

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/03180/FPA
FULL APPLICATION DESCRIPTION:	Demolition of 24no. apartments and garages and erection of 15no. bungalows
NAME OF APPLICANT:	Livin
ADDRESS:	9-16 Fir Tree and 22-28 Maple Avenue, Shildon, Co Durham
ELECTORAL DIVISION:	Shildon and Dene Valley
CASE OFFICER:	Mark O'Sullivan, Senior Planning Officer, 03000 261056, mark.o'sullivan@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application relates to 24no. existing 2 storey apartments located on Maple Avenue and Firtree, Shildon. These specific units (no's 22-28 Maple Avenue, even only), and 9-16 Firtree (inclusive) take the form of traditional 2 storey semi-detached properties, located in a residential setting of neighbouring semi-detached and terraced dwellings. The application site also includes a terraced block of 17no. unoccupied single storey garages located to the rear (west) of 20-28 Maple Avenue, and a grassed previously developed area located to the northernmost extent of the site, formerly occupied by a PH which has been demolished.

The Proposal

2. Planning permission is sought for the demolition and replacement of the 24no. apartments and 17no. garage units, with 15no. bungalows. The bungalows would occupy the site of the existing residential units and the former PH site to the north, with allocated parking serving bungalows on Maple Avenue, and unallocated parking located to the rear (west) of Maple Avenue, accessed from Magnolia Way. Plans also detail the creation of a communal garden space located between Maple Avenue and Firtree.
3. The application is submitted by Livin who would provide all dwellings as accessible accommodation for the over 55s and disabled, with all plots available for affordable rent.
4. The planning application is reported to the Planning Committee in accordance with the Council's Scheme of Delegation as the proposals fall within the definition of major development.

PLANNING HISTORY

5. A prior notification application was submitted in June 2021 for the demolition of a terrace of existing garages on Magnolia Way (planning ref: DM/21/02067/PND). In July 2021 it was confirmed that prior notification was not required for these works. These garages fall within the proposed application site and are scheduled to be demolished.

PLANNING POLICY

NATIONAL POLICY

6. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. In accordance with Paragraph 213 of the National Planning Policy Framework, the following elements of the NPPF are considered relevant to this proposal.
7. *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.
8. *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.
9. *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.
10. *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.
11. *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.

12. *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.
13. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
15. *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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

16. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; noise; public rights of way and local green space; planning obligations; use of planning conditions; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan

17. Paragraph 47 of the NPPF states that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan is the County Durham Plan (CDP). The following CDP policies would be deemed relevant to the determination of the application:

Policy 6 (Development on unallocated sites)
Policy 15 (Addressing housing need)
Policy 19 (Type and mix of housing)
Policy 21 (Delivering sustainable transport)
Policy 25 (Developer contributions)
Policy 26 (Green infrastructure)
Policy 29 (Sustainable design)
Policy 31 (Amenity and pollution)
Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land)
Policy 35 (Water management)
Policy 36 (Water infrastructure)
Policy 39 (Landscape)
Policy 40 (Trees, woodlands and hedges)
Policy 41 (Biodiversity and geodiversity)
Policy 56 (Safeguarding mineral resources)

Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

<https://www.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. *Shildon Town Council* – No comment.
19. *Highway Authority* – Raise no objections subject to the provision of a Construction Management Plan.

INTERNAL CONSULTEE RESPONSES:

20. *Spatial Policy* – Raise no objections. The application site comprises of 'white' land located within the town of Shildon. The principle of redeveloping the site for housing is considered to be acceptable under Policy 6 of the CDP, particularly as the site already contains residential properties. The scheme would need to comply with Policy 29 and the residential amenity standards SPD.
21. *Ecology* – Raise no objection, subject to condition and the acquisition of a relevant protected species license. The completed development would meet the required net gains in biodiversity as required by the NPPF.
22. *Drainage* – No objections.
23. *Environmental Health (Contaminated Land)* – No objections raised, subject to suggested conditions.
24. *Environmental Health (Noise)* – Due to the proximity of residential housing, sensitive construction/demolition conditions would be required to mitigate the potential of a statutory nuisance and excessive impact.
25. *Trees* – No objections raised. The revised Arboricultural Impact Assessment and Tree Protection Plan are comprehensive and acceptable. The proposal will require the removal of one tree; however this is not considered significant in relation to the scheme

as a whole. There is unlikely to be any significant negative impact on the tree to be retained. All trees should be adequately protected by protective fencing and ground protection as identified in the Tree Protection Plan.

26. *Landscape* – No objections.
27. *Design and Conservation* – No objections. The layout of dwellings responds positively to the existing building lines and provides active built frontage to streets and open spaces. In addition, the proposed dwellings respond to the material palette and simple detailing of the site context.
28. *Affordable Housing* – No comment received.
29. *NHS* – No objections. County Durham CCG will not be applying for S106 funding for this development
30. *Education* - Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.
31. *NWL* – No objections, subject to the development being implemented in line with the submitted Drainage Strategy.
32. *Energy* – No comments received.

PUBLIC RESPONSES:

33. Prior to submission of the application, the applicant organised a community consultation event at Jubilee Fields Community Centre on 29 July 2021. This was attended by a number of residents from Maple Avenue, Magnolia Way and Firtree. A summary of comments received is set out within the supporting Design and Access Statement. It was concluded that the general response to the proposals were positive, although some concerns were expressed over existing parking in the area which could be addressed through the proposed application.
34. The application has subsequently been publicised by way of press notice, site notice and notification letters to neighbouring residents. No comments have been received in response to this exercise.

APPLICANTS STATEMENT:

35. This application seeks approval for the demolition of 24no. apartment units, all of which are now vacant following detailed consultation with residents who have all been rehoused within the local community. Over the years the apartments have seen a transient population with high levels of void properties and high turnover rates leading to blight and anti-social behaviour. The replacement of these units with 15no. new bungalows for older persons and/or disabled will provide much needed accommodation that is in short supply within the Jubilee Fields estate area of Shildon and help meets the strategic needs of the County Durham Strategic Housing Market Assessment for affordable homes.

PLANNING CONSIDERATIONS AND ASSESSMENT

36. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the principle of development, loss of open space, scale/design, privacy/amenity, highways, landscape impact, ecology, flooding/drainage, contaminated land and planning obligations.

The Principle of the Development

37. The application is to be determined in accordance with relevant policies set out within the County Durham Plan (CDP) and the NPPF. Paragraph 11C of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
38. The NPPF seeks to boost significantly the supply of housing, as well as using land that is physically well related to existing settlements. Part 11 (Making effective use of land) seeks to promote an effective use of land in meeting the need for homes, with particular emphasis on previously developed/brownfield development and underutilised land/buildings. Meanwhile Part 5 (Delivering a sufficient supply of homes) clarifies the Government's objective of significantly boosting the supply of homes, and that the needs of groups with specific housing requirements are addressed.
39. Policy 19 of the CDP seeks to ensure that on all new housing developments, the council will 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.
40. The application site is not allocated for housing within Policy 4 of the CDP and therefore falls to be considered against CDP Policy 6. CDP Policy 6 supports the development of sites which are not allocated in the plan or a Neighbourhood Plan within a built up area which accord with all relevant development plan policies, and which:
- a. are compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. do not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. do not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. are appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;
 - e. would not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;

- f. have good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
- g. do not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
- h. minimise vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
- i. where relevant, make as much use as possible of previously developed (brownfield) land; and
- j. where appropriate, reflect priorities for urban regeneration.

- 41. It is considered that criteria a), b), c), d), e), f) and i) will be particularly relevant in assessing the current proposals, all of which are covered in more detail within this report.
- 42. The application site comprises primarily of existing residential land located within the heart of the Shildon settlement. The site is surrounded by residential properties and located close to the town centre, services and public transportation linkages. This proposal seeks to redevelop an existing housing area to create 15no. bungalows designed as accessible accommodation for the over 55's and disabled. The new homes will replace 24no. existing apartments, which represents an overall net loss of 9no. units. However the proposals would see the removal of a dated housing stock and the creation of affordable rent bungalows, providing a mix of house types and tenures to an existing and established residential setting, utilising previously developed land.
- 43. Annex 2 of the NPPF sets out that to be considered deliverable, sites for housing should be available now and have a realistic prospect that housing will be delivered within 5 years. In particular where a site has planning permission for major development it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. Given the scale of the development proposed and the fact the applicant is a social housing provider, with an identified need for more affordable housing in the area, particularly bungalows, there is no reason to presume why this would not be the case, with it entirely reasonable to assume that the site could be built out in its entirety within the time periods required.
- 44. With the principle of redeveloping the site considered to be acceptable under CDP Policy 6, the main issue with this proposal is whether the form of replacement development is appropriate, taking account of the interrelationship with existing properties in the local area. Subject to the above and the following material planning considerations, no objections are raised to the principle of the proposed works, which are consistent with the overarching principles of the NPPF.

Loss of open space

- 45. The application includes an area of grassland (some 846m²) located to the north of the site formerly occupied by a PH which was previously demolished. Over time this area has become established as a modest area of amenity open space at the junction of Coronation Avenue and Maple Avenue, albeit it is not classified as open space within the authority's open space needs assessment.

46. CDP Policy 26 (Green Infrastructure) seeks to resist development proposals which would result in the loss of open space or harm to green infrastructure, unless the benefits of the development clearly outweigh that loss or harm, and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. Where appropriate there will be engagement with the local community. The open space in question is adjacent to a number of estate roads and busy road junction, and close to a number of neighbouring residential properties. It is not considered to be of the best quality, with no features of note. Given the availability of alternative and more suitable, usable and larger areas of amenity space in close proximity to this site, there would be no overriding objections to the loss of this area of land for the purposes specified which is considered surplus to requirements, consistent with the principles of CDP Policy 26.
47. Given its previously developed status, it would also be necessary to test how valued the current site use is to residents of the local community. It is accepted that the site has been used as public amenity space in the intervening period since demolition took place. It is also noted that no public objections have been received regarding its future development following the result of a consultation exercise, neighbour notification letters, and press and site notices in varying locations close to the application site.

Scale/Design

48. Part 12 of the NPPF and CDP policy 29 seek to ensure good design in new developments. New development should be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement. It should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and also create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
49. The application site is located within an established residential setting comprising mainly semi-detached and terraced 2 story dwellings, some of which are evidently occupied as apartments. The site is not located within a conservation area and contains no designated heritage assets. The single storey garages to be demolished are in poor condition and largely unused with some boarded up, detracting from the appearance of the area.
50. Proposals would see the construction of 15no. bungalows across the site, laid out as semi-detached pairs and short terraces. Their positioning has been designed to accommodate sewer easements to the north and south of the site. The proposed layout of bungalows would follow existing building lines on Maple Avenue and Firtree, albeit where necessary, these have been slightly set back to accommodate off street parking provision for residents on Maple Avenue.
51. Bungalows have been designed to meet Nationally Described Space Standards and approved document M(2) providing a high quality development which meets the needs of target residents (over 55s). These would be of red brick and grey tile construction with white upvc fenestration. A front porch feature would provide a contemporary appearance, giving these new plots their own identity.
52. The layout of dwellings provides active built frontage to streets and open spaces. In addition, the proposed dwellings respond to the material palette and simple detailing of the site context. Although the bungalows would introduce a new housing form, these

would not appear incongruous to their residential surrounds and provide a much needed housing mix to the area in accordance with CDP Policy 19. No design objections are raised in the context of Part 12 of the NPPF and CDP Policy 29.

Privacy/Amenity

53. CDP Policy 31 seeks to support proposals only 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. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.
54. Minimum separation distances between dwellings are set out within the Councils adopted Residential Amenity Standards SPD which provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed. With regards two storey development, the following minimum standards are applied:
 - Main facing elevation to main facing elevation containing window/s serving a habitable room
 - 21 metres between two storey buildings;
 - 18 metres between bungalows
 - Main facing elevation to gable wall which does not contain a window serving a habitable room
 - 13 metres to two storey gable;
 - 10 metres to single storey gable
55. All dwellings would benefit from private amenity space to the front and rear commensurate in scale to that of surrounding properties. Within supporting documentation it is explained how boundaries bordering public land and footpaths would be enclosed with 1.8m high timber fencing. Low level brick walls to the front gardens in Firtree would demarcate the area between private property and adjacent public footpaths, maintaining the more open character to the street. Due to the amount of open frontage required to Maple Avenue to accommodate parking and footpaths, no front boundary has been proposed. All other existing site boundaries are to be retained.
56. It is accepted that all dwellings (notwithstanding plots 1-3) would occupy the site of existing 2 storey residential units in an established street scene. No concerns are raised with regards the siting of plots 4-15 which would maintain sufficient separation in excess of the aforementioned minimum standards.
57. The rear (west facing) elevation of Plots 1-3 to the north of the site would be sited 8m from the side gable elevation of no.32 Coronation Avenue (a 2 storey dwelling). This elevation contains 2no. first floor windows (including an obscurely glazed bathroom window), facing east towards the proposed bungalows. Formerly these windows faced directly onto the adjacent PH prior to its demolition in closer proximity to the bungalows proposed, although more recently, they have overlooked open grassland. If approved these first floor gable windows would overlook a ground floor bedroom window, shower room (to be obscurely glazed by condition) and narrow kitchen window attached to the kitchen door.

58. Although the relationship between the properties would be below the required 18m, it is accepted that units 1-3 would be single storey in height, with 1.8m high means of enclosure to ensure sufficient screening between plots at the ground floor level. Located to the east of no.32, there would be no significant loss of daylight through the day with first floor windows to remain unobscured in the mornings. In this respect, it is considered that acceptable levels of residential amenity can be achieved for both existing and proposed residents, with Permitted Development rights to be removed by condition for extensions and outbuildings in the interests of protecting these amenities. Furthermore, given the previous PH located here was larger in scale and located closer to neighbouring properties to the west than the proposed dwellings, there would be no more significant loss of amenity to these neighbours compared to historical uses.
59. EHO's having reviewed the submitted information, raise no objections to the proposals subject to control over future demolition/construction methods. Such details can be controlled by condition, in the interests of neighbouring amenities. Having regard to the above, and subject to the suggested conditions, it is considered that the proposed works can be carried out in a manner that achieves a satisfactory relationship with neighbouring properties. The application is considered to satisfy the provision of CDP Policy 31.

Highways

60. NPPF Part 9 seeks to ensure that development only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. CDP Policy 21 seeks to ensure that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. New developments should provide for appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users.
61. Proposals would not involve changes to the existing adopted public highways other than the provision of new residential footway crossings for in curtilage car parking. Submitted plans detail a tarmac finish to new parking areas (with the exception of plots 4-11 which would have a block paved finish). The domestic access crossing must be constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980 with the applicant to be reminded of this detail by informative.
62. The proposed parking provision meets the requirements of the DCC Parking Standards and the inclusion of the communal parking areas provide for sufficient visitor parking requirements. The provision of several communal parking spaces is welcomed and will provide assistance in an area of high parking demand. No highways objections are raised subject to the provision of a Construction Management Plan which includes times of work and control of site vehicles, mud, noise, storage of materials etc to minimise disruption to existing residents. Subject to the above, no objections are raised, with proposals to satisfy the provisions of Part 9 of the NPPF and CDP Policy 21.

Landscape impact

63. CDP Policy 39 sets out that proposals for new development will 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 will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects, showing regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy, and contribute, where possible, to the conservation or enhancement of the local landscape.

64. CDP Policy 40 states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate stand-off distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
65. Landscape officers have reviewed the landscape masterplan and detailed landscape plan submitted alongside the application and raise no objections. Landscape proposals are considered to be appropriate to the environment in and around the site and would provide positive enhancements to the area. Furthermore, as stated by the Senior Tree Officer arrangements for tree retention and protection are also considered appropriate. The proposal will require the removal of one tree; however this is not considered significant in relation to the scheme as a whole. There is unlikely to be any significant negative impact on the trees to be retained, subject to these being adequately protected by protective fencing as identified in the submitted tree protection plan. Such details can be controlled by condition. The proposed landscape scheme would need to be properly maintained to ensure it is sustainable in the longer term. Subject to the above, proposals are considered to satisfy the provisions of CDP Policies 39 and 40.

Ecology

66. Part 15 of the NPPF ensures that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. CDP Policy 41 seeks to ensure new development minimizes impacts on biodiversity by retaining and enhancing existing diversity assets and features. Proposals for new development should not be supported where it would result in significant harm to biodiversity or geodiversity.
67. The application is submitted alongside a Bat Survey report rev03 (E3 Ecology, November 21) which notes the presence of a small bat roost within no's 22 and 24 Maple Avenue to be demolished. As such a relevant bat licence will be required in advance of any works commencing on site. The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species without a licence. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European Protected Species to apply three derogation tests contained in the Regulations in order to form a view on whether a licence might be granted. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species

must be maintained. Brexit does not change the Council's responsibilities under the law.

68. In terms of the three derogation tests contained in the Regulations it is considered that the benefits of removing a dated and unused housing stock to provide a mix of affordable housing tenures in regenerating this area would be in the overriding public interest. There would be no other satisfactorily alternative to these proposals other than to keep the existing housing stock, which would affect the regeneration programme. Furthermore, it is also the case that the Council can only consider the acceptability or otherwise of the application that has been made to it. Finally, it is considered that there would not be a detrimental effect upon the conservation status of protected species.
69. Ecology officers have viewed the amended site plans, which include the proposed bat and bird boxes as requested. No objections are raised subject to the inclusion of the recommendations detailed in Section G of the Bat Report, as a condition including but not limited to the acquisition of a relevant protected species licence prior to any works commencing to the relevant buildings on site. All works thereafter are to be undertaken in strict accordance with the conditions of the licence.
70. Subject to the above, and the acquisition of a protected species licence from Natural England, it is considered that the relevant derogation tests are met, and it is likely that a licence from Natural England would be granted. No ecological objections are raised, with proposals to satisfy the provisions of Part 15 of the NPPF and CDP policy 41.

Flooding and Drainage

71. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Policy 35 of the CDP requires 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. Development in flood zones should not be permitted unless in exceptional circumstances. Regarding surface water flood risk, the management of water must be considered intrinsic to the overall development, with runoff rates carefully controlled. Policy 36 of the CDP requires proposals to the disposal of foul water, utilising the hierarchy of foul water.
72. The application site is not located within a known flood risk area, with all surface water drainage details having been provided in consultation with the Council's Drainage team. The submitted information is deemed to be satisfactory with respect to the management of surface water for the development and proposals would satisfy the provisions of Part 14 of the NPPF and CDP Policies 35 and 36. Subject to adherence to the approved drainage documents, no further drainage conditions are required.

Contaminated land

73. Part 15 of the NPPF seeks to prevent unacceptable risks from pollution and land stability. Where a site is affected by contamination or where land stability issues arise, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 seeks to resist development where the developer is unable to demonstrate that:

- a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
- b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
- c. all investigations and risk assessments have been undertaken by an appropriately qualified person.

74. EHO's have assessed the available information and historical maps with respect to land contamination. Given the site is currently developed and demolition is required, Made Ground will exist on site and there is the potential for some contamination. Given this, contaminated land conditions should apply to any permission granted. Subject to the above, proposals would satisfy the provisions of Part 15 of the NPPF and CDP Policy 32.

Planning obligations

75. Policy 25 of the CDP seeks to ensure that new development is only approved where any mitigation necessary to make the development acceptable in planning terms are secured through appropriate planning conditions or planning obligations. Developers will be required to enter into Planning Obligations which are directly related to the development and fairly and reasonably related in scale and kind to the development

76. *Affordable Housing*

Paragraph 65 of the NPPF requires major development proposals to include at least 10% of the homes provided to be made available for affordable home ownership. Policy 15 of the CDP requires applications for 10no. or more units to provide a percentage of Affordable Housing provision which is accessible, affordable and meets the needs of those residents unable to access the open housing market.

77. The application site is located within a low value area where 10% of the approved units must be provided for affordable home ownership. Based on a scheme of 15no. new units, this equates to 2no. units. It is recognised that the applicant is Livin (a registered provider), and all units proposed are earmarked to be retained as social, affordable or intermediate housing for rent. Although this is a departure from the required tenure mix of affordable home ownership, it is possible to provide the affordable housing as affordable rent, as Policy 15 does enable a case to be made. It specifies that where it can be evidenced to the Council's satisfaction that this tenure mix would make the required affordable housing contribution unviable or that alternative affordable housing products are required to meet local needs, then proposals for an alternative tenure mix as proposed by the applicant will be considered. To this extent, Livin have presented evidence of local housing need to justify the provision of affordable homes to rent instead of home ownership, with no objections raised. The applicant has agreed to the provision of a minimum 10% affordable housing provision to be retained in perpetuity through a S106 agreement.

78. *Educational provision*

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 seek this. Based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 15no. dwellings would

produce 6no. pupils of primary school age and 2no. pupils of Secondary age. Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools. It is further accepted that the proposed bungalows would be targeted towards over 55s. As such no educational contribution would be required in this instance.

79. *NHS*

Local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of any S106 funds secured. Local GP Practices are keen to maintain/improve their access, and an increase in patient numbers may require adjustments to existing premises/access methods. The NHS raise no objections to current proposals and advise that they would not be applying for s106 funding in this instance.

80. *Open Space contributions*

CDP Policy 26 requires proposals for new residential development to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). The OSNA sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site-specific basis. Where it is determined that on-site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality

81. As the submitted scheme involves the redevelopment of an existing housing area through the demolition of 24no. flats and replacement with 15no. bungalows, it reasonable to recognise the overall net reduction in the number of units by 9, and as such the LPA would not seek an open space contribution on this occasion.

Other matters

82. *Accessible and adaptable homes*

CDP Policy 15 includes a requirement for sites for 5 or more dwellings to ensure 66% of the dwellings proposed are built to Building Regulations Requirement M4(2) (accessible and adaptable dwellings) standard. Furthermore, on sites of 10 units or more, a minimum of 10% of the total number of dwellings on the site should be of a design and type that will increase the housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include:

- level access flats;
- level access bungalows; or
- housing products that can be shown to meet the specific needs of a multi-generational family.

83. In this instance, at least 2no. of the 15no. units would be required to be a house type suitable for older people, with 10no. to comply with Building Regulations M4(2) Accessible and Adaptable Dwellings standard. The applicant confirms that all proposed bungalows are designed to be accessible for the over 55's, with the proposed internal layouts designed to meet the National Described Space Standards and Approved Document M Category 2, providing a high quality development that meets the needs of residents. This will meet and surpass the requirements of this aspect of CDP Policy 15 with no objections raised, and will be ensured via condition.

84. *Mineral safeguarding*

CDP Policy 56 seeks to safeguard mineral resources. Significant areas of the county fall into such mineral safeguarding areas, including the application site and wider area. Although a non-mineral development is proposed, it is not considered that the current proposals would sterilise this mineral resource taking into consideration the scale of the site, residential setting and previous site use. No objections are raised in this regard.

CONCLUSIONS

85. Planning permission is sought by Livin for the construction of 15no. bungalows to replace 24no. existing apartments and 17no. garage units. Bungalows would occupy the site of existing residential units to be demolished and a former PH, with allocated parking serving bungalows on Maple Avenue, and unallocated parking located to the rear (west) of Maple Avenue, accessed from Magnolia Way. Plans also detail the creation of a communal garden space located between Maple Avenue and Firtree. All dwellings would be provided as accessible accommodation for the over 55s and disabled, with all plots available for affordable rent.
86. Consideration is given to the principle, of the works proposed, loss of open space, scale/design and the resulting impact on neighbouring amenity. Also, highways, landscape impact, ecology, drainage, contaminated land and planning obligations. No objections have been raised, with proposals to satisfy the provisions of Parts 2, 4, 5, 8, 9, 11, 12, 14 and 15 of the NPPF and policies 6, 15, 19, 21, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41 and 56 of the County Durham Plan and the Residential Amenity Standards SPD (2020 Adopted version). Subject to the following conditions, the application is recommended for approval.

RECOMMENDATION

Recommendation that:

The application be **APPROVED** subject to the completion of a Section 106 Obligation to secure the following:

- Provision of 10% affordable housing on site in perpetuity;

And the following conditions:

1. Time limit

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. Approved plans

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

PHS-XX-XX-DR-A-9002 revP3 (Location Plan), received 13 October 2021

PHS-XX-XX-DR-A-9000 revP10 (Proposed site plan), received 10 November 2021

PHS-XX-XX-DR-A-2000 revP4 (Bungalow Type 1), received 20 September 2021

PHS-XX-XX-DR-A-2001 revP3 (Bungalow Type 2), received 13 September 2021

PHS-XX-XX-DR-A-9003 revP4 (Boundary treatment and materials layout), received 13 October 2021

Landscape Management Plan, received 18 October 2021

R2524/1B (Landscape Masterplan), received 10 November 2021

R2524/2 (Landscape details), received 10 November 2021

Bat Survey R03, received 25 November 2021

AIA TPP revA (Retained Trees Shown on Proposed Layout with Protective Measures Indicated), received 07 December 2021

AMS TPP revA (Retained Trees Shown on Proposed Layout with Protective Measures Indicated), received 07 December 2021

Arboricultural Impact Assessment revA, received 07 December 2021

Arboricultural Impact Assessment revA, received 07 December 2021

C-0001 revP08 (Drainage Strategy), received 11 January 2022

2092 (Hydro design drawing), received 10 November 2021

22282 revB (ACO S-range S100 S01 channel installation detail drawing), received 10 November 2021

2092 P02 (Drainage strategy and maintenance document), received 02 December 2021

C-0002 rev P01 (Drainage construction details), received 10 November 2021

C-0003 revP02 (Proposed Attenuation Crate and Catchpit Detail), received 10 November 2021

SW hydraulic calcs, received 09 December 2021

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Parts 2, 4, 5, 8, 9, 11, 12, 14 and 15 of the NPPF and policies 6, 15, 19, 21, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41 and 56 of the County Durham Plan.

3. M4(2) standard

No development other than site clearance or remediation works shall commence until a scheme to detail how at least 10no. of the dwellings comply with Building Regulations M4(2) Accessible and Adaptable Dwellings has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

4. **Materials to be agreed**
Notwithstanding any details of materials submitted with the application no development shall be carried out above damp proof course level 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 Part 12 of the NPPF and policies 6 and 29 of the County Durham Plan.
5. **Landscape implementation**
All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development (or occupation of buildings or commencement of use) and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
Reason: In the interests of the visual amenity of the area and to comply with policies 6, 29 and 40 of the County Durham Plan.
6. **Mitigation**
No development shall take place unless in accordance with the mitigation detailed in Section G of the Bat Report, including but not limited to the provision of bat and bird boxes, and the acquisition of a relevant protected species license prior to any works commencing to the relevant buildings on site. All works thereafter are to be undertaken in strict accordance with the conditions of the license.
Reason: To conserve protected species and their habitat in accordance with Part 15 of the NPPF and Policy 41 of the County Durham Plan.
7. **Drainage**
Development shall be undertaken in line with the drainage scheme contained within the submitted document entitled "Drainage Strategy" dated 19 August 21. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manholes 5305,5307,4203 and 5101. The surface water flows shall discharge to the surface water sewer slightly upstream of manhole 4101 and shall not exceed 5 l/sec. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.
Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.
8. **Contaminated Land (Phase 1-3)**
No development (excluding demolition) shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study). If the phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.
Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.
9. **Contaminated Land (Phase 4)**
Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4

verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

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

10. Construction Management Plan

Prior to the commencement of any part of the development or any works of demolition, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed, as a minimum this should include, 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 taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
2. Details of methods and means of noise reduction
3. Designation, layout and design of construction access and egress points;
4. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
5. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
6. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
7. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
8. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
9. 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 be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In the interest of amenity in accordance with Policy 31 of the County Durham Plan.

11. PD removed (Windows)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further windows, including dormer windows, or other openings shall be formed in the rear (west facing) elevations of plots 1-3

Reason: In the interests of the privacy/amenities of neighbouring occupiers and to comply with CDP Policy 31.

12. PD rights removed
Notwithstanding the provisions of Class A, B, C, D, E, F and G of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the privacy/amenities of neighbouring occupiers and to comply with CDP Policy 31.
13. Construction
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 0800 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: In the interests of the privacy/amenities of neighbouring occupiers and to comply with Policy 31 of the County Durham Plan

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision have, without prejudice to a fair and objective assessment of the proposals, issues raised, and representation received, sought to work with the applicant in a positive and proactive manner. The Local Planning Authority have sought to ensure that this application has been determined within a mutually agreed extended determination period. All pre-commencement conditions have been agreed in writing with the applicant.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Statutory consultation responses
Internal consultation responses
External consultation responses



Planning Services

Demolition of 28no. apartments and garages and erection of 15no. bungalows

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Comments

Date 20 January 2022