

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/01066/OUT
FULL APPLICATION DESCRIPTION:	Outline Application with all matters reserved for 18 self-build plots with new access road and associated landscaping
NAME OF APPLICANT:	Victoria McElvaney
SIE ADDRESS:	Land to the east of Gray Terrace New Kyo DH9 7LB
ELECTORAL DIVISION:	Annfield Plain
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 1.74ha of open grazing land adjacent the eastern extent of New Kyo, one of the settlements conjoined with Annfield Plain, sited 1 mile south-west of the centre of Stanley. The existing settlement is separated from a modern bypass as part of the A693 linking Consett, Stanley and Chester-le-Street to the A1(M) by the site and a 50m wide tree buffer. The site and the tree belt slope significantly from the settlement, down to the road. The junction of the main road through New Kyo, Shieldrow Lane with the A693, is around 100m north-east of the site. The land is not subject to landscape designations.
2. The eastern edge of the village presents a strong traditional vernacular, with two storey brick built, slate roofed terraces looking across Shieldrow Lane to the site. Further towards the village centre are grassed areas including the cleared site and on-going redevelopment of a former Working Men's Club. The tree buffer wraps around the east and north of the site. The site is surrounded by a simple post and wire fence, separated from the adjacent footway by a verge of around 3m in depth. The roadside footway includes a bus shelter at the northern and southern ends of the site. The Lodge, a detached two storey red brick dwelling to the south of the site, is separated from it by a part metalled track that is both designated as a footpath and has in the past formed an access to the football pitches to the south-west. The footpath leads south, across the A693 towards Quaking Houses. Beyond the football pitches are two separate major housing developments.

3. The site itself is sloping unimproved grassland, used for grazing and other than very small areas of scrub, and is featureless. A long irregular rectangle in shape, the site is around 280m in length along the contour and 70m in sloping width.

The Proposal

4. This is an Outline application, with all matters reserved. This means that the principle of development is sought, with all details for consideration through future applications.
5. The proposals were submitted for a 'plot-build' development of 23 units. The single point of access to the development is shown – at the northern extent of the site along with an indicative representation of how the development may be set out. The Local Authority must be confident that the site can accommodate the quantum of development proposed and therefore there have been extended detailed discussions regarding some elements of the proposals – leading to a reduction in the number of units proposed during the process to the 18 currently presented.
6. This application is being considered by Committee by virtue of its size.

PLANNING HISTORY

7. None relevant.

PLANNING POLICY

NATIONAL POLICY

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
9. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. *NPPF Part 5 – Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

12. *NPPF Part 6 – Building a strong, competitive economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
13. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 11 Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
16. *NPPF Part 12 Achieving Well-Designed Places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 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.
18. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

19. 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; historic environment; design process and tools; 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; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green

space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

20. Of particular relevance to the consideration of this application is advice on *Self-build and custom housebuilding*.

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

LOCAL PLAN POLICY:

The County Durham Plan

21. *Policy 6 Development on Unallocated Sites* supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
22. *Policy 15 Addressing Housing Need* notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities.
23. *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.
24. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring 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 congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
25. *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.
26. *Policy 26 Green Infrastructure*. States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

27. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
28. *Policy 31 Amenity and Pollution* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that 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.
29. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that 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.
30. *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.
31. *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.
32. *Policy 39 Landscape* states 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 and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
33. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff 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.

34. *Policy 41 Biodiversity and Geodiversity* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
35. *Policy 56 Safeguarding Mineral Resources*. Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.
36. The Council has adopted a Residential Amenity Standards Supplementary Planning Document (SPD) in 2020 that has fully adopted Policy weight in assessing applications, with, relevant for this application, requirements for separation distances and minimum garden lengths.
37. There is no Neighbourhood Plan in force in this area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. *Highways Officers* - have agreed after detailed discussions, that an adoptable standard Highways layout can be achieved on the site. Offering detailed comments for the design of the junction at the site entrance.
39. *Northumbrian Water* - note that the planning application contains drainage plans, however, the developer has not yet submitted a pre-planning enquiry to allow Northumbrian Water to be able to assess our capacity to treat the flows from the development. A condition is suggested to require a detailed scheme of foul and surface water.
40. *Durham Constabulary* – no comments provided.

INTERNAL CONSULTEE RESPONSES:

41. *Spatial Policy* – provide a detailed analysis of the scheme in relation to the Development Plan with the following highlighted from their response:
In terms of Policy 6, the main issues are likely to fall within criteria 'b', 'c', 'd', 'e', 'h' and 'i'. Criteria 'c' prevents the loss of recreation land unless it can be mitigated or compensated for, which would be fully assessed under Policy 26 of the Plan. The layout appears indicative, however the final scheme should ensure appropriate design, highway safety, as well as minimising vulnerability and providing resilience to impacts arising from climate change, including but not limited to, flooding – appropriate specialists will be able to advise on these factors.

As originally submitted, the layout appeared compromised and poorly related to the existing settlement. Proposals should ensure as a minimum acceptable privacy and garden requirements, in accordance with best practice design guidance including the requirements of Policy 29.

Policy 26 states development proposals will not be permitted that 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. This site would be unlikely to be regarded as an especially valued space in policy terms and it may be the case that some moderate enhancements could mitigate for the loss of provision in this instance. Notwithstanding these considerations, a proposal of this scale would also be normally required to provide amenity/natural green space within the site envelope (c. 760qm) as well as contributions towards existing open space and green infrastructure in the area (further advice could be provided at the detailed planning stage however this would amount to around £1574 per dwelling).

42. *Archaeology* - There are no known heritage assets within the proposed development area and none nearby which would suggest a previously unidentified archaeological resource therefore there is no archaeological objection to these proposals.
43. *Design and Conservation* – initially raised concerns at the lack of a strong street frontage and considered the submitted Design Code difficult to interpret, with detailed advice for materials. Following an amended drawing they commented that ‘whilst not directly addressing Shield Row Lane, the amended plan now includes development set back beyond an area of open space, with dwelling frontage providing natural surveillance of the space. This improves on the previous layout which resulted in development turning its back on the street’.
44. *Ecology* – noted that the DEFRA metric shows a significant loss of biodiversity arising from development. The applicant needs to provide details on how this loss will be compensated for at this stage in order to deliver biodiversity net gains. The LPA needs to be confident that the development can achieve BNG preferably through the provision of an off-site location under the control of the applicant.

The LPA may be able to discuss a financial contribution / leasing of land to the applicant for the purposes of habitat creation / enhancement over the 30yr period, but these mechanisms are dependent on the LPA having land available at the time of the application and confidence that we can deliver the required BNG.

At this stage the amount of land required will be based on the proposed Biodiversity Metric and proposed Landscaping Plan, this area will be refined once the revised Landscaping plan and metric are provided as per the s106 – but an area needs to be established at this stage alongside an appropriate location.

45. *Drainage* – advise that the design of the surface water drainage system should comply with Policies 35 & 36 of the County Durham Plan Adopted 2020 in relation to Flood Risk and Sustainable drainage Systems, which in turn should be read in conjunction with the Design Code as set out in Building for a Healthy Life Design Tool. The limiting surface water discharge from the proposed development shall comply with greenfield QBAR Rural Rate for up to the 1 in 100 year event plus 40% climate change and also 10% urban creep.
46. *Education* – confirm that there is sufficient capacity to accommodate the pupils likely to be generated by the development and no mitigation is required.
47. *Environmental Health (Air Quality)* - The site layout plan shows that there will be a setback distance of over 55m between the nearest residential property and the A693. Air quality conditions across the site and at the location of the proposed properties is therefore likely to be of a good standard and not at risk of exceeding an air quality objective.

The development itself will consist of up to 23 dwellings and will not generate enough additional road traffic, and associated emissions, to warrant screening or detailed assessment of such emissions.

The construction of the proposed development will be a potential source of dust emissions that could impact on the amenity and health of existing residential dwellings near to the site. The applicant must investigate the potential for this and if identified as required produce a scheme of dust mitigation measures to be secured by condition.

48. *Environmental Health (Nuisance)* – A noise assessment has been submitted, which identifies road traffic noise as being the dominant noise source. Mitigation measures have been suggested to achieve the threshold levels stated in the TANs. The noise levels indicate outdoor living areas in the north-western part of the site, closest to Shield Row will require mitigation to achieve daytime guideline values of 55dB. To achieve the required levels, it is recommended the dwellings are screened with close boarded acoustic fencing.

Also suggested is a condition for acoustic fencing adjacent Shieldrow lane and also detailed recommendations for double glazing and ventilation in parts of the site.

49. *Environmental Health (Contamination)* – have reviewed the submitted plans recommending that as a nearby landfill is referred to as low-medium risk a phase 2 site investigation is recommended. They do not consider that the application provides sufficient information to allow a full assessment of the risks from land contamination. The phase 2 is also required to inform contamination mitigation requirements.
50. *Landscape* - The site does not lie in an area covered by any national or local landscape designations or in an area identified in the County Durham Plan as an Area of Higher Landscape Value (AHLV). Trees within the site are not covered by a Tree Preservation Order (TPO). There would be a fundamental change from a currently green agricultural field to urban housing with associated road and footpaths. Landscape effects would be substantial and adverse at site level but moderate in the context of the surrounding locality, considering the proximity of the site to the existing urban area. Most of the land within the site lies outside of the settlement boundary and the proposal would therefore represent an incursion into the countryside. It is observed that there is already housing development in progress to the west of the site and this should be considered in the context of the proposed site and the wider landscape.
51. *Public Rights of Way* - Public footpath no. 23 Stanley adjacent would not appear to be impacted.
52. *Trees* - No objection, Hedges are located outside the site boundary, no trees are within.

EXTERNAL CONSULTEE RESPONSES:

53. *Healthcare* – The NHS have set out their methodology for assessing the likely impacts of the development on healthcare provides, concluding a mitigation payment of £11,130 is required, noting: The three local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of s.106 funds secured.

PUBLIC RESPONSES:

54. A consultation exercise consisting of 35 direct letters, site notices on the roadside frontage and on the public footpath, and an advertisement in the local press elicited 2 letters of objection, one authored 'on behalf of the residents of Grey Terrace'.
55. The objectors do not believe the proposed development respects the local context and the type of housing in the immediate area, with the scale of the buildings being 2 to 3 storeys, not in keeping and would be out of character. The proposal would demonstrably harm the amenities enjoyed by the local residents, in particular safe and available on-road parking and a green space, currently used for grazing, that has attracted wildlife to the area. Landscaping proposed will only benefit new residents.
56. The open aspect of Grey Terrace will be lost, and existing residential privacy and amenity will be compromised. There are significant concerns for parking, with the existing terraces only having access to on-street frontage parking: 'Any loss of a current on-road parking space will mean the loss of a valuable residential amenity'. The proposed access to the development is a serious threat to highway, residents and public safety, with a restricted view in its layout complicated by the presence of bus stops.
57. The area has already been saturated with developments being built on green spaces all along this road. This development will be another that will not be providing low-cost affordable housing that would be beneficial for the area. Objectors believe that the majority of people in the local area could not afford to take advantage of the homes on this development as a result of low incomes.
58. Concerns from the extended nature of disturbance likely as a result of the plot-build nature of the proposals will have a detrimental impact on the quality of life of the residents of Gray Terrace, Ely Terrace and North Terrace. In the event of an approval a strong suite of conditions is requested.
59. Residents acknowledge that loss of view and devaluation of property are not material factors but ask them to be taken into account.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QQJ75CGDMQJ00>

PLANNING CONSIDERATIONS AND ASSESSMENT

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

The Development Plan

61. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
62. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
 - c. approving development proposals that accord with an up-to-date development plan without delay;
63. As a non-allocated edge of settlement site determination is led by Policy 6 of the County Plan. This states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are outside the built-up area but are well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and a set of stated criteria.
64. The site is well related to a settlement, so the relevant criteria for consideration in this instance are: criteria a. requires the development is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land: the site is surrounded by residential dwellings, a shelter belt separating the land from the A693 and playing fields. The implications of the relationship to the highway can be mitigated (discussed below), and footpath Officers raise no concerns at the relationship to the footpath. Residential and woodland uses present no problems in principle. The requirements of this criteria are met.
65. Criteria b. seeks to ensure development does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development. None of these elements are proposed: the site infills an area of open space to the south of Shieldrow Lane and is a logical extension of existing traditional and modern development south of this highway – the playing fields to the west being formerly associated with a school on that land – therefore associated with the urban environment.
66. For criteria c., the development does not result in the loss of open land that has recreational, ecological or heritage value: the land is fenced paddock without public access, the ecology value can be mitigated, and Archaeology Officers have confirmed the land has no interest to them, the historic map progression indicating that the land has been used as garden/allotments for the houses opposite or otherwise undeveloped. The land does not contribute significantly to the character of the locality. Accordingly, criteria c is met.
67. In respect of criteria d, as an outline application and for plot-build, ensuring the development is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement, will in large part for determination through the required reserved matters applications, although in general terms the topography will require development to follow the contours, mirroring the form of the existing village.

68. Highways Officers have discussed the design of the required bellmouth junction at the entrance to the development and confirmed an adoptable standard road layout can be achieved, but in terms of criteria e. have not raised any concerns that the development would be prejudicial to highway safety or have a severe residual cumulative impact on network capacity, meeting also the requirements of Policy 21 of the County Plan.
69. With two bus stops on the site frontage and two opposite, the criteria f. requirement for good access by sustainable modes of transport to relevant services and facilities reflecting the size of the settlement and the level of service provision within that settlement is met.
70. Criteria g. is not considered relevant.
71. Drainage issues protected by criteria h. that development minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding have been discussed with Drainage Officers, and enhanced schemes and proposals provided. Whilst detailed agreement has not been reached on these the submissions show the applicant's approach, and the extent of the site available for sustainable drainage features, indicates an acceptable scheme is achievable. Subject to a condition to ensure this is achieved and implemented at an appropriate stage of development, this criteria, and by default the more detailed requirements of Policy 35 are considered appropriately met. On a similar subject, Northumbrian Water has indicated that subject to a condition, they raise no objection, meeting the requirements for foul water control set out in Policy 36.
72. The proposal does not involve previously developed (brownfield) land as encouraged, but not insisted upon by criteria i. and likewise does not reflect priorities for urban regeneration as encouraged by criteria j. This does not weigh against the proposal in the assessment.
73. Whilst Policy 6 is the lead Development Plan Policy against which the application must be assessed, the backdrop of government advice for Self-build and custom housebuilding set out in The National Planning Policy Guidance notes, last updated in February 2021 is also relevant to the principle. This advises that 'self-build or custom build helps to diversify the housing market and increase consumer choice. Self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction'. Local Authorities are required to give enough suitable development permissions to meet the identified demand. Part 5 of the NPPF confirms that self-build developments are exempt from requirements for affordable housing provision. Policy 19 of the County Plan encourages plot-build schemes and sets out the Council's responsibilities for enabling such.

Sustainable Design

74. Policy 29 of the Development Plan follows the lead of Paragraph 124 of the NPPF which explains that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
75. The indicative site layout plan has been amended during the extended course of the application reducing the number of units proposed from 23 to 18. Originally in the form of two rows facing onto a central spine road, concerns were raised as to how this would 'present' itself to the main road and the facing existing dwellings. The layout now concentrates development on the lower contour of the site, which lessens the direct

relationships and some of the concerns of Design Officers. Whilst much of the control of the scheme in terms of how it appears will be achieved necessarily at the Reserved Matters stage, plot by plot, Officers are satisfied that an acceptable layout can be achieved on the site.

76. At this stage the submitted 'Design Guide for Self-Build Plots' provides sufficient initial guidance for scale, materials and appearance to inform prospective developers, who will be strongly encouraged to engage with Planning Officers pre-submission. Reserved matters can control a reasonable compromise between objectors' concerns that the dwellings will not integrate into the area, and the necessity to allow plot-build schemes to reflect the ambitions of the individual developers. The development is effectively set up to encourage split level dwellings – two storey at the higher part of each plot, where most visible from the public domain, and three storey at the rear, reducing the need for expensive landforming.
77. Requirements for accessible and sustainable dwellings in Policy 29 will be highlighted in a condition as described in the Policy 6 assessment.

Residential Amenity

78. Policy 31 of the Plan seeks to protect residential amenity, and some concerns have been raised by existing residents from the consultation exercise. The Policy is read in conjunction with the Residential Amenity Standards SPD which sets out spacing standards and requirements for minimum garden lengths.
79. The submitted indicative layout plans and site section show the necessary separations can be met to existing dwellings and between plots in principle, with the necessary allowance for the changes in level evident across the site. The layout plans also confirm that the size of the site allows for the required 9m garden lengths. Officers note that whilst the submitted plans show the number of plots proposed can be achieved on-site with sufficient land left available for ecology and drainage requirements, and that each plot is large enough to achieve the required garden lengths, separation distances and car parking requirements, the land available for the development of the dwellings is comparatively small for a plot-build scheme, notwithstanding their split-level nature. Compliance with Nationally Described Space Standards is however achievable.
80. Whilst this is a matter for the applicant, to set the expectations of individual developers conditions are proposed to require specific attention to be paid to these Policy requirements, and likewise those for sustainability as requirements of Policies 29 and 15. The conditions will also address requirements for noise insulation and acoustic fencing outlined in the Environmental Health Officer's advice.
81. The topography of the site compromises the likely ability of individual developers to achieve accessibility requirements, an eventuality allowed for in Policy 15.
82. Further, to give the Council control over the potential residential amenity implications of extension of any individual dwelling approved, it is proposed to remove permitted development rights for these elements.
83. Residential amenity concerns remain over the build process, which will be extended through the nature of a plot-build scheme. Conditions for hours of working, a Construction Management Plan and road cleaning are proposed to satisfactorily mitigate these issues, as indicated by Environmental Health Officers

Ecology

84. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. The applicant has shown areas for biodiversity gain and as this report is written is providing updated information to show through a biodiversity metric whether the requirement can be met on-site, or whether an expected slight shortfall will have to be secured through monies in lieu in a legal undertaking. Members will be given a verbal update at the committee meeting with regard to the outcome of this requirement, but late discussions between the applicant and County Ecologists have agreed a way of meeting the required standards.

Flooding and Drainage

85. Policies 35 and 36 of the emerging CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Whilst the developer has submitted a more detailed scheme to show that the detail of a sustainable drainage scheme can be achieved and signed off, enough has been submitted, and sufficient land is available to show this can be achieved. An appropriate condition is proposed.
86. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. Northumbrian Water suggest imposition of a suitable condition to meet their requirements and therefore those of condition 36.

Infrastructure and Open Space

87. Policy 26 of the CDP seeks to protect valued and functional 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). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. The value of the open space at present is wholly visual, the site being fenced grazing land without public access and therefore function. The open land is not sited to add significant character to the settlement.
88. Spatial Policy Officers have set out the figure required to mitigate new demand for Open Space when not met on site. The indicative layout does indicate there is potential for on-site provision and public footpaths within green spaces of the development.

Planning Obligations

89. Policy 25 advises that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs.

90. Paragraph 57 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.
91. The S106 Agreement which would secure the following all of which are considered to meet the required tests; the monies identified by the Local Healthcare Trust to mitigate the demands the development will put on their services – the sum will need to be agreed pro-rata to the number of units that are developed, and a sum for open space and play provision at a rate of £1574 per dwelling to bring compliance with the relevant elements of Policy 26. Any shortfall of the required net-biodiversity gain can be achieved through monies in lieu using this mechanism.

Other Considerations

92. It is acknowledged that Environmental Health (Contamination) Officers have recommended the submission of additional reports given the site's proximity to a nearby former tip. This is a technical exercise and would usually result in detailed reports that investigate and propose mitigation and verification before residential occupation. With other residential developments immediately to the south in similar relationship to spoil, it is considered that the usual phased contamination reports by condition can address this issue.
93. There are no Coal Mining Legacy records affecting the site.
94. Spatial Policy Officers have advised that given the nature of the land uses in the area there are no Safeguarding Mineral Resources implications to the development assessed against Policy 56 of the Development Plan.
95. There are no implications from the development to the adjacent Public Right of Way.
96. There are no landscape designations affecting the site and no trees. Landscape Officers acknowledge that there is already housing development in progress to the west of the site, and this should be considered in the context of the proposed site and the wider landscape. Officers consider that there is no conflict with Policies 39 and 40 of the Plan.
97. As objectors acknowledge, that loss of view and devaluation of property are not material factors in the decision-making process.
98. Whilst not quantified within the submission, the economic activity that will be generated by the development – which by virtue of the plot build aspect is likely to be more locally concentrated than usual through the use of local builders and suppliers.
99. There have been no aspects of the proposals that would undermine any aspect of Human Rights legislation. Policy 29 seeks to improve accessibility to ensure the dwellings are attractive to as wide an age group as possible. An informal Equalities Assessment (EqIA) by officers concludes there are no aspects of the scheme that cause issue with the requirements of the Equalities Act 2010.

Scheduling

100. The application has been assessed and it is considered that on balance there is sufficient information provided to support the Outline consent, with all matters reserved. There are implications to the structure of conditions in such a scenario. Any approval will be governed by an overall Time Limit condition. Thereafter two phases of conditions are proposed: The first phase will require detail of the strategic and common aspects that affect the whole site – effectively taking the development to the point where there are serviced plots on the site. The second phase will be the reserved matters for each individual plot.

CONCLUSION

101. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
102. The application – in Outline form with all matters reserved essentially requests the principle of development and illustrates how development could be undertaken.
103. The assessment is led by County Durham Plan Policy 6 – Development on unallocated sites, with the relevant criteria then leading to assessment against the Policies for specific topics. The site is well located to the existing settlement but of low functional value. Sufficient information has been provided to show that policy requirements can be met, albeit some consultees have pointed out the full information has not been provided or agreed. This is often the nature of an Outline scheme.
104. Critical areas for mitigation have been identified and these are reflected in the conditions.
105. Likewise, areas for financial mitigation through a planning obligation have been agreed, although as the development is in Outline form and allows for a maximum number of units, this will have to be flexible in form to reflect the actual number built.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- a financial contribution of £1,574 per dwelling be provided to mitigate Green Infrastructure and Public Open Space demands from the development, and;
- a financial contribution of £8,710, as directly proportionate to the scale of the development be provided to mitigate the demands the development will impose on local healthcare services noting the three local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries.
- The undertaking of a scheme of management of land identified for landscaping / ecology improvements for a minimum period of 30 years in accordance to achieve the required net bio-diversity gain on-site.
- Where the required net-biodiversity gain cannot be delivered on-site monies in lieu of the net-biodiversity gain.

And subject to the following conditions:

1. Approval of the details of the appearance, access, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be obtained in writing from the Local planning authority before any development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission. The development of features required to service the whole site, as opposed to the development of individual plots, must be begun not later than the expiration of two years from the final approval of the reserved matters. The development of each plot must be begun not later than the expiration of two years from the final approval of the reserved matters of that plot.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved shall be carried out in accordance with the following approved plans: Site Location / Layout Plan 2045-01-F.

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

4. Before any part of the development hereby approved is commenced, an existing site levels survey for the whole site and a detailed proposed highways levels plan for all communal vehicular and pedestrian highways, and shared drives must be submitted to and approved in writing by the Local planning authority. Further, an existing and proposed detailed levels plan for the development plots and all other areas of the site, indicating all areas of cut and fill and all proposed retaining structures must be submitted to and approved in writing by the Local Planning Authority, being thereafter carried out in accordance with said written agreement.

Reason: To ensure the development is in scale and character with the surrounding area, in accordance with Policy 29 of the Durham County Plan 2020 and part 12 of the Framework.

5. Thereafter, before any individual plot commences development a proposed ground levels plan to cover the whole plot and show all formed slopes and retaining structures, existing and proposed boundary markers, and elevations showing finished floor, eaves and ridge levels must be submitted to and approved in writing by the Local Planning Authority, with the development then carried out in full accordance with said approval.

Reason: To ensure the development is in scale and character with the surrounding area and adjacent plots, in accordance with Policy 29 of the Durham County Plan 2020 and part 12 of the Framework.

6. Before the development hereby approved is commenced the applicant must submit to the Local Planning Authority and have approved in writing a scheme of detailed highways works, to include a road junction design with a 10.0 metre junction entry radii, the access is a 4.8m wide carriageway width including plotted clear site visibility cords from the access at 2.4m x 70m in both directions and full constructional details

of the proposed road, to be of a standard capable of adoption, including levels, kerbs, drainage, footways, footway crossings and shared drives shall be submitted to and approved in writing by the Local planning authority. A schedule for construction of the road and triggers for implementation must be included in said document. The works must be carried out in full accordance with the written agreement.

Reason: In the interests of Highway Safety as required by Policy 21 of the Durham County Plan 2020 and part 11 of the Framework.

7. Development of the individual plots must be carried out in accordance with the advice set out in the submitted 'Design Guide for Self-Build Plots'. Each Reserved Matters application for an individual plot must clearly set out: a schedule of proposed external materials to include all elevational materials including but not restricted to, roofing, rainwater goods, roof edging, fenestration and hard-surfacing areas including vehicular hardstanding, pedestrian paths and patios. Full details of all proposed retaining structures and slopes at site boundaries must be set out in scaled drawn sections. A Sustainability Statement to demonstrate achieved reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations (unless the Building Regulations are enhanced) must be submitted and the plans must be annotated to show compliance with the Nationally Described Space Standards (NDSS). All plots must demonstrate compliance with the separation standards and minimum garden lengths set out in the Durham County Residential Amenity Standards SPD. All plots must demonstrate compliance with Durham County Council's Parking and Accessibility Standards. All the described information must be submitted to and approved in writing by the Local planning authority before the development of the plot it relates to commences, being thereafter implemented in full accordance with said agreed scheme.

Reason: to achieve a well-designed and sustainable scheme, in accordance with Policies 15 21 and 29 of the Durham County Plan 2020, the adopted Residential Amenity Standards SPD and Parts 11 and 12 of the Framework.

8. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Said scheme must include triggers for implementation and completion. Thereafter the development shall take place in accordance with the approved details. The limiting surface water discharge from the proposed development shall comply with greenfield QBAR Rural Rate for up to the 1 in 100 year event plus 40% climate change and also 10% urban creep.

Reason: To prevent the increased risk of flooding from any sources in accordance with Policies 35 and 36 of the Durham County Plan 2020 and part 14 of the NPPF.

9. Prior to commencement of the approved scheme the applicant must provide an updated biodiversity metric, an updated landscape/habitat layout plan and an updated habitat management plan to demonstrate the required biodiversity gains can be delivered on-site.

Reason: To ensure the development achieves the required net biodiversity gain and to comply with Policy 41 of the Durham County Plan 2020 and Parts 12 and 15 of the National Planning Policy Framework.

10. No development shall commence until a detailed landscaping/biodiversity scheme has been submitted to and approved in writing by the Local Planning Authority. Any

submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan-based details of the following:

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including replacement, watering, rabbit protection, tree stakes, guards etc.
- Details of the responsible person, company or organisation and thereafter any changes to this.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

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

11. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out within an agreed timescale. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

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

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

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

13. No development shall commence until a land contamination Phase 2 site investigation has been carried out, which shall include a sampling and analysis plan. The implications for contamination of the adjacent tip must also be fully investigated and mitigated. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and must include gas protection measures and method of verification.

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

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

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

15. Outdoor living areas in the north-western part of the site, closest to Shield Row will require mitigation to achieve daytime guideline values of 55dB LAeq. To achieve the required levels, the five dwellings nearest the boundary with Shieldrow Lane and the public footpath must demonstrate compliance with this requirement through a scheme of close boarded acoustic fencing on their rear boundaries of a specification to be submitted to and approved in writing by the Local Planning Authority, being thereafter implemented in full accordance with said agreement and retained to such in perpetuity.

Reason: In the interests of residential amenity in accordance with the requirements of Policy 31 of the County plan 2020 and part 15 of the Framework.

16. To ensure that that internal noise levels of no more than 55db LAeq for living rooms and bedrooms closest to the A693 and Shield Row Lane are met with the windows closed, standard thermal double glazing must be implemented on the elevations facing those highways. Ventilation must as a minimum, comply with Building Regulations 2000 Approved Document F1 Means of Ventilation and British Standard BS5925 1991: 'Code of Practice for Ventilation Principles and Designing for Natural Ventilation'. Said standards must be achieved during construction and maintained in perpetuity.

Reason: In the interests of residential amenity as required by Policy 31 of the Durham County Plan 2020 and part 15 of the Framework.

17. The applicant must submit a Dust Management Plan, which will set out the measures to be applied at the construction site, including a monitoring regime, complaints procedure and actions should dust be found to be impacting on offsite locations to the Local planning authority for approval in writing. All developers on site must adhere to said written agreement at all times during the construction process.

Reason: In the interests of residential amenity as required by Policy 31 of the County plan 2020 and part 15 of the Framework.

18. Before development is commenced a management scheme of road cleaning must be submitted to and approved in writing by the Local planning authority, being thereafter adhered to at all times.

Reason: In the interests of Highway Safety and residential amenity compliant with policies 21 and 31 of the Durham County Plan 2020 and parts 11 and 12 of the Framework.

19. No construction operations, including the use of plant, equipment and deliveries, which are likely to give disturbance to local residents should take place before 0730hrs and

continue after 1800hrs Monday to Friday, or commence before 0800hrs and continue after 1300hrs on Saturday. No works should be carried out on a Sunday or a Bank Holiday.

Reason: In the interests of residential amenity as required by Policy 31 of the County plan 2020 and part 15 of the Framework.

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

Reason: In the interests of residential amenity as required by Policy 31 of the Durham County Plan 2020 and part 15 of the Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

Statutory, internal and public consultation responses

The National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan

County Durham Strategic Housing Land Assessment Report (2019)

County Durham Strategic Housing Market Assessment (2019)

Open Space Needs Assessment (2018)

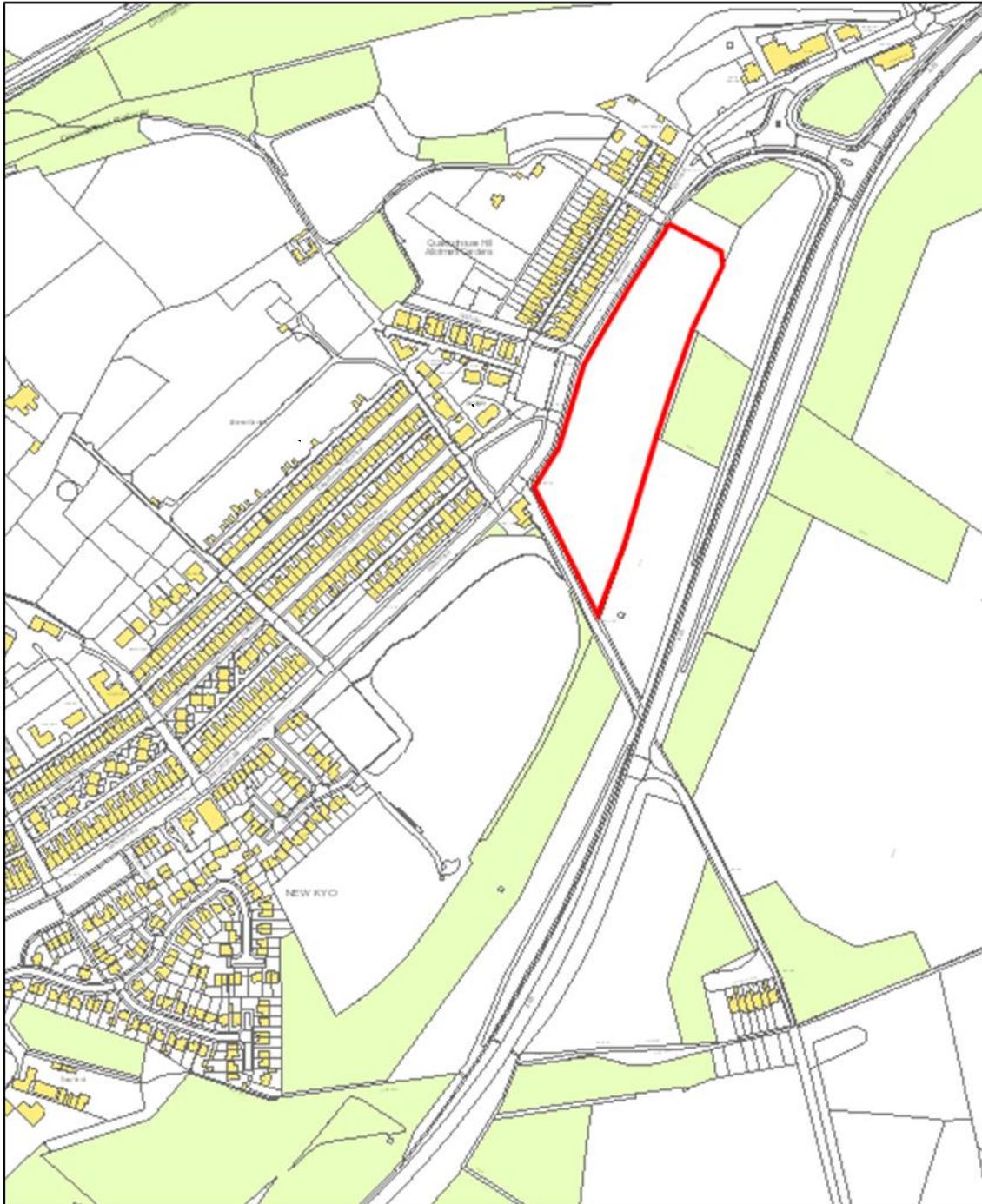
Residential Amenity Standards SPD (2020)

County Durham Building for Life SPD (2019)

County Durham Landscape Strategy (2008)

Human Rights Act 1998

Equality Act 2010



Planning Services

DM/21/01066/OUT - Outline Application with all matters reserved for 18 self-build plots with new access road and associated landscaping

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Date 24th February 2022

Scale NTS

