

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/01136/OUT
FULL APPLICATION DESCRIPTION:	Outline application for residential development of up to 30no. units (22no. shown on submitted plans) – all matters reserved
NAME OF APPLICANT:	Mr Gordon Hirst
ADDRESS:	Land to the west of Stobart Terrace, Fishburn, Co Durham
ELECTORAL DIVISION:	Sedgefield
CASE OFFICER:	Mark O’Sullivan, Senior Planning Officer, 03000 261056, mark.o’sullivan@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application relates to a parcel of undeveloped arable land of approximately 1.8Ha. The site is bounded by mature trees and hedgerow, and located to the west of Stobart Terrace, that marks the western extent of the Fishburn settlement. The site borders agricultural land extending to the north and west. To the south is the C26 highway with further open countryside beyond. Public rights of way (Fishburn 12 and 13) edge the site to the north and west respectively. To the north east (north of Stobart Terrace) lies a separate arable field where a now lapsed outline permission was granted in August 2018 for the erection of up to 70no. dwellings.
2. The current application seeks outline consent (all matters reserved) for up to 30no. dwellings, with associated landscaping, SuDS and access. The application is accompanied by a concept masterplan showing an indicative site layout for only 22no. detached units. Amenity open space would be provided primarily along the western spine of the site including a SuDs area to the south western corner, with existing hedgerow to the southern and eastern boundary of the site to be retained where possible. Existing Public Rights of Way to the north and west of the site are to be retained and incorporated into landscaped corridors surrounding the proposed development area. Access to the site would be secured via 2no. new access points onto Stobart Terrace to the east which links with the C36 to the south.
3. The planning application is being reported to the Planning Committee in accordance with the Council’s Scheme of Delegation as the proposals fall within the definition of major development. It is accepted that this application has been with the planning authority since 2019, albeit initial requests for the applicant to withdraw this application in light of concerns raised early on in the determination process have not been considered by the applicant. Time was therefore given for the applicant to address these concerns, albeit no efforts were made to overcome these. Officers therefore present the current application to committee in its originally submitted form.

PLANNING HISTORY

4. There is no relevant site history relating to the current application site, but outline planning permission was granted in August 2018 for residential development of up to 70no. dwellings on adjacent fields to the north east of the site under planning application ref: DM/16/03151/OUT. This approval was granted subject to a signed S106 agreement, albeit has since expired without the subsequent submission of any reserved matters to the LPA within 3 years. The applicant for this lapsed approval is the same as the current submission.

PLANNING POLICY

NATIONAL POLICY

5. A revised National Planning Policy Framework (NPPF) was published in July 2021. 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.
6. *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 principles for plan-making and decision-taking is outlined.
7. *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.
8. *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.
9. *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.
10. *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.

11. *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.
12. *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.
13. *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.
14. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
15. *NPPF Part 16 Conserving and enhancing the historic environment -* Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

<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; air quality; climate change; design process and tools; determining a planning application; effective use of land; healthy and safe communities; land affected by contamination; natural environment; noise; 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 (CDP)

17. *Policy 6 (Development on unallocated sites)* states the 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.
18. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
19. *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.
20. *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.
21. *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.
22. *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.
23. *Policy 26 (Green infrastructure)* seeks to resisit development proposals which would result in the loss of open space or harm to green infrastructure assets 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 valued open spaces or assets are affected, proposals must incorporate suitable mitigation and make appropriate provision of equivalent or greater value in a suitable location. Where appropriate there will be engagement with the local community.

24. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Policy 29 also required 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. Also new major residential development is required 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'.
25. *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.
26. *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.
27. *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.
28. *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.

29. *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.
30. *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.
31. *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.
32. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
33. *Policy 56 (Safeguarding mineral resources)* seeks to restrict planning permission for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area, or which will sterilise an identified 'relic' natural building and roofing stone quarry unless specific circumstances apply.
34. 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:

35. *Sedgefield Town Council* – Request any S106 monies as secured by the Councils Education team to be allocated towards sport and community facilities across the electoral ward.
36. *Fishburn Parish Council* – No observations or comments.

37. *NWL* - 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 its capacity to treat the flows from the development. If approved, such detail must be conditioned so as to prevent the increased risk of flooding from any sources in accordance with the NPPF.
38. *Highway Authority* – Whilst all matters are reserved, it is requested that if approved, a planning condition should be attached controlling details of the improved vehicular egress onto the C26. Consideration should also be given to parking standards at reserved matters
39. *The Ramblers* – No comments received.
40. *Natural England* – No comments.

INTERNAL CONSULTEE RESPONSES:

41. *Spatial Policy* – The proposal should be assessed against Policy 6 of the CDP which now comprises the development plan. For this proposal to be acceptable, the impacts in terms of landscape, townscape and integration with settlement form and access to services and facilities would need to be within acceptable parameters.
42. *Landscape* – The principal landscape objection to this proposal is that it is development in the open countryside. There are also problems with the level of detail provided with the application.
43. *Arboriculture* – The applicant should provide a tree protection plan that includes all trees inside and outside the site that are likely to be impacted by the development. A landscape plan should also be submitted to specify the trees and hedges proposed in the concept masterplan.
44. *Environmental Health and Consumer Protection (Noise)* – The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. The development is noise sensitive, however, is not located in proximity to any significant noise sources. Subject to suggested conditions which would be sufficient to mitigate the potential of a statutory nuisance during the development phase, no objections are raised.
45. *Environmental Health and Consumer Protection (Contaminated Land)* – No objections, subject to a contaminated land condition.
46. *Affordable Housing* – No information has been provided detailing the type and location of houses that will be delivered as affordable housing.
47. *Archaeology* – Given the identification of possible archaeological remains so close to this site, officers would recommend that a geophysical survey report is submitted up front, and in support of this outline application as per paragraph 189 of the NPPF.
48. *Police Architectural Liaison Officer* – 22no. units would be preferred to 30no. so as to reduce potential disputes over parking. The only lighting will run down the middle of the estate with the public footpath to the rear of the properties appearing to be unlit presenting a public safety concern. This will need to be addressed.

49. *PROW* – Fishburn Footpaths 12 and 13 are located on the northern and western fringe of this site respectively and look be incorporated within the site. A rerouting is mentioned within supporting documentation which will require a path diversion order.
50. NHS – Skerne practice in Sedgefield is struggling for space and has, in the past, discussed extending their premises. Therefore, there is a strong case for pursuing S106 monies for this application. A contribution of £14,490.00 would be requested to be paid via S106.
51. *Ecology* – Insufficient information has been provided to demonstrate that the proposals will achieve net gain as required by the NPPF.
52. *Education* – There will be sufficient space to accommodate the pupils generated by the development in primary schools and no further mitigation is required in this instance. With regard to secondary schools, there will not be sufficient accommodation for the 4no. pupils likely to be produced from this development. A contribution of £66,216 is therefore required for additional teaching accommodation.
53. *Drainage* - The proposed design demonstrates compliance with National Standards and Council Policies in providing sustainable solutions to surface water management and ensuring the prevention of flood risk to and from the proposed development.

PUBLIC RESPONSES:

54. The application has been publicised by way of site notice and neighbour notification letters to neighbouring residents. 2no. letters of objection were received expressing concerns over the perceived increase in traffic volume and resulting highway safety concerns. In addition, the need for more housing in the village and notable lack of community facilities, with proposed hedgerow planting and landscaping unlikely to mask the issues currently faced by this village. Questions were raised over why one application was not presented for 100no. dwellings rather than 2no. separate applications.
55. *Council for the Protection of Rural England (CPRE Durham)* – Objections raised over encroachment into open countryside beyond the existing residential framework of Fishburn, lack of housing need and deliverability. The weight that this site is given as a material planning consideration to make an adjacent approved housing site deliverable should be questioned, with concerns also expressed over the perceived impact of the development on 2no. public footpaths adjacent to the site.

APPLICANTS STATEMENT:

56. The case in favour of this application is two-fold and quite simple. Firstly, without this approval, the adjoining site which was approved for residential development cannot be implemented - for financial reasons. The figures just do not stack up due to the length of the access road required to the first site. The applicant has tried for years to get the funding or a housebuilder interested - however without this additional site, nothing can happen.
57. Secondly, the applicant agrees to the various financial contributions that are now demanded for this scheme, so approving this scheme is a win-win. More houses, more income for the County, more contributions paid, more revenue in through Council Tax, more jobs. All on a very low-grade agricultural site on the edge of the settlement, where a development has been approved on an adjoining site; albeit that now has lapsed - so this up to 30 unit scheme could be considered to replace the 70

unit scheme - which would have to be assessed again under a new submission, later.

58. The applicant apologises for this second application, but it was forced on him due to the figures for the first scheme becoming untenable - as costs and prices obviously change over time. The access road eventually made the 70 unit scheme unviable, hence this second scheme for 30 units (a whole 100 scheme would have seen an astronomical application and associated documents fee - and the 30 unit scheme fitted next to the 70 unit scheme back in 2019 when this was submitted). Now the 70 unit scheme has lapsed - so this scheme can be decided on its own merits, and is more viable as tighter to the access road. This 30 unit scheme could now be seen to replace the lapsed 70 unit scheme, and the new houses will help shops and facilities in this, and nearby, villages in these uncertain times and provide new homes and construction jobs.

PLANNING CONSIDERATIONS AND ASSESSMENT

59. 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, deliverability/achievability, landscape/visual impact, impact on amenity, highways ecology, contaminated land, ecology, flooding and drainage and planning obligations.

The Principle of the Development

60. The application is to be determined in accordance with relevant policies set out within the NPPF and CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
61. The application site is not allocated for housing within Policy 4 of the CDP and for the purposes of the application, the site is located within the open countryside. CDP Policy 10 seeks to resist proposals for new development in the open countryside unless allowed for by certain policies in the plan, or where certain exceptions apply. None of the exceptions specified in Policy 10 apply in this instance.
62. 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. 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.
63. 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.
64. Given the proximity to the adjacent settlement, the application also falls to be considered against CDP Policy 6. Policy 6 supports the development of sites which are not allocated in the plan or a Neighbourhood Plan which are either within a built

up area or outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement 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.

65. As explained, the application concerns new development in the open countryside on previously undeveloped agricultural land. Although a planning application for 70no. dwellings on adjacent land to the northeast was approved in August 2018 and submitted by the same applicant, this adjacent site had been previously assessed through the Council's SHLAA process and given a green rating as suitable for potential residential development (SHLAA ref: 7/FB/146). The current application site was not included as part of the SHLAA process.
66. With regards Criteria c), the development of the site would involve the loss of arable/greenfield land which has landscape and ecological value, and which contributes significantly to the character of the locality, which cannot be adequately mitigated or compensated for. Whilst some mitigation could be evidently achieved as part of the development through the retention of existing hedgerows and provision of amenity space, this does not overcome the significant harm which would result from the loss of open countryside, with notable adverse ecological impacts to result.
67. The above concerns indicate that the outline proposals as submitted would conflict with CDP Policies 6 and 10, and that the granting of planning permission should therefore be resisted in the context of Paragraph 11C of the NPPF. The determination of the application would also be subject to the following material planning considerations.

Deliverability/achievability

68. Paragraph 74 of the NPPF maintains the requirement for LPA's to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. 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.
69. It was established under the adoption of the CDP that the Council can demonstrate in excess of 5 years housing land supply (6.33 years). The CDP was adopted in October 2020 and therefore, in accordance with paragraph 74 of the NPPF, a five-year supply of deliverable housing sites, with the appropriate buffer can be demonstrated.
70. The Government published its Housing Delivery Test (HDT) results in February 2019. The HDT outcome for the Council indicates that housing delivery has been above the requirement over the last three years, which is evidence that delivery of housing on the ground is on track and exceeding DCC housing targets.
71. In the context of Paragraph 60 of the NPPF which seeks to boost significantly the supply of housing, the current application contains no clear evidence that there is a realistic prospect that housing will be delivered on this current site. Particular regard is given to the aforementioned outline approval for 70no. dwellings on adjacent land to the north east (submitted by the applicant), which was approved by the committee in August 2018 subject to S106. In arriving at a favourable recommendation, the applicant stated that the site was both viable and deliverable, with significant weight given to this statement at the time.
72. This outline approval has subsequently expired, with no reserved matters submission coming forward for approval. Section 8 of the applicant's Planning Statement relating to the current outline submission states that this is due to economic reasons with phase 1 (for the approved development of 70no. units) requiring a long access road with no frontage development. The remoteness of the dwellings from the main road frontage would therefore have a detrimental effect on the marketability of houses in this location and as such the scheme would not be viable in current and foreseeable market conditions. In order for a scheme to be viable in this location it is argued a minimum of an additional 30no. units making use of the long access road in the phase 1 proposal would be required. However, even then this scheme would not be viable unless S106 contributions are limited to £1000 per unit.
73. Having regard to the above there is concern over these latest claims that the current scheme would be both viable and deliverable. Given the speculative, outline nature of the current application, there remains no clear evidence that there is a realistic prospect that housing will be delivered on this site within a 5 year period, delivering a maximum 30no. proposed units or indeed securing developer interest.
74. Concerns are also raised regarding the development costs arising from the significant financial commitments associated with the on-site open space provision, biodiversity mitigation requirements, NHS and Education contributions, potential off site highway improvement works, extensive SUDS works, and how this would impact on the viability and attractiveness of the site in a challenging housing market area. All

of these costs for a 30no. unit scheme would far exceed the applicants claims that a maximum contribution of only £1000 per unit by way of S106 is realistically achievable. Officers note that the applicant has agreed to the relevant S106 contributions as highlighted later in this report, albeit it is questioned how these can be so easily agreed when the applicant wishes to limit contributions to £1000 per unit.

75. It is therefore considered that the proposed development would not meet the NPPF deliverable definition in the absence of any clear evidence to suggest otherwise, and the site would not make any meaningful contribution to boosting the supply of homes. This is an outline application, submitted on a speculative basis, with no clear evidence that housing completions will begin on site within 5 years, delivering all proposed units or indeed securing firm developer interest

Landscape/Visual Impact

76. 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.
77. Meanwhile Part 15 of the NPPF requires the Planning System to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
78. CDP Policy 39 requires new development to be permitted where it 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. Development proposals should have 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.
79. CDP Policy 40 concerns trees and hedgerows. 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. Where development would involve the loss of ancient or veteran trees it will be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists.
80. The key policy consideration in this case is whether the site is read as an appropriate natural extension to Fishburn Village or as an incursion into the open countryside, and whether it represents good design.
81. The application site is located on the western edge of the Fishburn settlement within the open countryside. There is presently a clear demarcation between the existing built form of the settlement which has a strongly defined western boundary, and the adjacent field subject of the application, separated by an estate road and established boundary hedgerow.

82. Although the site is not situated within a locally or nationally designated landscape, it is viewed as attractive open countryside which skirts the boundary of the Fishburn settlement, and which makes an important contribution to the character and appearance of the countryside at the western approach to the settlement. This land is visible from roads to the south and east, and from the public footpaths which bypass the site to the north and west providing public views across the open fields and beyond. Presently these footpaths cut through open fields and are entirely rural in character.
83. It is accepted that outline permission granted in 2018 for a scheme of upto 70no. dwellings on fields to the north east of this site was considered at the time to represent a consolidation of the existing settlement form, effectively squaring off an undeveloped corner of Fishburn, resulting in some localised adverse landscape and visual effects. However this adjacent development would be seen in close association with the existing settlement edge and appear relatively well contained.
84. With regards the current proposals, this would not be the case. The site is located in the open countryside for planning purposes and if developed would form a visible and highly noticeable extension to the western extent of Fishburn, representing a prominent incursion into the countryside. Although physically attached to the west of the settlement, such 'bolt on' development would appear fragmented and disjointed appearing as an intrusive and incongruous block projecting from the west of the existing settlement limits yet surrounded to the north and south by open countryside. The visual impacts of such development would be classed as significant and detrimental, relating poorly to the existing settlement form and character.
85. Whilst the current scheme is outline in nature, with the site layout, scale, massing and design of the dwellings and any boundary treatments not to be fully assessed at this time, the proposed development would nevertheless introduce a significant and relatively densely packed built form into the otherwise open landscape that would have a detrimental effect on the character and appearance of the area. The proposal would also have an unacceptable impact on the existing setting and framing of the village, particularly when approached from the west.
86. Although the site is effectively screened by mature hedgerow to the south (where adjacent to the public highway) and the east, only short distance views of the site would be screened when bypassing the site on the road to the immediate south, with medium to long distance views taken from the approach to the settlement to the west and from the aforementioned public rights of way far more damaging. Views from these footpaths would clearly be affected and the rural character of the area removed.
87. Furthermore, there are concerns over the level of detail provided with the application. The relationship to the existing western edge of the settlement is not clear, as is the need for two access roads cutting through the vegetation on the eastern edge of the site (as detailed on indicative plans). Whilst the tree protection plan supplied with the application covers all the trees on and immediately adjacent to the site boundary and appears to allow for adequate protection, it does not cover the vegetation outside the site that is likely to be impacted by the creation of the 2no. separate access roads into the site which would punch two wide holes into this established eastern boundary. Trees and hedgerow along this boundary are considered to contribute positively to the character of the local area and their loss is not supported. To help address this matter, the applicant would be expected to provide a tree protection plan which includes all trees inside and outside the site that are likely to be impacted by the development so that the true impacts of the development can be assessed.

88. Although layout and appearance of the proposed development is not under consideration at this stage, further clarification is also required relating to the potential for up to 30no. units and the resulting landscape impact. Whilst the indicative layout shows a reasonably generous level of landscaping at the western and southern edges of the site, this is based on 22no. dwellings, rather than the 30no. potential dwellings referred to. Whilst the applicant's statement that they may choose to subdivide some of the detached units to create semi-detached pairs is noted (thereby increasing the quantum of development to up to 30no. units.) there is no guarantee that this would occur, and it would also be possible to seek to introduce 30no. detached units across a more densely developed site area if the outline scheme was approved.
89. Based on the indicative plan, landscape support cannot be given for a scheme of up to 30no. units which could result in a denser development form and encroach further into the landscape scheme provided. In view of the lack of detail to sufficiently overcome landscape concerns, objections are raised, and a layout should be provided that explores the availability of public open space if 30no. units are to be constructed.
90. In summary, therefore the proposed development is considered to have significant, negative, landscape and visual impacts. Development in this location would not form a natural extension to the settlement of Fishburn but represent a significant incursion into an attractive and prominent landscape on its western approach. It would introduce an urban element which is largely missing at present given the strongly defined settlement edge further to the east. Proposals would therefore conflict with Parts 12 and 15 of the NPPF and CDP Policies 29, 39 and 40.

Impact on amenity

91. Parts 12 and 15 of the NPPF, require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from unacceptable levels of pollution.
92. Policy 31 of the CDP 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.
93. The Councils Residential Amenity Standards SPD (2020) provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed. All new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not result in a significant loss of privacy, outlook or light for occupiers of new dwellings and existing dwellings. The design and layout of new development should ensure that reasonable privacy and light is provided for surrounding residents and occupiers, particularly in relation to residential use and enjoyment of dwellings and private gardens. Spacing between the windows of buildings/dwellings should achieve

suitable distances for privacy and light, whilst also preventing cramped and congested layouts.

94. The following minimum standards will be applied to new residential developments:

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

95. In addition, new developments should incorporate usable, attractively laid out and private garden space conveniently located in relation to the property or properties it serves. It should be of an appropriate size, having regard to the size of the dwelling and character of the area. The length of gardens will generally be dictated by the minimum distancing standards but should be no less than 9m unless site specific circumstances allow for a reduction in size.
96. The application is outline in nature with all matters reserved. Indicative layout plans provided by the applicant demonstrate that 22no. units could be achieved on the site as shown whilst maintaining satisfactory levels of separation in excess of the aforementioned minimum spacing requirements between all existing and proposed new dwellings. It is understood that there could be scope to subdivide some of the larger units to create semi-detached pairs which could potentially increase the total number of units developed to 30no. Such matters would need to be clarified through reserved matters although for the purposes of the outline submission, the LPA would be satisfied that a maximum 30no. units could comfortably be accommodated in amenity terms providing this involves subdivision only. Should additional units be proposed, such matters would need to be carefully reassessed.
97. The final positioning of dwellings (to be confirmed through reserved matters) could ensure that there would be no overlooking windows or unreasonable overshadowing of neighbouring property. Furthermore, satisfactory levels of enclosed private amenity space can be provided, with areas of public open space to be created to the southern and western extents of the site. Details of landscaping would be submitted through reserved matters alongside a finalised site layout.
98. The views of the EHO have been sought who considers that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. The development is noise sensitive, however is not located in proximity to any significant noise sources. Notwithstanding this, the granting of planning permission for the development may potentially result in a statutory nuisance being created. The development is large and as such likely to take some time to complete. It is located in close proximity to existing residential properties to the east and considering the lack of other noise sources is likely to lead to a significant impact.
99. With regards to the demolition and construction phases, it is inevitable that some level of disturbance to neighbouring residents would result from site operations. Construction details and the submission of a construction management plan could be appropriately controlled by condition and would be sufficient to mitigate the potential of a statutory nuisance. Subject to the above, proposals would satisfy the

provisions of Parts 12 and 15 of the NPPF and CDP Policy 31 with respect an outline planning application all matters reserved.

Highways

100. 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.
101. The application is outline in nature, with all matters reserved, including access. As such, specific access details would be expected at the reserved matters stage. Indicative plans detail access to the 22-30no. dwellings could be achieved from the new roadway to be constructed to the east of the site (approved under separate outline consent DM/16/03151/OUT), which links with the C36 carriageway through Fishburn to the south. This separate approval has now lapsed. Specific details of access to the adjacent site were controlled by condition 2 of the lapsed consent and Highways officers raise no objection to the principle of approving an additional 22-30no. dwellings on the current site subject to a repeat of this condition. On-site residents and visitor parking provision must comply with the minimum requirements as outlined in the County Durham Parking and Accessibility Standards with consideration to be given to EV provision. To this extent, the number of bedrooms per dwelling would need to be confirmed at reserved matters for the LPA to be able to undertake an accurate car parking assessment. Any approval must also be subject to a condition ensuring the new vehicular egress onto the C26 is constructed in accordance with relevant standards.
102. Subject to the above, there would be no highways objections to the proposals which would satisfy the provisions of Part 9 of the NPPF and CDP Policy 21. It is not expected that any increase in traffic movements to and from the site would give rise to severe residual cumulative impact or highway safety concerns.

Ecology

103. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. Policy 41 of the CDP seeks to resist proposals for new development which would otherwise result in significant harm to biodiversity or geodiversity, which cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks. CDP Policy 25 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.
104. The application is accompanied by a Preliminary Ecological Appraisal (Valley Environmental), albeit no assessment of the likely impacts in biodiversity by the proposals has been undertaken, as required by the updated NPPF. In this regard,

the LPA have recommended the use of the Warwickshire Biodiversity Impact Assessment calculator in providing an objective assessment of likely losses/gains by the development proposed.

105. Whilst the application is outline in nature, with all matters reserved, the LPA requires this information from the applicant up front to be confident that the net gains proposed in the metric submitted are achievable and likely to be delivered, and the proposed habitat types are not downgraded at a later date. Any required offset must be understood and where compensation/mitigation to address this is required onsite, this will enable an informed view on the number of houses that may be achieved.
106. Clarity is also required regarding the number of houses proposed (up to 30), with the indicative masterplan showing only 22. This questions the amount of open space that will be available to deliver the proposed net gains, and whether the proposals are indeed achievable for up to 30no. units.
107. No detailed assessment of the likely biodiversity impacts has been undertaken as part of the current application as required by the updated NPPF and an ecological objection is raised in the context of Part 15 of the NPPF and CDP Policy 41.

Contaminated land

108. 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.
109. EHO's have assessed the available information and historical maps with respect to land contamination including the following report:

Valley Environmental Consulting Ltd (March 2019) Land West of Stobart Terrace, Fishburn, Land Contamination Preliminary Assessment
110. The report has identified the potential sources of land contamination and the requirement for a site investigation to include a ground gas risk assessment. EHO's agree with the findings of the report, and offer no objections to the application, subject to the imposition of relevant contaminated land conditions. Subject to the above, the application would be considered to satisfy the provisions of Part 15 of the NPPF and CDP Policy 32.

Archaeology

111. Paragraph 205 of the NPPF requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part)

by a development in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. The ability to record evidence should not be a factor in deciding whether such loss should be permitted.

112. CDP Policy 44 seeks to ensure new developments sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Such assets should be conserved in a manner appropriate to their significance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance
113. The application is submitted alongside an archaeology statement which details how any further site evaluation works could be carried out at the reserved matters stage as was the case on the adjacent site subject to planning approval ref: DM/16/03151/OUT. Given a conditional approval was deemed reasonable on the adjacent site with respect to archaeology, the applicant argues that it would be unreasonable and unnecessary for the LPA to insist on desk top surveys or intrusive site works as part of the current outline submission.
114. In response, Archaeology officers advise that the application for the adjacent site was supported by additional information in the form of a geophysical survey report which identified a possible archaeological resource. Given the identification of possible archaeological remains so close to the current application site, officers are presently unable to support the applicant's considerations and recommend that a geophysical survey report is submitted up front, in support of this outline application. In the absence of such information, Archaeology concerns are raised over the level of information provided which raises questions over the impacts of development on archaeological assets which cannot be left to reserved matters determination. Officers are unable to ensure a comparable level assessment prior to the outline application being determined with proposals conflicting with the principles of Part 16 of the NPPF and Policy 44 of the CDP.

Flooding and Drainage

115. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, whilst ensuring that new development does not give rise to increased flood risk elsewhere. CDP policies 35 and 36 concern water management.
116. All development proposals will be required 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. This includes completion of a Flood Risk Assessment (FRA) where appropriate. For major developments, the management of water must be an intrinsic part of the overall development, and there must be no net increase in surface water runoff for the lifetime of the development. Where greenfield sites are to be developed (as would be the case here), the runoff rates must not exceed and where possible should reduce the existing greenfield runoff rates.
117. Given the scale of the development, the proposed development falls into the major development classification where proposals should incorporate SuDS unless there is clear evidence that it would be inappropriate. An approved SuDS system should take account of advice from the Lead Local Flood Authority (LLFA), have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

118. The application is supported by a Flood Risk and Drainage Assessment (April 2019) which confirms the proposed development area is at low risk of flooding from most sources except for overland flows resulting from exceedance of surface water that could result in ponding of water to the south west corner of the site. The concept masterplan (indicative only) requires minimal adjustment to ensure compatibility of proposed development with existing flood risk by moving properties slightly further away from the western boundary to ensure the existing pathway for overland runoff is maintained. The site is therefore considered suitable, in terms of flood risk for the type of development proposed with the concept masterplan identifying the south western corner of the site to accommodate the proposed SuDS area.
119. For the purposes of the outline application, the proposed design demonstrates compliance with National Standards and Council Policies in providing sustainable solutions to surface water management and ensuring the prevention of flood risk to and from the proposed development. The proposal confirms that there will be as a minimum, SuDS features such as permeable paving to all private drives and shared surfaces, swales to transmit surface water through the site, an attenuation basin prior to the outfall leaving the site, and the discharge rate will be limited to QBAR Rural rate. This commitment can now be brought forward to be designed and detailed at reserved matters or full planning application stage. Only at this time can the final layout including confirmation of the outfall being suitable be assessed by the LLFA for compliance. In the event of approval, a condition should be imposed requiring the applicant to progress their proposals in accordance with the submitted Flood Risk & Drainage Assessment (Ref: 186D41-FRDA/01), received 24 April 2019.
120. Subject to the above, outline proposals would be considered to satisfy the provisions of Part 14 of the NPPF and CDP Policies 35 and 36.

Planning obligations

121. 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

Affordable Housing

122. 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. As the proposed development is for upto 30no. dwellings, it exceeds this size threshold.
123. The Strategic Housing Market Assessment (SHMA) (2019) identifies the need for affordable housing within County Durham which it defines as one housing market area. The % of affordable housing required is set out in Policy 15 of the CDP, which based on viability evidence confirms that 10% is appropriate within this part of the County (which is regarded as a low value area). In low value areas, on sites of 10no. or more units. 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). Any contribution above 10% should be provided as affordable housing for rent.

124. For the purposes of this application a total contribution of 3no. affordable units (10%) would be required for affordable home ownership. Such requirement would need to be secured via S106 legal agreement.
125. Based on the information provided, concerns are raised over the lack of detail on the affordable housing provision that will be provided on site. There is no affordable housing statement which would outline the location, type and product the affordable housing would provide. In the absence of this information, proposals would conflict with Paragraph 65 of the NPPF and CDP Policy 15. Notwithstanding this, the applicant has agreed to the provision of the necessary affordable housing numbers and tenures. Should the applicant progress to appeal, it would be expected that such detail is agreed between parties beforehand through an agreed heads of terms document.

Educational provision

126. 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 Councils adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 30no. dwellings would produce 9no. pupils of primary school age and 4no. pupils of Secondary age.
127. 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 schools. With regard to secondary schools, there will not be sufficient accommodation for the 4no. pupils likely to be produced from this development and a contribution of £66,216 is therefore required for additional teaching accommodation. The applicant has agreed to enter into an agreement to secure this contribution which is to be paid in a single installation upon first occupation of the dwellings.

Healthcare

128. Local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of any S106 funds secured. Local GP Practices are keen to maintain/improve their access, and an increase in patient numbers may require adjustments to existing premises/access methods. The NHS advise that the increase in resident population arising from an additional 30no. dwellings would have a material effect on the local GP surgeries and their abilities to provide care, with a subsequent requirement for NHS contribution in this case. A calculated fee of £14,490.00 would be applicable, payable through S106 agreement should approval be granted. This detail has been agreed with the applicant.

Open Space contributions

129. 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.

130. A scheme of 30no. units would generate at least 66no. people based on 2011 census data of 2.2 persons per household requiring an expectation of amenity open space to be provided on-site, and an off-site contribution for the other typologies of open space. A minimum 990m² of on site amenity space would be required as part of the development.
131. The application is outline in nature with indicative layout plans suggesting an expanse of public amenity space to the south and west of the site including a SuDS area, likely in excess of the minimum area specified, thereby meeting the requirement for on-site open space provision. Taking this into consideration, an off-site financial contribution of £47,223.00 would be required, to be paid in a single instalment upon first occupation of the dwellings. This would be on the condition that a minimum 990m² of on site open space is progressed into the final site layout proposals. The applicant is agreeable to enter into an agreement to secure this contribution.

Other matters

Design Review

132. Although plans are only indicative in nature, with specific details of scale, design and layout to be determined through any subsequent reserved matters, the application has been considered through the authority's Internal Design Review Process (April 2019). This process assessed the proposals against the 12 urban design criteria promoted through 'Building for Life'. The application was assessed against outline application criteria and resulted in 2no. red scores, 1no. amber score, 0 green scores and 3no. 'unknown'. Red scores were given in the 'Principle of development' and 'Creating well defined streets and spaces' categories.
133. As alluded to in paragraph 3 of the report, the applicant was advised in November 2019 that the application as submitted could not be supported. This was in light of the red scores, with the development to represent a notable and unacceptable incursion into the open countryside, and with only limited information provided to demonstrate that the streets and spaces will be well defined. In the absence of any subsequent information to overcome these concerns, the LPA maintain its objections to the scheme, with the application having failed the authority's design review process.

Accessible and adaptable homes

134. 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.

135. Given the application is outline in nature, with details of scale, design and layout reserved matters, such detail would be confirmed through the reserved matters process.

Nationally Described Space Standards (NDSS)

136. CDP Policy 29 requires new development proposals to comply with the Nationally Described Space Standards (NDSS). The current application is outline in nature with specific details of scale, design and layout to be determined through reserved matters. Based on the indicative details provided, there would be no reason to assume these minimum standards cannot be satisfactorily achieved should the development progress through the outline approval stage.

Sustainability

137. CDP Policy 29 requires new development proposals to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. As above, specific details of the dwellings in relation to scale/design and notably in-built sustainability measures would be addressed through reserved matters.

Public Rights of Way

138. Fishburn Footpaths 12 and 13 are located along the northern and western boundaries of the application site respectively, both of which would be incorporated within the overall site layout. Although outline in nature with all matters reserved, within supporting documentation it is explained how a rerouting of the paths is required which would entail a path diversion order should the scheme progress. PROW officers advise that if approved, that these paths are incorporated within open space, to aid crime prevention, especially if there is no intention to have the paths adopted, which will mean that they will be unlit. Notwithstanding this, locating wetland landscape areas and SUDs up to/adjacent to these footpaths is not advisable given the potential for water to affect the path surface. Should the proposals progress to reserved matters, such considerations must be taken into account.

PALO concerns

139. As explained, the PALO has raised concern over the lack of lighting to the rear of properties within the open space amenity areas, which could present a public safety concern. Such matters would need to be addressed through reserved matters.

Safeguarding mineral resources

140. CDP Policy 56 seeks to safeguard mineral resources. Although a non-mineral development is proposed, the application site does not fall within a mineral safeguarding areas.

CONCLUSIONS

141. Outline permission (all matters reserved) is sought for the construction of up to 30no. dwellings on arable land to the west of the Fishburn settlement. This development would represent an extension to a lapsed consent for 70no. residential units on land to the immediate north east (approved under separate planning approval ref:

DM/16/03151/OUT) which the applicant now claims could not be made viable without approval of the current application.

142. The application is to be determined in accordance with relevant policies set out within the NPPF and CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay. Consideration is given to the principle of developing this edge of settlement site, deliverability/achievability, landscape/visual impact, impact on neighbouring amenities, highways, ecology, contaminated land, archaeology, flooding/drainage and planning obligations.
143. Current proposals would result in notable landscape and unidentified ecological harm (which would have a transformative and negative impact), whilst resulting in a significant incursion into an attractive and prominent landscape on the western approach to the village. The applicant has failed to provide sufficient mitigation in this respect and the LPA are unable to accurately assess the ecological harm which would result.
144. Concerns are also raised over the absence of archaeological information necessary to demonstrate that there would be no resulting harm to identified archaeological assets in the area.
145. Local objections and representations where raised are covered in the report where necessary.
146. Proposals would conflict with Parts 2, 11, 15 and 16 of the NPPF and Policies 6, 10, 26, 29, 39, 40 41 and 44 of the County Durham Plan. There are no material considerations which outweigh the conflict with the development plan and the application is recommended for refusal.

RECOMMENDATION

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

1. The Local Planning Authority considers that the proposed development would represent an incursion into attractive and prominent open countryside on the western approach to the Fishburn settlement that would result in significant adverse harm to the character of the local landscape in conflict with Parts 12 and 15 of the NPPF and policies 10, 29, 39 and 40 of the County Durham Plan.
2. The Local Planning Authority considers that insufficient information has been provided to demonstrate the true landscape impacts of the development in terms of the potential impacts of up to 30no. residential units across the site and the impact of site access on an existing and established landscape buffer forming the western Fishburn settlement edge. In the absence of such information the LPA is unable to assess accurately the impacts of the development in the context of Parts 12 and 15 of the NPPF and policies 29, 39 and 40 of the County Durham Plan.
3. The Local Planning Authority considers that insufficient information has been provided to demonstrate that there would be no resulting harm to identified archaeological assets in the area, contrary to Part 16 of the NPPF and Policy 44 of the County Durham Plan.

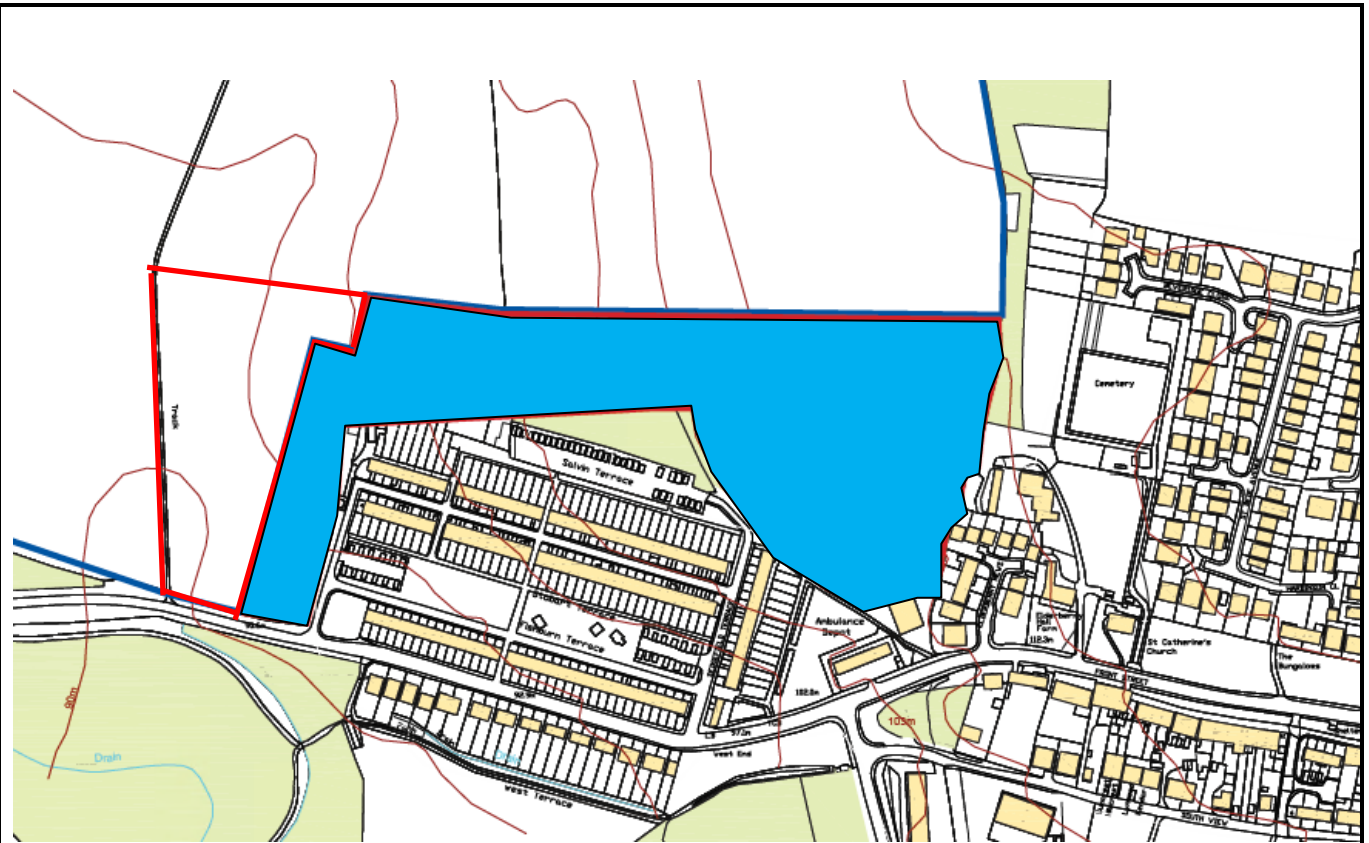
4. The Local Planning Authority considers that insufficient information has been provided to demonstrate appropriate levels of ecological mitigation necessary to minimise impacts on biodiversity contrary to Part 15 of the NPPF and Policies 25 and 41 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. However, this has not been possible in this instance. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

BACKGROUND PAPERS

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



Planning Services

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Outline application for residential development of up to 30no. units (22no. shown on submitted plans) – all matters reserved

Comments

Date 17 February 2022