

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/01526/FPA
FULL APPLICATION DESCRIPTION:	The erection of 5 No. 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted)
NAME OF APPLICANT:	Mr Geoff Robson
ADDRESS:	Land To The North Of 22 Coronation Avenue Blackhall Colliery TS27 4HR
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Michelle Hurton Planning Officer Michelle.hurton@durham.gov.uk 03000 261398

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site lies within the settlement of Blackhall and is bound to the north and northeast by a railway embankment, to the northwest, west and southwest by residential properties, and to the southeast by Blackhall Welfare Ground which is defined within the Council's Open Space Needs Assessment (OSNA) as a park and recreation ground. The site is mostly brownfield and was previously a local authority garage site and as such some of the associated hardstanding still remains.
2. The site is currently accessed via The Coast Road (A1086) from both Hepscoth Avenue and Coronation Avenue.
3. The application site itself lies at the end of two rows of terraced properties mentioned above and slopes down to the edge of the coastal railway line. The site is visible from the nearby terraced properties, from properties in Enid Gardens to the northwest and also from Blackhall Welfare Ground. The site is not visible from the railway line due to the vegetation and height of the trees along the northern and north-eastern boundary.
4. The site is located within 400m of the Durham Coast SAC and Northumbria Coast SPA/RASMAR sites which form part of a wider European network of sites known as Natura 2000. Natura 200 sites are of exceptional importance in respect of rare, endangered, or vulnerable natural habitats and species within the European Community.

5. Any plan or project likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, is required to undergo an Appropriate Assessment to determine its implications for the site. The competent authorities (Durham County Council in this instance) can only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the site concerned.

The Proposal

6. The application seeks planning permission for the erection of 5 detached dwellings at the site with a double garage associated with plot 1. All properties would have three floors comprising a lounge, hall and kitchen at ground floor, three bedrooms and a bathroom at first floor, with a fourth master bedroom, en-suite and walk in wardrobe to the second floor. In curtilage parking is provided for all five dwellings. External walls of three of the dwellings would be finished in Forterra Moray Red Mixture Brick with the other two finished in Forterra Abbey Red Multi Facing Brick. All properties would be finished in Russell Grampian Slate Grey tiles to the roof and each would have access to a rear garden and parking provision to the front.
7. The site would be accessed from Coronation Avenue via the A1086 (Coast Road) located to the west of the site which is the main road through Blackhall.
8. The application is being considered by Committee at the request of a Councillor Rob Crute who believes that traffic generation and access issues warrant detailed consideration by the committee.

PLANNING HISTORY

9. In January 2008, Easington District Council granted conditional planning approval for 4no Dwellings and 8no garages with an associated adoptable turning head/access road. Due to the economic downturn later that year but was never implemented and as such the permission subsequently expired on January 24/01/2011.
10. An application for outline planning permission relating to a revised scheme of 5 units was submitted in March 2015 and was subsequently approved in October 2015. Again, this permission was never implemented and as a consequence lapsed in 2018.
11. A similar application to that reflected in the current application relating to the erection of 5 dwellings was submitted in October 2020 but was withdrawn in April 2021.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

12. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
13. 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.

14. 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.
15. 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.
16. NPPF Part 6 - Building a Strong, Competitive Economy: The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. NPPF Part 15 - Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued

landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

23. 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.

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

LOCAL PLAN POLICY:

The County Durham Plan

24. 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.
25. 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.
26. 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.
27. 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 the

28. 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.
29. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing sites must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable the proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
30. Any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
31. 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
32. 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.
33. 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.
34. 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.

35. 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.
36. 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.
37. 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.
38. 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.
39. Policy 42 (Internationally Designated Sites) states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
40. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.
41. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

42. The Highway Authority raised no objection noting that highway concerns identified in relation to the previously withdrawn application have been adequately addressed. However, noting the narrow roads accessing the site a condition requiring the submission, agreement and implementation of a construction management plan is advised.
43. Natural England objects advising that insufficient information has been submitted in support of the proposal, and as such the development could potentially significant effect the Durham Coast Special Area of Conservation (SAC), Northumbrian Coast and Teesmouth and Cleveland Coast Special Protection Areas (SPAs) and Durham Coast Site of Special Scientific Interest (SSSI).
44. Network Rail raises no objections subject to a number of conditions and informatives being attached to any approval granted given the closeness of the site to the railway line.
45. Northumbrian Water raises no objections subject to a pre-commencement condition requiring the submission, agreement and implementation of a detailed scheme for the disposal of foul and surface water from the development.
46. The Council's Drainage Section as Lead Local Flood Authority have not commented on the application.

INTERNAL CONSULTEE RESPONSES:

47. Ecology Section raises objection to the principle of development advising that new C3 residential housing within the 0.4km HRA buffer zone would likely to lead to an increase in recreational disturbance on the qualifying species and habitats of the coastal SPA and SAC, and would therefore be in conflict with Measure 1 of the coastal avoidance and mitigation strategy and that the mitigation proposed by the applicant would be inconsistent with it.
48. Spatial Policy Section advises that due to the close proximity of the Durham Coast Railway Line, the Northumbria Coast SPA/Ramsar site and Durham Coast SAC that the development would need to be carefully considered in terms of the impacts on these European protected sites. In addition, they notes the requirements of policy 29 in relation to Nationally Described Spaces Standards and policy 15 that 66% of dwellings on sites of 5 units or more must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard.
49. Landscape raise concerns with the development given the limited amount of landscaping proposed within the scheme and considers that there would be permanent and adverse impacts created.
50. Environment, Health and Consumer Protection (Contaminated Land) considered the details and note that because the development constitutes a change of use to a sensitive receptor that a pre commencement condition is required for Phase 2 and 3 reports and also a Phase 4 verification report prior to occupation of the development.
51. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the proposals, noting that they agree with the findings regarding

BS8233:2014 levels to be exceeded at night-time due to passing trains. Conditions are requested to be applied to submit a noise mitigation report, and to regulate noise and environmental matters from construction works.

PUBLIC RESPONSES:

52. One representation letter has been received requesting the developer to contact them to advise what effect the development would have on access to their property as they live immediately adjacent to the site and access for work vehicles would be difficult.

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/simpleSearchResults.do?action=firstPage>

APPLICANT'S STATEMENT:

53. The applicant Mr Robson has owned the site since 2007, previously occupied by a number of garages, which had fallen into disuse, the site was/is an untidy eyesore in close proximity to the residential streets
54. In January 2008, Easington District Council granted conditional planning approval on this site for 4 No Dwellings and 8 garages with an associated adoptable turning head/access road. Due to the economic downturn later that year, the scheme was never built, despite receiving full building regulations approval. The permission subsequently expired without being renewed on January 24th, 2011.
55. Outline Planning Approval for a revised scheme of 5 units was applied for in March 2015 and was subsequently approved in October 2015, again for various reasons this approval has now lapsed.
56. The current proposal is to develop the site with 5 units on similar footprints to those previously approved, but over 2.5 storeys. This application will be for full approval rather than outline.
57. Since these 2 expired approvals the council have undertaken and implemented Habitat Regulations Assessments (HRAs) in relation to the nearby Durham Coastal SAC which states is considered a general presumption against any net increase in residential development within (a) 0.4 km buffer zone unless information and evidence to inform the HRA can be provided which is able to satisfactorily demonstrate that the proposed development will not adversely affect the integrity of the coastal European Protected Sites in question”
58. In this instance, although generally outside the 0.4km buffer zone and separated from this by a mainline railway and dense tree line, the application site falls within the zone due to the proximity of Blue House Gill a long-vegetated inlet to the north
59. The applicant feels that the benefits of tidying up and bringing back into use a derelict run-down brownfield site in close proximity to existing residential areas far outweighs the perceived harm to the Coastal special area of conservation and the sites separation from the protected area by a busy railway line forms a more natural barrier than any notional buffer zone
60. In this respect the applicant asks that members take this fact into consideration, together with the previously granted approvals, the highway improvements offered to the access and egress from the adjoining streets and the loss of an unkempt derelict area, in granting approval for this proposed development.

PLANNING CONSIDERATIONS AND ASSESSMENT

61. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development including the impact upon the Northumbria Coast Special Protection Area and Ramsar, Durham Coast Special Area of Conservation, Teesmouth and Cleveland Coast Special Protection Area and Ramsar, impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, contaminated land, drainage and other matters.

Principle of the Development and its Impact upon the Northumbria and Cleveland Coast Special Protection Areas (SPA) and Ramsar, Durham Coast Special Area of Conservation (SAC) and Durham Coast Site of Special Scientific Interest (SSSI)

62. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP.
63. The NPPF is a material planning consideration. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay.
64. The application site is located within the settlement of Blackhall Colliery. It is not allocated for housing within Policy 4 of the County Durham Plan (CDP). Development of housing on unallocated sites within the built-up area should be assessed and determined against Policy 6. This policy sets out the following criteria:

The development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:

- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
- b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
- c. does 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. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
- e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;

f. has 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. does 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. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;

i. where relevant, makes as much use as possible of previously developed (brownfield) land; and

j. where appropriate, it reflects priorities for urban regeneration.

65. In relation to criteria a) and b), proposed residential dwellings in this location are considered compatible with adjoining residential uses. There is no concern that it would result in inappropriate ribbon development, nor that it would be considered inappropriate backland development, as the site has ready independent highway access and can meet distance standards, which will be discussed in more detail elsewhere in the report. In line with criteria f), the site is noted as highly sustainable, being located within walking distance of a range of facilities and has ready access to sustainable modes of transport.
66. The development to erect five residential dwellings in a highly sustainable location would therefore be considered to comply with Policy 6 of the CDP.
67. However, the application site also lies within 400m of a range of protected sites comprising of the Northumbria and Teesmouth and Cleveland Coast SPAs and Ramsar, Durham Coast SAC and the and Durham Coast SSSI and therefore Policy 42 of the CDP, Conservation of Habitats and Species Regulations 2017 and the Habitats Regulations Assessment: Developer Guidance and Requirements in County Durham document all need to be taken into consideration when considering the acceptability of the principle of development.
68. The Conservation of Habitats and Species Regulations 2017, referred to as the 'Habitats Regulations' implement in Great Britain the requirements of the EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Fauna, referred to as the 'Habitats Directive' (Council Directive 92/43/EEC) and protect areas classified under Directive 2009/147/EC referred to as the 'Birds Directive.' The regulations aim to protect a network of sites known as Natura 2000 that have rare or important habitats and species threatened at a pan European level in order to safeguard biodiversity.
69. Policy 42 of the CDP states that development that has the potential to have an effect on internationally designated site(s), either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
70. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and

'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68.

71. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site.

72. The Habitats Regulations Assessment undertaken for the County Durham Plan proposes a series of three measures to avoid likely significant effects on the coastal European Protected Sites. These being:

- Measure 1: General presumption against any net increase in residential development within 0.4km of the coastal sites
- Measure 2: Provision/enhancement of alternate natural greenspace to reduce the frequency of visits to the coastal sites by residents and hence reduce pressure on them
- Measure 3: Coastal access management and monitoring measures to reduce and monitor the effects of residents and those from a wider catchment who visit the coastal sites

73. It is considered that if within the 0.4km buffer new development resulting in any net increase in residential development, even if measures 2 and 3 of the strategy are implemented, may not be possible to conclude that no adverse effect would occur on the coastal European sites. There is therefore a general presumption against any net increase in residential development in this buffer zone unless information and evidence to inform the HRA can be provided by the proposer or applicant which is able to satisfactorily demonstrate that it will not adversely affect the integrity of the coastal sites in question.

74. A shadow habitats regulations assessment report by Naturally Wild Consultants Ltd was submitted in support of the planning application which proposed mitigation measures to contribute to Measures 2 and 3. However, noting the above this conflicts with the general presumption against new net residential development as set out in Measure 1.

75. In turn, there is no provision within the Coastal Avoidance and Mitigation Strategy to avoid Measure 1 by simply offering an enhanced financial contribution to Measures 2 and 3. The DCC Developer Guidance document details the types of residential development within the 0.4km buffer which can be considered to not result in adverse impacts. These are largely purpose-built residential schemes falling within C2 uses (residential institutions) that involve an element of close personal care, where occupants are considered unlikely to be regularly visiting the coast for recreation and dog exercise. This does not include C3 residential units.

76. As the proposal is considered likely to lead to an increase in recreational pressure upon the internationally designated site, the Council's Ecologist has carried out an Appropriate Assessment of the scheme which concluded that the introduction of 5 detached dwellings falling within C3 use class within 0.4km of the HRA is considered likely to increase recreational disturbance on the qualifying species and habitats of the SPA and SAC, and would therefore be in conflict with Measure 1 of above and that the mitigation proposed by the applicant would be inconsistent with the coastal avoidance and mitigation strategy, policy 42 of the CDP and the Conservation of

Habitats and Species Regulations 2017 given the nature of the development is such that the impacts could not be adequately mitigated.

77. Natural England have objected to the application and consider that insufficient information has been provided in order to demonstrate that the application would not have significant effects on the Durham Coast SAC, Northumbrian and Teesmouth and Cleveland Coast SPAs and the Durham Coast SSSI. Natural England requested further information including details of the mitigation measures proposed to offset potential impacts on the SAC and SPAs, including a specific figure for the proposed financial contribution to wider strategic mitigation measures and an assessment of potential impacts on SSSI features, where these do not overlap with SAC or SPA interest features.
78. However, the applicant did not provide any further information in this regard and as such Natural England maintain their objection. To grant planning permission contrary to Natural England's advice would require the local planning authority to notify Natural England under Section 281(6) of the Wildlife and Countryside Act 1981 (as amended) regarding the terms on which it is proposed to grant the permission and how, if at all, the LPA took account of Natural England's advice. In any event, the grant of planning permission would be contrary to the Habitats Regulations.
79. Notwithstanding the above, officers consider that the erection of 5no dwellings within 0.4km of the SPA and SAC would have an adverse impact on the SPA and SAC which could not be mitigated and as such is not acceptable in principle. The development does not therefore comply with Measure 1 of the coastal avoidance and mitigation strategy, the Conservation of Habitats and Species Regulations 2017, policy 42 of the CDP or paragraph 182 of the NPPF.

Impact on the character and appearance of the area

80. Policy 6c) of the CDP states that development should not be approved where it would 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. It also states under criteria d) that development should be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.
81. Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and 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 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.
82. The site lies to the north-east of Coronation Avenue and currently comprises of a mix of hard standings, rough grass, and has an appearance of derelict land with overgrown vegetation and random surfaces of concrete, bricks and soil. There is an existing outhouse in the southern corner and the proposed development would remove the outhouse and introduce 5no two and a half storey detached dwellings and a detached garage to the northwest. The frontage of the dwellings would incorporate hard surface with 2no parking spaces for each dwelling. A turning head and 2 visitor parking spaces would be positioned between plots 2 and 3 with a further 2no. visitor spaces proposed adjacent to number 22 Coronation Avenue.

83. The layout incorporates a small area of green space to the northwest to supplement lawned private rear gardens to the dwellings and it is noted that there are two trees located to the rear of the central visitor parking. Policy 39 (Landscape) of the CDP states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
84. The Landscape Section considers that the proposed layout would create a stark arrangement of hard surfaces and building facades given the minimal proposed landscaping on the west facing frontages. The proposed buildings are perpendicular to the existing terraces and are contrary to the existing urban pattern of development in this locale. Therefore, without adequate landscape mitigation it is considered the development would result in significant adverse and permanent landscape effects at site level.
85. The Landscape Section notes that the development would have limited visibility in the context of the wider landscape but would be visible at close range in oblique views from adjacent residences and that there are views across the existing site towards the coast and the Area of Higher Landscape Value (AHLV) to the north-east. The Landscape Section consider that these views would be permanently concealed by built development and that the visual effects would be adverse and permanent given the limited amount of landscape mitigation proposed. In addition, it is considered that the proposed design does not have a green frontage and is dominated by hard surfaces. The introduction of green elements was advised such as trees, shrubs and grass along the frontages of the proposed dwellings. However, no amendments were received.
86. The dwellings are simple in appearance, with a proposed red brick to be used in Plots 2 and 4 and with a slightly varied Red Mixture to be used in plots 1, 3 and 5. All roofs would be finished in Russell Grampian Grey Slate and include chimney detail. To the rear the properties include a small flat roofed dormer window and bi-fold doors at ground floor level to provide access into the rear garden area from the open plan kitchen/dining room. Doors and windows incorporate heads and cills. Boundary treatments to the rear would consist of 1.8 metre high close boarded timber fencing with acoustic fencing to be used to the boundary with the existing railway line. The front incorporates open plan block paved hardstanding areas finished in Marshalls Driveline Nova Smooth Brindle, as are the 4no visitor parking spaces. The provision of bin storage areas is provided for each of the properties, and this would be located within the rear gardens.
87. Officers note that the dwellings proposed are at a height of two and a half storeys, which is higher than the properties within the area, which are predominantly two storey terraced and semi-detached properties. However, the land falls away to the east and as such the increase in height would not have an adverse impact upon the character and appearance of the area.
88. Whilst the concerns of the Council Landscape Section are noted, it is not considered that the development would cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and as such accords with the aims of policy 39 of the CDP and paragraph 174 of the NPPF.
89. Noting the proximity of the rail line to the east, Network Rail were consulted and raise no objection to the application in principle, subject to planning conditions requiring the submission and agreement of additional information relating to details of all surface and foul water arising from the development which must be collected and diverted away from Network Rail property, details of excavations and earthworks to be carried

out near to the railway undertakers boundary fence, details of fencing which must be trespass proof, a method statement outlining means of construction, use of vibro-impact machinery, risk assessment and construction management plan and details of a landscaping scheme.

90. In light of the above the proposals are considered to be in keeping with the general form of development in the local area, which is noted as largely consisting of two storey terraced properties laid out in traditional linear format, finished in brick materials. On this basis, the proposals are deemed to accord with requirements set out in policies 6d) and 29 of the CDP as the dwellings would be appropriate in terms of scale, design and layout to the character, function, form and setting of the settlement.

Impact on residential amenity

91. Policy 29 requires that all development achieves well designed buildings and places having regard to supplementary planning documents and: e) provide high standards of amenity and privacy and minimises the impact of development upon the occupants or existing adjacent and nearby properties. Distance standards and outdoor garden areas are outlined within the Residential Amenity Standards Supplementary Planning Document (SPD).

92. Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living 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. Residential properties at Coronation Avenue and Hepscott Avenue frame the site to the south with those at Enid Gardens framing the site to the west.

94. In assessing the layout of the site it is noted that distance standards required by the Council's SPD can be achieved with approximately 14.7m between the principal elevation of plots 1 and 2 and the gable elevation of 22 Hepscott Avenue, and approximately 18.2m between the principle elevation of plots 3 to 5 and the gable elevation of 22 Coronation Avenue. The blank gable of plot 1 faces onto the rear garden areas of the properties within Enid Gardens, however, this is in excess of 13m required by the SPD. Therefore, it is considered the development would not have any adverse impact upon the residential amenity of existing or proposed residents.

95. Based on this assessment the proposed development is considered to suitably protect residential amenities of existing neighbouring properties, and with proposed dwellings considered to be appropriate in scale and height, there are no concerns that the development would result in issues of loss of light, overshadowing or overbearing impacts.

96. In terms of internal space standards, it is noted that policy 29 of the CDP requires all new residential development to meet the Nationally Described Space Standards (NDSS). This recommends that two storey 4-bed dwellings for five persons should provide a total internal space of 97sqm and that three storey 4-bed dwellings for five persons should provide total internal space of 103sqm. Given the development proposes 2.5 storey dwellings the proposed residential units would comply with the

nationally described space standards with each of the dwellings providing in excess of the required amount at 107sqm. It is noted that the application was amended during the course of the application to remove a 4th bedroom in each property which failed to meet the minimum space standards. Consequently, all of the bedrooms in each property now meet minimum space standards. Therefore, it is considered that an adequate level of amenity would be provided for residents in accordance with policy 29 of the CDP.

97. The proposals have also been designed to meet the needs of older people and people with disabilities by ensuring that all of the properties meet M(4)2 Building Regulation standards. Whilst it is proposed for all properties to meet the standard, policy 15 requires only 66% of those dwellings proposed to meet the M4(2) requirements. Given that all of the properties meet the minimum standard the development would exceed the level of provision required through policy 15.

98. It is noted that the rear garden areas of plots 1, 4 and 5 would be below the required size stated within the SPD as they are less than 9m wide or deep. However, given the location of the site adjacent to terraced properties to the west, which themselves have limited outdoor amenity space it is considered that in this instance the size of the outdoor space is acceptable.

99. In summary, the proposals have been assessed against SPD guidance and are considered to meet amenity distance standards and mutual privacy is considered to be suitably protected. The proposed design and scale of the properties and their location and relationship to nearest properties is considered sufficiently appropriate to ensure that the proposal would not be visually dominant or intrusive on nearest residents. Spaces standards and accessibility standards have also been largely complied with to ensure suitable amenity standards for future occupiers. The proposals are considered to accord with policy 29 and 31 of the County Durham Plan and the SPD in this regard.

Highway Safety and Access

100. Policy 6 of the CDP requires that development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Policy 21 states that development should: c) 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. In relation to parking the policy states that car parking at residential developments should ensure that a sufficient level is provided for both occupants and visitors, to minimise potential harm to amenity from footway parking.

101. The proposed layout indicates that it would be possible to provide a public highway and turning head to adoptable standards accessed from both the front and rear of Coronation Avenue. There is a double garage associated with plot 1 and a private shared surface area to the front of plots 1 and 2.

102. The Highway Authority advises that there would be no objection to the proposed layout in terms of highway safety. The site has been subject to previous applications and the highways comments provided in respect of these previous applications have been satisfactorily incorporated into the scheme given that the proposed adoptable highway layout remains unchanged from the previous application.

103. The 4.8 metres wide road layout and associated 1 metre wide service strip/vehicular access crossing is acceptable. In turn, the additional visitor parking bays are welcomed to help mitigate the loss of the informal parking arrangement for which it is understood surrounding residents have previously used the site.
104. Due to the narrow roads accessing the site, the Highway Authority has requested that a Construction Management Plan be submitted prior to the commencement of development should planning permission be granted which could be secured via planning condition.
105. The proposals could be safely and satisfactorily be accommodated without adverse impact upon highway safety and as such is considered compliant with policies 6 and 21 of the County Durham Plan and paragraphs 110 and 111 of the NPPF.

Contaminated Land

106. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) of the CDP 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.
107. Contaminated land section has assessed the site, historical maps and Phase 1 Desk Study Report and agree with the recommendation of the report that a Phase 2 should be undertaken. The Contaminated Land officer considers that a condition should apply requiring reports for phase 2 and 3 analysis of potential ground contamination on site and Phase 4 for remediation works in accordance with NPPF part 15 and CDP policy 32.

Drainage

108. 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.
109. 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 defense infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
110. Northumbrian Water have commented stating that the details within the application does not provide sufficient detail with regards to the management of foul and surface water from the development for them to be able assess their capacity to treat the flows from the development. Therefore, should approval be granted they have requested a planning condition be attached requesting a scheme for the disposal of foul and surface water from the development be submitted to the LPA for further consideration
111. Therefore, subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policies 35 and 36 of the CDP.

Other Matters

112. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located in a residential area. Similar, requirement in terms of broadband connectivity and broadband connectivity would be delivered in this wider context. As such it does not appear that there are any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 27 of the CDP.
113. Policy 29 of the County Durham Plan criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
114. The applicants have confirmed that at this stage of the proposal they have not fully developed their sustainable energy strategy. However, the applicant has advised that the intention is to use renewable energy sources in all dwellings and that there are several possible options in this regard, the most likely being the use of ground and air source heat pumps and solar PV panels. The submission, agreement and implementation of a detailed scheme in this regard can be secured through planning conditions. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policy 29 in this regard.

CONCLUSION

115. 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.
116. In summary, whilst it is considered that the scale and design of the scheme is considered acceptable, policy 42 of the CDP sets out criteria for development which has the potential to have an effect on internationally designated sites. In addition, paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
117. Following an appropriate assessment, it is considered that the proposed development would have an adverse and detrimental impact upon internationally designated sites, in particular the Northumbria and Teesmouth and Cleveland Coast SPAs and Ramsar, Durham Coast SAC and the and Durham Coast SSSI, contrary to policy 42 of the CDP, paragraph 182 of the NPPF and Conservation of Habitats and Species Regulations 2017 and as such, is recommended for refusal.

RECOMMENDATION

That the application be **REFUSED**:

118. The Local Planning Authority considers that the development would result in a detrimental and adverse impact upon the biodiversity value of the Northumbria Coast SPA and Durham Coast SAC through increased recreational activity contrary to County Durham Plan policy 42, paragraph 182 of the NPPF, the Conservation of Habitats and Species Regulations 2017 and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve 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. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant
Statutory, internal and public consultation responses
Conservation of Habitats and Species Regulations 2017 (as amended).
The National Planning Policy Framework (2021)
National Planning Practice Guidance Notes
County Durham Plan
Residential Amenity Standards SPD (2020)
Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham



Planning Services

DM/21/01526/FPA The erection of 5 no 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted) at Land To The North Of 22 Coronation Avenue Blackhall Colliery TS27 4HR

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Date 08 March 2022

Scale NTS