are necessary.

Health Contributions

69. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users. The local NHS Clinical Commissioning Group (CCG) have confirmed that there is insufficient local health service facilities to accommodate future residents of the development, and have therefore stated that a financial contribution of **£42,987** towards additional healthcare facility space is necessary.
70. The applicants have stated that they will not be providing the requested contribution, citing the constraints and viability of the site if required to provide the contribution.

Developer contribution conclusion

71. As detailed above Policy 25 of the CDP specifically states that the requirement to provide financial contributions towards site specific and infrastructure mitigation cannot be negated by viability concerns. Therefore, whilst the Local Planning Authority agrees with the submitted viability assessment following independent analysis; it is considered that the proposal fails to make adequate contribution to mitigate the effects of the development as required by Policy 25, 26 and 29(f) in relation to green infrastructure and not ensuring the health needs of future residents are met and that this conflict will need to be considered in the planning balance.

Impact upon Residential Amenity

72. Policy 29 (Sustainable Design) of the CDP 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. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.
73. Policy 29 also requires that new major residential development are assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

74. In addition to the above policies within the CDP, the Local Authority has adopted a residential design SPD which sets out the Councils expectation in relation to privacy distances and private outdoor amenity space (Gardens). In this regard the development would need to achieve a minimum of 21.0m between two storey buildings and 18.0m between bungalows, and provide rear garden lengths of at least 9.0m.
75. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
76. Having regard to the above, the development proposes two style of dwelling types a 2 bed (3 person) bungalow and a 3 bed 5 person two-storey dwelling, as such the National Described Space Standards (NDSS) specify that the bungalows should provide a minimum of 61m² and the two storey units should provide 93m² of gross internal floor space. The submitted drawing propose the bungalow units to provide 53.5m² internal floor space (shortfall of 7.5m²) and the two-storey units provide 93.5m² (shortfall of 9.5m²). It is acknowledged that the application was submitted prior to the implementation of NDSS requirement deadline of October 2021. However, the CDP did provide for a 12-month implementation period to allow developers a grace period prior to the NDSS requirements being a requirement.
77. The applicant was requested to amend the scheme to comply with the minimum internal space standards as required by the NDSS and Policy 29, However, the applicants have stated that due to the financial viability of the scheme they were not prepared to increase the size of the units as this would have meant a reduction in the quantum of units on site. The proposal therefore is considered to fail to meet the requirements of Policy 29 in relation to amenity space standards, for the future occupants of the units.
78. The in relation to the Residential Design SPD adopted by the Council (as detailed above) the proposed site plan indicates that 58% (52 units in total) of the dwellings do not meet the minimum privacy distances as set out within the SPD. However, the applicant has provided cross sections of the bungalow units that show that due to the topography of the site the bungalow units will not have any direct intervisibility between the units given the significant changes in land levels, therefore it is considered that whilst the separation distance between 42 of the bungalows is significantly below the required levels (approx.. 14.0m), that the site specific topograpghy is such that the impact is mitigated. The remaining units whilst below the required distances have no direct overlooking of another units, or look onto blanks gables to be considered in this instance acceptable.
79. In additional to the above the SPD also requires private amenity garden space of at least 9.0m in length. The submitted plans show that only 7no. dwellings meet the required private amenity garden space. The remaining 82no. units have small garden / yards which provide space for bin storage, clothes drying and small seating space. The applicant has stated that the ethos of their developments is one of communal living, and that the development provides enhanced communal and public open space to allow residents to enjoy the outside space, and be part of a wider community.
80. It is therefore considered that whilst the proposal is contrary to the SPD in relation to the private amenity space, the site is a highly managed environment that in this instance the LPA are satisfied that the compensatory open space is satisfactory in this instance.

81. The Police Architectural Liaison Officer (PALO) for Durham Constabulary has raised concerns in relation to the layout of the development, and the lack of private secure rear gardens as research shows that developments of this nature are more likely to suffer from crime. The PALO requested that 2.0m high boundary fences are provided to the rear gardens of properties which back onto public spaces, communal alleys should be gated and rear garden space should be fully enclosed with lockable gate. They also recommended lighting to each dwelling elevation, and stated that the site was overly permeable which could allow easy ingress/egress routes for potential criminals.
82. This information was provided to the applicant, who produced a revised plan detailing 1.8m high boundary fencing to properties which backed on to public space, non-lockable gates to alleyways and 1.2m high fencing to the rear boundaries of all other properties. The applicant has said they would not provide 2.0m fences to all properties as this would not encourage the social interaction that is the ethos of this development.
83. Crime, and fear of crime are material planning considerations. Paragraph 92(b) of the NPPF states that planning decision should aim to ensure that developments provide health, inclusive and safe spaces that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this regard it is considered that, given the concerns and recommendation by Durham Constabulary based on crime research, that the failing to meet the requested recommendations will lead to the occupiers of the development being likely to suffer from crime, and therefore the proposal does not meet the test of Paragraph 92 of the NPPF and Policy 29(m)(1 and 6) is providing a safe and defensible development.
84. The Council's Env. Health officer has accessed the development and concluded that the proposal has the potential to cause a statutory nuisance to the surrounding residents, however, subject to planning conditions the nuisances can be mitigated. As such it is considered that the proposal is acceptable in relation to the impact on the surrounding residents subject to the requested conditions.
85. 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.
86. The proposal contains unallocated parking through the development to permit residents to park anywhere they may wish, it is noted that a number of the parking spaces are located directly outside of bedroom windows of some residential units (some as close as 0.9m) this will have the potential to result in vehicle noise, and disturbance to be experienced by the residents of the dwellings created by other residents as they arrive or leave the development in the late or early hours this will be heightened further during the winter months where cars will be required to be de-iced, and made safe before leaving the site resulting in prolonged noise and disturbance. The applicants have said they are unable to provide allocated spaces to mitigate the impact, and therefore it is considered that the proposal does not comply with Policy 31 in relation to unacceptable impact on the living conditions and residential amenity of future residents.
87. Therefore, in conclusion it is considered for the reasons above that the proposal fails to meet the requirement of Policy 29 and 31 of the County Durham Plan, along with some conflict to the Residential Design SPD, and sections 8 and 12 of the NPPF.

Highway and Pedestrian Safety

88. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document
89. The Council's Highway Engineers have assessed the proposal and highlighted a number of areas concern in relation to the number of parking spaces, lack of EV charging provision and concerns of the layout. Following a protracted negotiation and the submission of additional information in relation to the demographic of developments of this type, and the car ownership levels with Esh Winning, it was agreed that the proposed level of parking was acceptable subject to it being unallocated despite being less than the minimum number of parking spaces required within the Parking and Accessibility SPD, and alteration to the layout to prevent parking on pavements, and allow for movement of large vehicles.
90. The Highways team have confirmed that the development will not cause a highway or pedestrian safety issue subject to planning conditions as detailed in their formal comments above.
91. In light of the above it is considered that subject to the conditions requested by the Highway Authority and conditions relating to Parking management and EV charging strategy it is considered that the proposal complies with Policy 21 of the County Durham Plan, and Part 9 (Paragraph 112) of the NPPF.

Impact on the character and appearance of the streetscene

92. Policy 29 (Sustainable Design) of the County Durham Plan 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.
93. With regard to the impact of the development upon the character and appearance of the surrounding locality and streetscene it is considered that the proposed development is acceptable in that it brings back into use a brownfield site, that formally contained houses. The design and appearance of the housing and opening spaces is considered to be acceptably in the context of the surrounding residential areas, and maintains an element of openness at this edge of settlement boundary with the open countryside.. As such the development is considered to accord with policy 29 in this regard.

Landscaping

94. Policy 39 (Landscape) of the CDP states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

95. The Council's Landscape team have considered the application and have raised fundamental concerns in relation to the layout of the development and the impact on trees on the site. The applicant has provided that the details to say that they have attempted to design the scheme to minimise the impact on trees, and the root protection areas, but that further alterations to the scheme is not possible due to the viability of the scheme.
96. It is therefore acknowledged that whilst the scheme will have a transformational impact on the character of the landscape when viewed from within the site, given this is primarily a cleared site, and proposes loss of trees within the site; the scheme does maintain existing trees and landscaping around the periphery of the site that is considered will provide screening from views of the site from the West and North. It is therefore considered that whilst regrettable that the proposal was not amended to address the concerns that the scheme does not cause and unacceptable harm to the character, quality of distinctiveness of the landscape or important feature and views.

Trees

97. Policy 40 (Trees, Woodlands and Hedges) of the CDP 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. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
98. The Council's Arborist has assessed the proposal and concluded that whilst some loss of trees is acceptable, there are 4 no. trees on the site that warrant protection due to their maturity and high amenity value they add to the character and streetscene and should be retained. The applicants supporting information categorises these trees as being A1 or B1 in their quality and longevity. The Arborists have also requested that the proposed footpath in the area highlighted as woodland green on the Landscape strategy document, is removed due to the potential to create soil compaction that will be detrimental to the trees 7, 8, 9 and 10.
99. The applicant in response to these comments has stated that they are unable to retain trees 14, 18 and 19 as these are fundamental in the layout of the development, and that the development could not proceed retaining these trees, although they are providing approx. 39 trees in compensation for any loss as part of the landscape scheme. The applicant have additionally stated they are unwilling to remove the footpath as requested as this is a key design feature of the development which allows residents to use the open space.
100. Therefore, in light of the above it is considered that the proposal is contrary to Policy 40 of the CDP unless the benefits of the scheme can outweigh the harm which is assessed as part of the planning balance below.

Ecology

101. Policy 41 (Biodiversity and Geodiversity) of the CDP restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

102. In relation to the above a County Ecologist has considered the proposal and following the submission of additional information has confirmed that the proposal will result in a bio-diversity net-gain subject to planning conditions in relation to the including of bird and bat boxes within the fabric of the building.

Drainage

103. 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.

104. Whilst 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.

105. The Council Drainage and Flooding section have assessed the scheme and concluded that the scheme is acceptable subject to conditions in relation to construction details of SuDS features, and Hydraulic calculations.

106. It is therefore considered that the scheme is acceptable in relation to Policy 35 and 36 of the CDP.

Residual Matters

107. The application is located within a High Risk Coal Mining area, following the submission of additional information The Coal Authority have confirmed that the development is acceptable subject to conditions.

108. Policy 29 of the County Durham Plan requires that all new residential developments shall not be permitted where it has scored one or more reds when assessed against the Building for Life SPD criteria, unless there are significant overriding reasons. In this regard the proposal has four red marks in relation to the working with the site and its context, car parking, public and private space and external storage. The development is therefore contrary to Policy 29(n) of the County Durham Plan, unless there are significant overriding reasons, which is assessed in the planning balance below.

Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if a development plan is used as part of the determination of an application must be made in accordance with the plan unless material considerations indicate otherwise.

109. As detailed in the assessment above the scheme is not policy compliant in a number of matters, a summary of those matters are as follows:.

- Houses not fully M4(2) compliant to meet needs for older people
- Failure to provide any financial contributions towards open amenity space or facilities

- Failure to provide NHS contributions
- Dwellings do not meet National minimum internal space standards
- Reduced privacy and separation distances
- Insufficient private outdoor amenity space for a large percentage of dwellings
- Development fails to adequately protect residents from potential crime and the fear of crime.
- Potential impacts on amenity and disturbance of residents through unrelated vehicles being in close proximity to bedroom windows
- No Electric Vehicle charging point
- Loss of tree and potential impact on trees
- Failure to meet Building for life requirements

110. The following seeks to weigh the benefits of the proposal against, the disbenefits to allow for a detailed assessment of the planning balance.

Economic benefits

- £12m investment during the construction of the development and much more during its lifetime in terms of ongoing management and maintenance.
- Additional footfall and spend within the Village will support key amenities and services; An additional 89 economically active households in the Village will boost demand and spending locally, which will in turn support the retention and growth of existing and new businesses, services and local amenities
- Placefirst have indicated and estimated yearly spend in the local economy to be over £700k based on studies of other placefirst developments.
- Job creation during construction and the lifetime of the development, equating to Approximately 132 FTE jobs during construction open to local trades, including 3 local apprentices and 35% of construction supply chain from within the DH postcode area.
- Employment of two full time local Resident Services Managers for the neighbourhood (one senior and one assistant)
- Local SME businesses to take care of all our responsive maintenance requirements and landscaping.
- Additional Council revenue via Council Tax and the New Homes Bonus.

Social benefits

- Provision of bungalows, which are shown to be in demand within The County Durham Plan in the private rented sector to meet demand;
- Enhancing choice, competition and quality within the Private rental sector across Durham;
- Sustainable, energy efficient homes with low energy bills for residents.

Environmental

- Remediation and redevelopment of a previously developed site (Brownfield) within the settlement boundary of Esh Winning;
- Comprehensive SUDS scheme incorporated into the landscaping including e.g. a network of swales and permeable paving;
- Energy efficient homes utilising the building fabric and PV Panels to achieve 11.7% enhancement over minimum Building Regulation standards;
- Areas of open space (both public and communal)

111. In assessing the conflicts of the development against its benefits is a fine balance as the weight attributed to each conflict and benefit will differ given the site specific material considerations. However, in this instance it is considered that the economic and social benefits of the proposal outweigh the policy conflicts.

CONCLUSION

112. In summary it is acknowledged that whilst the scheme has a number of deficiencies in policy terms as detailed above, however, as this is a rental development the occupiers of the dwelling will have the ability to source other accommodation elsewhere in the rental market should the above matters become a significant concern. In addition, the development will bring significant long term economic and social benefits to the immediate and wider area, in providing approximately 132 FTE jobs (including 3 new apprenticeships), 2 FTE roles on site for the management of the site, along with a £12.5m investment in the area, which sources a minimum 35% of material from the local economy, and an anticipated increased spend of £700k per annum in the local economy from future occupiers.
113. Therefore, having taken into account the relevant material considerations and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is considered that the benefits of the scheme to the local and wider area, marginally outweigh the non-policy compliance, and issues highlighted.

RECOMMENDATION

That the application (DM/21/02127/FPA) be **APPROVED** subject the following conditions;

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.

2. Details of methods and means of noise reduction/suppression.

3.Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

4.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

5. Designation, layout and design of construction access and egress points.

6. Details for the provision of directional signage (on and off site).

7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

10. Routing agreements for construction traffic.

11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

13. Management measures for the control of pest species as a result of demolition and/or construction works.

14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

4. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

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

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

5. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 Verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

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

7. No development shall commence until full highway engineering, highway drainage, highway structure details, street lighting and constructional details of the streets proposed for adoption by the local highway authority have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details,

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF.

8. No development shall commence until remedial stabilisation works to address land instability arising from shallow coal mining legacy have been carried out in full in order to ensure that the site is made safe and stable for the development proposed. Thereafter the remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure a satisfactory and safe development in accordance with Policy 32 of the County Durham Plan.

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

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

10. No development shall commence above damp proof course until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

11. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course 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.

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

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

13. Prior to the first occupation of the development hereby approved, details of bin stores shall be submitted to and approved in writing by the Local Planning Authority. The bin stores shall be constructed in accordance with the approved details and be made available prior to the occupation of the development to which they relate.

Reason: In the interests of visual amenity and highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

14. Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby permitted being brought into use. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.

15. Prior to first occupation of the dwellings hereby permitted, details of the Hydraulic calculations (in a digital format) along with a full detailed drainage plan shall be submitted to the Local Planning Authority for audit purposes.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

16. Prior to commencement above damp proof course details of the required bat and bird boxes within the fabric of the buildings along the Northern Edge of the development shall be submitted to and approved in writing by the Local Planning. The agreed scheme shall thereafter be implemented prior to the first occupation of any part of the building and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure a satisfactory form of development in accordance with Policies 41 and 42 of the County Durham Plan and Section 15 of the NPPF (2021).

17. Prior to the first use of the development a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure a satisfactory and safe development in accordance with Policy 32 of the County Durham Plan.

18. Prior to the first occupation of the dwellings hereby permitted, a detailed management strategy scheme for the development (which shall include but not be limited to a parking management strategy (including means of electronic vehicle charging), the residents charter, and details of the ownership/tenancy arrangements) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed scheme shall be implemented in accordance and maintained for the lifetime of the development.

Reason: The applicants special circumstances allow this development to be approved in compliance with Policies 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

19. No dwellings shall be occupied until a scheme for the ongoing maintenance of the areas of public open space within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance and cutting schedule in perpetuity.

Reason: In the interests of appearance of the area in accordance with Policies 26 and 29 of the County Durham Plan and Parts 8 and 12 of the National Planning Policy Framework.

20. The development hereby permitted shall be constructed for the purposes of Build to Rent only as defined in Annex 2 (Glossary) of the National Planning Policy Framework 2021 and retained as such for the lifetime of the development.

Reason: The applicants special circumstances allow this development to be approved in compliance with Policies 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

21. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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

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

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

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

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

23. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until a tree protection plan has been submitted and approved in writing by the local planning authority. All trees and hedges, indicated on approved tree protection plan as to be retained, shall be protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010. Any works within the root protection areas shall be the subject of a detailed construction methodology which shall be submitted to and approved in writing before any such works commence and shall be undertaken thereafter entirely in accordance with the approved construction details.

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

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

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

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

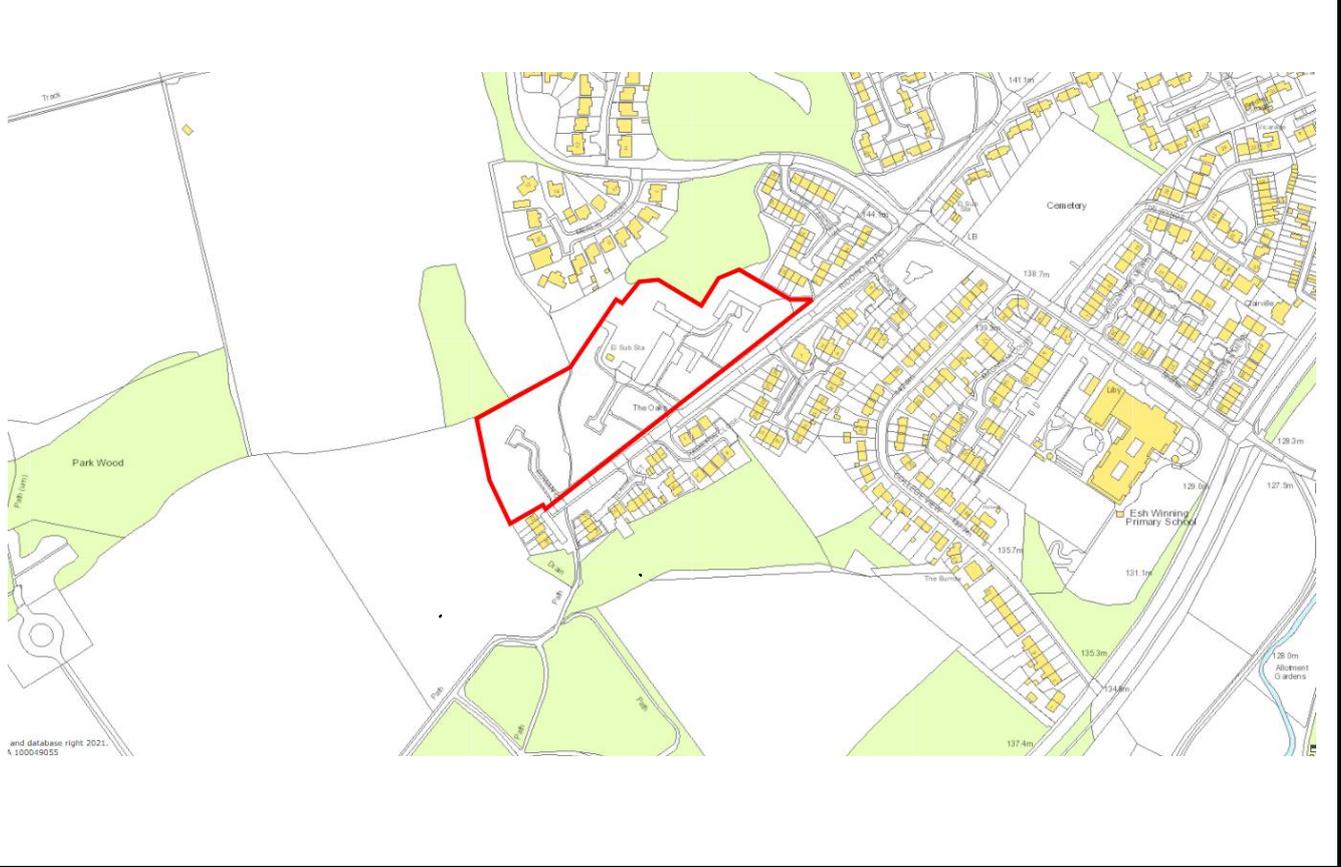
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Development of 89 no dwellings including hard and soft landscaping, public open space, highways and associated works.</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>Land at Rowen Court and The Oaks Esh Winning</p>	
	<p>Date 16.11.2021</p>	<p>Scale NTS</p>