

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/00135/VOC
FULL APPLICATION DESCRIPTION:	Application to remove condition 13 (highway improvements) pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) for 105 dwellings (outline - all matters reserved except access)
NAME OF APPLICANT:	Gleeson Regeneration Ltd
ADDRESS:	Land East of Castledene Road, Delves Lane, DH8 7HQ
ELECTORAL DIVISION:	Delves Lane Laura Eden
CASE OFFICER:	Senior Planning Officer 03000 263980 laura.eden@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located off Gloucester Road on land between Sixth Street and Castledene Road which is in the south eastern part of Consett. The site is roughly rectangular in shape and comprises 3.34ha of grassland used informally as open space. With regards to topography, the site slopes away from the north west to the south east and there is around 19m between the site's highest and lowest points. Trees and hedgerows are restricted to the site's boundaries.
2. Residential properties within Castledene Road and West Ellimore View bound the site to the south/south-west and partially lie along its northern border. To the west lies Gloucester Road with a commercial development and garage court located beyond. A public right of way (Footpath No.38 (Consett)) runs alongside but outside the site's eastern boundary with agricultural fields beyond and to the north east. Immediately to the north lies Sixth Street containing terraced bungalows and an agricultural field. Further to the north east lies a park and recreation ground comprising of junior and youth play facilities and football pitch.
3. The site is located 1.7km to the north east of Knitsley and High House Wood Local Wildlife Site and 3.2km from Allensford Woods Local Nature Reserve. Iveston Conservation Area lies 1.6km to the east and contains a Grade II listed War Memorial, cottage and outbuilding. There are no landscape designations within or adjacent to the site. The application site contains no watercourses, with the site lying entirely within Flood Zone 1.

The Proposal

4. On 1st October 2020, outline planning permission was granted on appeal for the erection of up to 105 dwellings with all matters reserved except access. A subsequent reserved matters application was granted approval, relating to the appearance, landscaping, layout and scale as well as a number of conditions associated with the outline consent.
5. The purpose of the application is to remove condition 13 pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT). The condition secures offsite highway improvement works to the roundabout at the Gloucester Rd/Delves Lane junction that are required to be implemented prior to the occupation of the 50th dwelling.
6. The application is being reported to the Northern Area Planning Committee at the request of local members, Cllrs Sterling and Walton.

PLANNING HISTORY

7. Outline planning permission was granted upon appeal (APP/X1355/W/20/325169) for the erection of up to 105 dwellings with all matters reserved except access in October 2020. The application (our ref. DM/17/02333/OUT) was originally refused by the Northern Area Committee in October 2019 against officer recommendation. The approval was granted subject to conditions and a S106 legal agreement.
8. An application for reserved matters (appearance, landscaping, layout and scale (DM/20/02983/RM), in addition to discharging a number of conditions associated with the outline approval, was granted in February 2021. There have also been a couple of subsequent non-material amendment applications to revise the brick choices (DM/21/03462/NMA) and allow amendments to the layout around plots 55-59 following the omission of the electricity substation (DM/21/03462/NMA).

PLANNING POLICY

NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2021. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *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.

12. *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.
13. *NPPF Part 5 - Delivering a Sufficient Supply of Homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
14. *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.
15. *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.
16. *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.
17. *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.
18. *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.
19. *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.

20. *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.
21. *NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
22. *NPPF Part 17 - Facilitating the Sustainable Use of Minerals* - It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

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 stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; 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; viability; Tree Preservation Orders and trees in conservation areas 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 of Unallocated Sites*. States the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to the character of 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; encourages the use of previously developed land and reflects priorities for urban regeneration.

25. *Policy 10 – Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.
26. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources.* Development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits.
27. *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.
28. *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.
29. *Policy 21 - Delivering Sustainable Transport.* Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
30. *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.
31. *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.
32. *Policy 27 – Utilities, Telecommunications and Other Broadcast Infrastructure.* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.

33. *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).
34. *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.
35. *Policy 32 - Despoiled, Degraded, Derelict, Contaminated and Unstable Land.* Requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
36. *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.
37. *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.
38. *Policy 39 – Landscape.* 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.
39. *Policy 40 - Trees, Woodlands and Hedges.* 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.

40. *Policy 41 - Biodiversity and Geodiversity.* Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
41. *Policy 43 - Protected Species and Nationally and Locally Protected Sites.* Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
42. *Policy 44 - Historic Environment.* Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
43. *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.

NEIGHBOURHOOD PLAN:

44. There is no Neighbourhood Plan for this area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

45. *Highway Authority* – The proposal seeks to remove a condition which was imposed in order provide mitigation in the form of a mini roundabout improvement scheme on the Delves Lane main highway. The number of units on the site has reduced from when the original transport assessment application was assessed by the Highway Authority (120 units down to 105 units). In the report provided there has been a justification of a net reduction in regard to the vehicle trip rates generated onto the mini roundabout in question. The measure of how effectively the junction is operating, the Ratio to Flow Capacity (RFC) in peak hour scenarios does not flag up any significant capacity issues in regard to the development flows predicted therefore the condition imposed can be removed. No objection is raised.

PUBLIC RESPONSES:

46. The application has been advertised by way of a press and site notice and individual notification letters to neighbouring residents.
47. 10 no. letters of objection have been received. The main concerns and queries raised by the objectors can be summarised as follows:
- The condition was imposed by the Planning Inspectorate having regard to highway safety and to ensure improvements are made to the Delves Lane/Gloucester Road mini roundabout to mitigate the impacts of additional traffic flows associated with this development.
 - Visibility is a major concern and many drivers fail to stop at the roundabout leading to safety concerns. There have already been injuries and fatalities. It is not considered that the improvement works go far enough to address the current concerns/issue with the junction, let alone to remove the requirement.
 - The survey work undertaken in support of this current application was undertaken on a single day during the Covid restrictions therefore is not representative of traffic levels. Since then both Hymer Caravans and Elddis Transport have expanded significantly and a new care home is due to open. There are several other developments proposed in the surrounding area (e.g. Millers) which will add further traffic to the network. The road is already very busy following the opening of B&M and Lidl.
 - Query the times of the survey and the AM and PM peaks.
 - There is not sufficient infrastructure to cope with the additional traffic, schools, doctors and shopping to accommodate the development.
 - Pollution is a major concern, we are meant to be improving the environment and it could cause issues with the supply of clean water.
48. Cllr Michelle Walton (Delves Lane) formally objects to this condition being removed and requests that the application is heard by the appropriate planning committee. This application was granted on appeal and the Planning Inspector specifically thought this condition was required in order to make the development acceptable. Major concerns were raised by local residents, councillors and the Highway Authority around this particular junction unless mitigation measures were installed. The traffic assessment submitted in support of this application is based on one day, undertaken while some lockdown restrictions were still in place and at a time when electricity works were being undertaken so traffic would have been diverted from the area. Traffic levels have increased since that point and are likely to continue to do so. Visibility at the junction is poor. The application to remove the developer's requirement to undertake the improvement works should be refused.
49. Cllr Angela Sterling (Delves Lane) echoes Cllr Walton's views and objections and would also like to register her formal objection.

The above is not intended to repeat 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>

APPLICANTS STATEMENT:

50. Gleeson Regeneration have submitted the above application to omit a planning condition applied to the Outline Planning Permission on Land East of Castledene Road, Consett, DH8 7HQ. The outline planning approval ref: APP/X1355/W/325169 was approved on the 1st October 2020. This approval was granted at appeal following a refusal for the original application which was submitted in July 2017. As part of the original application in 2017, a transport

assessment was submitted based upon traffic data from surveys undertaken at the time. The outline approval was granted at appeal subject to a number of conditions, one of which being condition 13 which is outlined below.

‘Prior to the construction of the first dwelling hereby approved full engineering details of the mini roundabout road junction improvement layout at Delves Lane/Gloucester Road shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details prior to occupation of the fiftieth dwelling.’

51. Given the age of the data used in assessing the original application, survey work was undertaken in September 2021 to understand if traffic flows had changed in the period. This survey has shown a 40% reduction in traffic flows at the Delves Lane/Gloucester Road junction. It is acknowledged within the technical note that home working is still prevalent however, many businesses have altered their way of working permanently and as such traffic flows are expected to remain below 2017 levels. When the original traffic data is interrogated further, it can be seen that even a small reduction in traffic would remove the need for improvement works at this junction. The survey has been discussed with Durham County Council highways and the data confirmed as acceptable therefore there are no objections to the application from any statutory consultees.
52. We trust members will motion to accept the planning officer’s recommendation for approval of the application.

PLANNING CONSIDERATIONS AND ASSESSMENT

53. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those the previous permission was subject to or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
54. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
55. Under the original planning permission APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) the main planning issues for consideration were; the principle of the development, locational sustainability of the site, highway safety and access, landscape and visual appraisal, layout and design, residential amenity/pollution, ecology, flooding and drainage, heritage and archaeology infrastructure and public open space, affordable and accessible/adapted housing, planning obligations and other matters.

56. The principle of developing this site has been established through the appeal decision and this matter should not be revisited under this application. The specific proposal under this application to remove condition 13 (off-site highway improvement works) raises no new implications in regard to the majority of key matters discussed under the existing planning permission.
57. Since the grant of planning permission significant changes in the planning policy context have occurred. The Derwentside District Local Plan has been replaced with the County Durham Plan (CDP). The NPPF and Planning Practice Guidance (PPG) have received amendment.
58. The suite of CDP policies that are relevant to the development proposal as a whole are listed in an earlier section of this report. However, the majority of these policies provide advice on a number of planning matters which relate to the planning permission as a whole. The requested variation of condition relates solely to the removal of the current requirement to carry out off-site highway works. The consideration of the proposed variation of condition, therefore, revolves around the implications upon highway safety and the capacity of that particular junction and, therefore, only the planning policies and guidance which relate to those matters are considered relevant to the detailed discussion below.

Highway Safety and Access

59. Policy 6 (criteria e) of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Policy 21 reiterates the requirement of Policy 6 in addition to expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
60. The original application was accompanied by a Transport Assessment (TA) and a Travel Plan (TP). A Transport Addendum was later submitted which provided an assessment for up to 120 units although consent was eventually only granted for 105. Collectively the submitted documentation considered the potential impacts of the development and the adequacy of the site for the development with respect to a range of highways and transport related issues.
61. The applicant has applied to remove condition 13 pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT). The condition secures offsite highway improvement works to the roundabout at the Gloucester Rd/Delves Lane junction that are required to be implemented prior to the occupation of the 50th dwelling. It is noted in the objections that comment is made that a Planning Inspector specifically imposed this planning condition. Though the Inspector did impose and consider the validity of conditions applied to the planning permission this was very much based upon the evidence supplied at the time (explained further below) and informed by a recommended suite of conditions supplied to them. Furthermore, it should be noted that with no highways related reason for refusal, highway network capacity was not a matter considered in detail through the appeal and the Inspector's assessment focused primarily upon the effects of the development upon the character and appearance of the local area.

62. The applicant's rationale for seeking removal of the condition, is that the original assessment was based on the development of 120 dwellings, however the quantum of development was later reduced to 105. More recent survey work was undertaken in September 2021 and shows a net reduction in regard to vehicle trips generated on the mini roundabout in question. The validity of the 2021 survey has been questioned due to Covid restrictions and nearby road works. However, the original 2017 Transport Assessment information also remains valid, and so has been considered by the Highway Authority when making their recommendation.
63. The original assessment forecast that a single arm of the Delves Lane/Gloucester Road junction would be approaching its theoretical capacity within the PM peak hour and therefore the applicant's assert that it was questionable that mitigation was needed to make the development acceptable, and for the condition to be applied in the first instance. As such, the reduction in base line flows due to the reduction in development quantum of 15 units, would remove the need for intervention at this junction, hence the application submission. The reduction in the number of units from 120 to 105 would result in a 12% reduction in vehicle movements on the arm of the junction which would have previously been marginally over capacity and would therefore bring that arm back within design capacity and render the proposed improvement unnecessary.
64. The Highway Authority have considered the information from both the original submission, and the 2021 surveys, and do not offer any objection to the removal of condition 13 as there are not considered to be any significant capacity issues at the Delves Lane/Gloucester Road junction as a result of traffic generated by the development. In order to refuse the application, there would need to be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would need to be severe and in turn justify that the condition is necessary to make the development acceptable. Neither scenario is considered to apply therefore the proposal to remove the condition would not conflict with Policies 6 (e), 21 and 29 of the CDP or Paragraph 111 of the NPPF.
65. This application has no bearing on any other highways related issues. Conditions will continue to be imposed to secure a travel plan, the previously approved access details and relocated public transport infrastructure will be secured prior to the occupation of the first dwelling and internal highways layout and timescales for delivery are listed within the approved plans condition.
66. Whilst some concerns have been raised in relation to the proposed removal of condition 13, overall, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 6, 21 and 29 of the CDP as well as Part 9 of the NPPF.

Other Considerations

67. As the granting of this application would in effect provide a new permission consideration needs to be given to the need and status of conditions on the original approval.
68. Conditions relating to DM/17/02333/OUT
 - 1 – Time limit (reserved matters submission – Condition no longer required as reserved matters submission was made within 3 years.
 - 2 – Time limit (commencement of development) – Required to be reimposed.

- 3 – Approval of reserved matters - Condition no longer required as reserved matters (appearance, landscaping, layout and scale) submission was made.
- 4 – Unit number limit – Condition no longer required as approved plans show scheme is for 105 units.
- 5 - Approved Plans - Condition updated to reflect all relevant plans associated with the outline, reserved matters and discharge of condition approvals.
- 6 – Archaeology (WSI) - The WSI was agreed through DM/20/02983/RM and will be secured through approved plans condition.
- 7 – Archaeology (post-investigation assessment) – Condition required to be re-imposed to ensure the analysis, publication and dissemination of results, and archive deposition.
- 8 – Construction Management Plan - The CMP was agreed through DM/20/02983/RM and condition to be amended to secure adherence to this throughout the construction phase.
- 9 - Full engineering details of the site access - The details were agreed through DM/20/02983/RM and condition to be amended to secure completion of approved scheme prior to the occupation of the first dwelling.
- 10 – Internal highway details - The details were agreed through DM/20/02983/RM and agreed details to be listed in approved plans condition.
- 11 – Foul and surface water drainage - The strategy was agreed through DM/20/02983/RM and condition to be amended to secure adherence to the approved scheme.
- 12 – Tree protection measures – The protection measures were agreed through DM/20/02983/RM and condition to be amended to secure adherence to the approved scheme.
- 13 – Off-site highway mitigation works – The subject of this application, following reassessment, the works are not considered to be justified and the condition would be removed.
- 14 – Site levels, finished floor levels and means of enclosure - The details were agreed through DM/20/02983/RM and agreed details to be listed in approved plans condition.
- 15 – Open space maintenance - This condition has not been discharged therefore it is required to be re-imposed.
- 16 - Travel Plan - This condition has not been discharged therefore it is required to be re-imposed.
- 17 – Quantum of open space – Condition no longer required as reserved matters application secured minimum quantum of open space.
- 18 - Ecological mitigation - Still required to ensure that protected species are adequately protected throughout the construction works.
- 19 - Hours of construction - Still required to ensure compliance to agreed hours of construction throughout the build process and in the interests of protecting residential amenity.

69. Conditions relating to DM/20/02983/RM

1. Approved plans - Condition updated to reflect all relevant plans associated with the outline, reserved matters and discharge of condition approvals.
2. Landscaping scheme implementation and timing - The condition is still required to be imposed to secure the delivery of landscaping.

70. The proposal has generated some public interest, with ten letters of objection having been received from local residents in addition to the comments received from Local Members. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate. Issues which have not previously been addressed are considered below.

71. The outline planning permission considered the locational sustainability of the site and deemed that the site had access to an array of services and facilities and these were accessible by a range of public transport modes.
72. As part of the original consent, the applicant entered into a S106 agreement to secure financial contributions to improve access to healthcare provision, towards providing additional teaching accommodation and biodiversity enhancements in addition to 10% affordable housing on the site. The legal agreement would need to be amended through a Deed of Variation to ensure that these obligations are continued to be secured.
73. Issues regarding land contamination, drainage requirements and air quality were also fully resolved as part of earlier applications with no concerns raised.

CONCLUSION

74. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In light of the recent adoption of the CDP, the Council now has an up to date development plan. 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 (paragraph 11 c).
75. Paragraph 12 of the NPPF advises that where a planning application conflicts with an up to date development plan permission should not usually be granted. However, local planning authorities may make decisions that depart from a development plan where material considerations in a particular case indicate that the plan should not be followed.
76. In the determination of variation of condition applications (Section 73), the LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted (or that it should be granted unconditionally). If the variation sought is considered unacceptable then the application should be refused and the wording of the conditions on the previous planning permission would continue to subsist/apply to the development.
77. Though the planning policy context now applicable to the development has changed since the previous grant of planning permission, the principle of development has been established with works anticipated to commence later this month and this matter should not be revisited under this application. The focus of the consideration of the application should be on the impacts of the amendments to the planning permission proposed and this in the light of the relevant up to date planning policy position.
78. The acceptability of the application revolves around highway safety and junction capacity issues. The application has been assessed against the relevant policies of the CDP and NPPF. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe and neither scenario would apply. Officers therefore accept that the existing condition 13 is unnecessary and can be removed. No objections to the development are raised on any other grounds material to the applications and approval is therefore recommended.

RECOMMENDATION

That the applications be **APPROVED** subject to the following conditions and subject to a Section 106 Deed of Variation to secure the planning obligations contained within the Section 106 pursuant to the original planning permission DM/17/02333/OUT:

1. The development shall be begun no later than 25th August 2023.

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

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

Site Location Plan received 12/07/2017

Drg. no. 1641.04.01 Rev N Housing Layout received 07/01/2022

Drg. no. 1641.07.01 Rev. J Landscaping Layout received 30/07/2021

Drg. no. 3694/1 Rev. C Buffer Planting to Site Boundary received 30/07/2021

Drg. no. 21-201-U-0002 Rev. P01 201 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-301-U-0002 Rev. P02 301 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-303-U-0002 Rev. P01 303 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-304-U-0002 Rev. P01 304 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-307-U-0002 Rev. P01 307 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-310-U-0002 Rev. P01 310 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-313-U-0002 Rev. P01 313 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-314-U-0002 Rev. P01 314 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-315-U-0002 Rev. P01 315 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-401-U-0002 Rev. P01 401 House Type Urban - Alternative received 24/06/2021

Drg. no. 21-405-U-0002 Rev. P01 405 House Type Urban - Alternative received 24/06/2021

Drg. no. SD301 Rev. F Window Cill Detail received 24/06/2021

Drg. no. SD302 Rev. F Window Head Detail received 24/06/2021

Drg. no. SD700 Rev. C Detached Single Garage Details received 14/10/2020

Drg. no. SD701 Rev. D Detached Double Garage Details received 14/10/2020

Drg. no. SD703 Rev. D Terraced Double Garage Details received 14/10/2020

Drg. no. 1100_GH_MP_001 Management Plan received 28/05/2021

Construction Management Plan, Rev. B dated 16/07/2021 received 30/07/2021

Arboricultural Impact Assessment by All About Trees issued 19th May 2017

Arboricultural Impact Assessment (TPP) AIA TPP received 16/07/2021

Drg. no. D700 Rev. 3 Proposed Highway Construction Detail received 25/08/2021

Drg. no. D800 Rev. 6 S38/278 Plan received 25/08/2021

Drg. no. 1100_GH_Cond10 Highway Network Timetable and Maintenance received 26/08/2021

Drg. no. 1641.06.01 Rev K Boundary Treatments received 14/03/2022
Drg. no. SD-100 Rev. F 1800mm High Close Boarded Timber Fence received 14/10/2020
Drg. no. SD103 Rev. C 600mm high post and wire fence received 14/10/2020
Drg. no. NSD122 450 High Knee Rail Fence received 26/08/2021
Drg. no. NSD105 Rev. C 120mm High Timber Fence received 26/08/2021
Drg. no. D001 Rev. 4 Overall Engineering Layout received 26/08/2021
Written Scheme of Investigation received 14/05/2021

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 10, 15, 19, 21, 26, 29, 31, 32, 35, 36, 41, 43 and 44 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the details contained within the Arboricultural Impact Assessment by All About Trees issued 19th May 2017 and the Arboricultural Impact Assessment (TPP) AIA TPP received 16/07/2021. Protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

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

4. No dwelling shall be occupied until the access and relocated public transport infrastructure have been completed in accordance with the details contained on drg. no. D800 Rev. 6.

Reason: In the interests of highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

5. No dwelling shall be occupied until a post-investigation archaeological assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, shall be confirmed in writing to, and approved by, the Local Planning Authority within a timeframe to be agreed by the parties.

Reason: To comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

6. Prior to the occupation of the first dwelling, a scheme for the ongoing maintenance of any areas of public open space, including any on-site biodiversity mitigation within the development hereby approved shall 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 Policy 26 and 29 of the County Durham Plan and Parts 12 and 15 of the NPPF.

7. The detailed landscaping scheme, as approved by plans ref: 1641.07.01 Rev. K and 3694/1 Rev. C shall be implemented and completed in accordance with the approved details in the first planting season following the substantial completion of the development.

Any trees or plants which die, fail to flourish or are removed within 5 years of 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 and character of the area and to comply with Policies 26, 29, 39 and 40 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. Within a period of six months of the first occupation of any part of the development, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and adhered to thereafter in accordance with the approved timescales.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

9. The development shall be carried out and thereafter maintained in accordance with the drainage scheme detailed in the following documents and plans;

- Drainage Strategy Report ref. no. AE/DS/19049.1 Version 2 by RWO dated 28/01/2021
- SUDs Maintenance Plan ref. no. 19049/AE/SuDS Version 5 by RWO dated 19/08/2021
- Drg. no. D205 Rev. 4 Basin Sections received 05/08/2021

Reason: In the interest of the adequate disposal of foul and surface water in accordance with Policies 35 and 36 of the County Durham Plan and Part 14 of the NPPF.

10. The Construction Management Plan outlined within the Construction Management Plan, Rev. B dated 16/07/2021 received 30/07/2021 shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

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

11. The development shall be carried out in accordance with the recommendations outlined within Section H of the Preliminary Ecological Appraisal R02 by E3 Ecology Ltd dated June 2017.

Reason: In the interests of ecology and ensuring no protected species are affected by the development in accordance with Policies 41 and 44 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

12. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

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

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

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

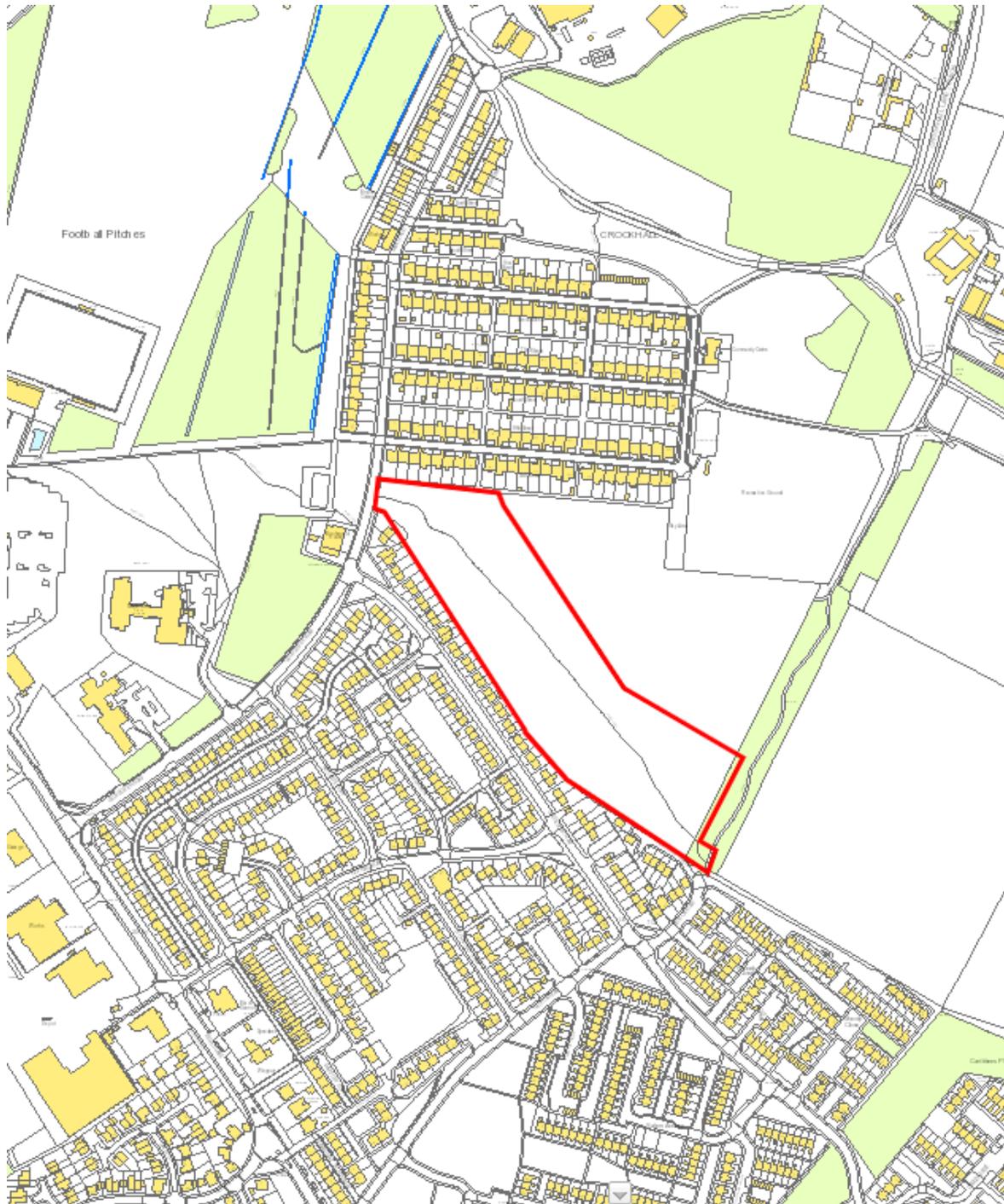
Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policies 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes
- County Durham Plan
- Statutory, internal and public consultation response



Planning Services

Application to remove condition 13 (highway improvements) pursuant to APP/X1355/W/20/325169 (our ref. DM/17/02333/OUT) for 105 dwellings (outline - all matters reserved except access) Land East of Castledene Road, Delves Lane, DH8 7HQ Ref: DM/22/00135/VOC

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Comments

Date 24th March 2022

Scale Not to Scale