

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/21/03388/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline consent for Residential development of up to 21 units, including details of access, with all other matters reserved
<b>NAME OF APPLICANT:</b>	Mr M Lund, Prospect Estates Ltd
<b>ADDRESS:</b>	Land to the rear of 1 to 8 Wesley Terrace Castleside Industrial Estate Castleside DH8 9QB
<b>ELECTORAL DIVISION:</b>	Lanchester
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is 0.64ha of sloping unimproved open grassland, formerly included within the area of Castleside Industrial Estate at Moorside, between Consett and Castleside. The land fronts onto the A692 that connects those two settlements, being surrounded on three sides by existing residential development – modern detached and semis, post-war semis, a bungalow and detached and semi-detached Victorian – all of which back onto the site. The remaining boundary is shared with the access road to the industrial and commercial buildings in the adjacent employment area - a designated Public Right of Way runs on this boundary, the path of which is included within the extended site boundary as it runs along the rear of the new housing development of Wesley Lea where it connects with countryside designated as an Area of High Landscape Value. This Area includes a Local Wildlife Site and Ancient Woodland in the immediate vicinity.
2. On-site features are restricted to two areas of unmaintained scrub and small trees on the south and west site boundaries. The land is defined by its topography, sloping steeply from south to north, with a rising embankment defining the boundary with the industrial estate road. The modern housing development of Wesley Lea, on the higher slope to the south is further set above the site by a retaining wall.

#### The Proposal

3. The application is in 'outline' form, asking consent for the principle of development for a residential scheme of up to 21 units. Only the access into the site is requested

approved in detail at this stage. The applicants have submitted an 'indicative' layout to show that the scheme can accommodate the proposed upper number of units.

4. This application is being considered by committee as a 'major' scheme.

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## **PLANNING HISTORY**

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5. Most relevant to the determination of this application is DM/16/00986/OUT, 'Outline application for residential development of up to 21 units, including details of site access, submitted in March 2016 and resolved as 'Minded to Approve' by the Planning Committee in May 2016, subject to the applicant entering into a s.106 legal agreement to ensure the delivery of affordable housing on the site, and monies in lieu of on-site play- and open-space provision if not provided for in the detailed layout of any subsequent reserved matters application. The applicant had agreed in principle to these requirements, however ten months later, in March 2017 with no sign of any progress the application was 'Finally Disposed of'. The planning consent was not therefore granted.
6. The layouts of this 2016 application and that presented here are directly comparable.
7. This application was determined against the policies in the Derwentside District Local Plan 1997, which at that time was significantly out of date, affecting the determination of residential schemes in particular for which there were no up-to-date policies, skewing the planning balance in their favour. Policies for residential amenity, open space, and ecology were also significantly weaker in the 1997 Development Plan.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

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

11. *NPPF Part 5 – Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. *NPPF Part 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.
13. *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.
14. *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.
15. *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.
16. *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.
17. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
18. *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.

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

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air

quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing development needs assessments; housing availability assessment; natural environment; noise; open space, public rights of way planning obligations use of planning conditions; and; water supply, wastewater and water quality.

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

## LOCAL PLAN POLICY:

### The County Durham Plan

20. *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. Policy 15 Addressing Housing Need notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities.
21. *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.
22. *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.
23. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
24. *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.
25. *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.

26. *Policy 27 Utilities, Telecommunications and Other Broadcast Infrastructure* requires all new residential and commercial development to be served by a high-speed broadband connection.
27. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
28. *Policy 31 Amenity and Pollution* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
29. This Policy is supported in detail by the Residential Amenity Standards SPD 2020 that in setting out separation distances for new residential development and specifying minimum garden lengths ensures reasonable expectations of residential amenity and privacy and loss of light / overshadowing.
30. *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.
31. *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.
32. *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.

33. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
34. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
35. *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.
36. *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.
37. *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.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

38. *County Highways* require the access point to be moved given the relationships between the A692 and the Industrial Estate unit access. The indicative internal layout shows features such as tight bends, tight alignments, driveways too close to the junction and unacceptable turning head dimensions. Insufficient space to meet parking standards is apparent, likely leading to parking in turning heads, on the footpath or overspilling into the Industrial Estate; lack of compliance with the adopted parking standards is suggested a refusal reason.
39. The site is not affected by the Coal Mining legacy, therefore the *Coal Authority* were not consulted. The site is below the threshold where *Northumbrian Water* will offer comment at present.

### **INTERNAL CONSULTEE RESPONSES:**

40. *Spatial Policy* confirm the principle of development is led by assessment against Policy 6 of the County Plan and that the site has been assessed as potentially suitable in the

latest Strategic Housing Land Availability Assessment (SHLAA) and there has been favourable planning history in relatively recent times in support of the principle of housing.

41. Other relevant considerations include: Policy 15 which states that affordable housing will be sought on sites of 10 or more units. In this case 10% of the homes (2 dwellings - affordable home ownership) would be provided for affordable home ownership as the site is in a low value area. Policy 15 also aims to meet the needs of older people and people with disabilities. 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard.
42. Policy 26 requires residential proposals to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the OSNA. The standards set out in the Open Space Needs Assessment 2018 (OSNA) requires a scheme of 21 dwellings would be expected to generate a population of around 46 people based on 2011 census data of average household size (2.2 persons). A scheme of this size would be required to provide amenity amenity/natural green space: on-site provision should be functional and well-integrated, amounting to around 46 x 15sqm = 690sqm. The OSNA sets out the costings for the remaining typologies and in lieu of provision on the site. Required contributions would amount to £32,913.
43. Policy 29 sets down a raft of design requirements and requires developments to target zero carbon emissions and address climate change. Major residential proposals should achieve reductions in CO2 emissions of 10% below the Dwelling Emissions Rate against the Target Emissions Rate, based on current Building Regulations. It is noted that Building Regulations will be revised shortly to introduce higher reductions, which could impact upon this scheme depending upon timings.
44. Proposals would also need to satisfy the requirements of Building for Life Supplementary Planning Document and Residential Amenity Standards Supplementary Planning Document. In this regard it is noted that the indicative scheme appears cramped and in conflict with the requirements for good design and privacy/amenity standards set down in both policy and supporting documentation.
45. There is no conflict with the requirements of Policy 56 for Minerals safeguarding from the proposals.
46. Conclusion: The proposal site is located within the built-up area of Castleside, and residential development is considered acceptable in principle terms. Nevertheless, Policy 6 sets down a number of key criteria, alongside a range of further policy requirements including those under Policy 29, that would need to be satisfied in order to accord with the development plan.
47. *Affordable Housing Officers* request the following points should be incorporated within the design, layout and supply of affordable housing in the development: Affordable Housing should be provided in the form of 2 and 3 bed homes to meet the needs of larger families in the area. Given the small number of affordable housing to be provided on the site the affordable offer be provided as an intermediate offer such as a Discount Market Sale or a Rent to Buy. Given that there will be so few units the affordable could be delivered as a single cluster of housing. They recommend an affordable housing statement be submitted to establish what affordable housing is to be provided and agree the location and products that will be used. The housing development team are happy to liaise with the developer to agree this should planning permission be granted.

48. *Design Officers* have forwarded the summary and conclusions of the Design Review panel. Policy 29 n. of the County Plan requires all major new residential development to secure as many greens as possible in this process, whilst minimising the number of ambers. Schemes with one or more red will not be acceptable and will be refused planning permission unless there are significant overriding reasons. There are six questions for an 'outline' scheme.
49. For Qu.1., Principle: Is the site considered to be acceptable in principle for the use or proposed use? it was concluded the site is an acceptable location for development. For Qu.2., Connections: Would the development be suitably connected to its surroundings? It was concluded the development suitably connects to the surroundings. For Qu.3., Facilities and Services: Does the site have good access to existing facilities and services? This was agreed to be the case. For Qu.4., Public Transport: Does site have good access to existing public transport links to help reduce car dependency? it was accepted that there are good public transport links. These four questions were attributed 'greens'.
50. For Qu.5., Character: Does the scheme create a place with locally inspired or otherwise distinctive character? It was concluded the submitted plan is highways-led and does not relate to the surrounding built form. There layout does not include any form of open space. The scheme does not create a place with locally inspired or otherwise distinctive design. For Qu.6., Creating well defined streets and spaces: Does the submitted information suggest appropriate consideration has been given to the creation of well-defined streets and spaces which are usable for all? For this topic it was concluded that appropriate consideration has not been given to the creation of well-defined streets and spaces. These two questions were attributed 'reds'.
51. *Drainage Officers* note the absence of a surface water management strategy which should consider attenuation and treatment.
52. *Ecology Officers* note that there is no assessment of biodiversity net gain (BNG) within the documents, the applicant must deliver BNG as per the NPPF and Local Plan. The LPA requires the use of the DEFRA metric to assist in determining net gains, the applicant should be aware that the metric deals only with habitats and notable species will need to be taken into account outside of the metric. Ideally net gains should be delivered on site, if this is not possible then the applicant will need to provide an offsite location to deliver any required works. All habitats delivering for net gains will need to be managed for 30 years and a management and monitoring plan (provided in draft format at application stage) will be secured via an appropriate legal agreement. Given the current layout, the development will result in a net loss of biodiversity.
53. *Education Officers* confirm that based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and other committed development there would be sufficient space to accommodate the pupils generated by the development for primary education, however there would be a shortfall for secondary education, requiring mitigation through a payment of £49,662 (as 3 x pupils @ £16,554) to facilitate provision of additional teaching provision.
54. *Environmental Health (Contamination)* Officers note the proposed change of use of the site to a 'more sensitive receptor' and suggest a standard suite of phased conditions to investigate, mitigate and validate any contaminated land and gas protection issues that may be present on the site to a standard appropriate for residential use.
55. *Environmental Health (Nuisance and Air Quality)* Officers note that without appropriate conditions the development could lead to unacceptable effects on residential amenity



from noise, dust, odour and light impacts. The methodology of some of the submitted reports is questioned, however it is advised planners should secure control of noise and dust during the development phase through appropriate conditions, as detailed in their response, should they be minded to granting permission. These include safeguards for new residents for traffic noise from the A692, noise and light from the Industrial Estate and the implications of building works for existing residents.

56. *Public Rights of Way Officers* note the presence of a footpath running alongside the site's northern boundary: A section of the footpath would be affected by the proposed estate access road crossing over it, where it will require dropped curves or defined pedestrian crossing points either side of the estate road. The footpath appears to remain unaffected by the proposal where it leaves the adopted highway running in a southerly direction then in a south-easterly direction. Any proposed new fencing or hedging alongside must not detrimentally affect this path or diminish its width.

#### **EXTERNAL CONSULTEE RESPONSES:**

57. The *County Durham NHS Care Commissioning Group (CCG)* note that local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of any S106 funds secured. Local GP Practices are keen to maintain/improve their access, and an increase in patient numbers may require adjustments to existing premises/access methods. They advise that they would be unable to guarantee to provide sustainable health services in these areas in future, should contributions not be upheld by developers. In calculating developer contributions, we use the Premises Maxima guidance which is available publicly: This assumes a population growth rate of 2.3 people per new dwelling, and they link this increase to the nearest practice to the development, for ease of calculation. The NHS Property Service build cost rate of £3,000 per square metre is used to calculate the total financial requirement. The sum required to mitigate the likely impacts of the proposed development is £10,143.

#### **PUBLIC RESPONSES:**

58. A consultation exercise consisting of 30 direct letters, a site notice and a press notice was undertaken, in response to which five objections and one representation were received. Healeyfield parish Council have also sent comments.
59. Objectors contend there is no lack of existing housing available in the area, which they consider undermines the applicant's stated benefits for housing supply. They consider 'ultra-modern' homes will not fit in with the stone-built dwellings of Howards Buildings and 'destroy' the character of the immediate area.
60. There is concern for effects on residential amenity including loss of light and loss of privacy into houses and gardens as a result of the proposed density, Views into the site would be of two storey buildings with little space in between. Proposed design and materials are not in keeping with the area. There is no open play space provided, leading children towards the adjacent busy road.
61. Traffic issues are a concern, including the increased volume of traffic, the pollution this will generate, interaction with Industrial Estate heavy traffic, the potential for generating overspill parking, emergency service access and manoeuvring and the implications of winter weather.
62. The presence of natural springs on the land has implications for drainage and wildlife.
63. The proposals will devalue neighbouring dwellings. There will be disruption from the build process. The financial motivations of the applicants are questioned.

64. The single representation asks what will happen to the trees to the rear of their dwelling, their having value for wildlife and as a privacy screen.
65. One correspondent considers Consett's Road network, schools, hospitals, health centres recreation areas and most importantly, employment offer has not kept up with the demands created by extensive new housing, creating a commuter settlement. Bungalows to serve older members of the existing community are suggested.
66. Healeyfield Parish Council ask for the provision of salt bins and the appropriate surfacing of the public footpath in the event of an approval.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R06NF8GDIJD00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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67. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, the quantum of development proposed and then the quality of development proposed, proportionate to the assessment of an 'outline' proposal, led by the submitted 'indicative' layout for issues including highway safety and access, layout and design, residential amenity, ecology, flooding and drainage, and public open space.

### Principle of the Development

### The Development Plan

68. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
69. 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
70. The lead Policy in this instance is Policy 6, Development on unallocated sites. The site on the one hand is (subject to conditions) compatible with adjacent land uses and in a sustainable location, well connected for a range of services and facilities, having been identified in the SHLAA as suitable for residential development, reflecting the 'minded to approve' of the 2016 scheme described in the History section of this report. Policy 6 however does act as a headline for more detailed policies requiring mitigation of ecology an open space loss, appropriateness of scale, ensuring highway safety and

minimising impacts on climate change including flooding, that the proposals struggle against. These will be discussed below.

## Highways Safety and Access

71. The County Highways Officer has set out detailed requirements for the site access to be moved and set out to meet safety standards. In principle this is a technical undertaking that can be achieved – however the repositioning of the access has the potential to affect the internal layout of the site and therefore the number of units that could be achieved.
72. There is further criticism of the road alignment, and parking arrangement on road and in curtilage, which in the view of the consultee is likely to affect the number of units the site can accommodate.
73. Officers consider that the site has a good locational sustainability, well located to surrounding services and facilities, a short walk to bus stops, and with the addition of a new convenience store currently under construction nearby.
74. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. It also expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. 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 refused on transport grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
75. In failing to show that an internal site layout that meets adoptable and adopted highway and parking standards can be achieved the proposal is concluded contrary to Policy 21 of the County Plan and paragraph 111 of the Framework. The Highway Officer suggests the required changes are likely to affect the number of units the site can accommodate.

## Layout and Design

76. Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
77. At 'outline' stage these issues are capable of resolution at the 'reserved matters' stage through the imposition of appropriate conditions. The locale has a wide range of house-types, appearances and styles that would justify a range of approaches for development on the site.
78. The application must show that the proposed 21 units can be achieved on site in a manner that meets the requirements of the current Development Plan. Concerns that the requirements of the highways layout and parking have already been raised.

79. The layout will also be led by the size and shape of the site, the topography, the technical requirements of the highways layout and the required inclusion of open space, ecology and drainage features. These issues all have spatial requirements which the 'indicative' layout submitted makes no provision for.

## Open Space

80. Whilst the submitted Planning Statement and Open Space Assessment submitted indicate that open space could – subject to negotiation - be included, none is evident within the layout. Spatial Policy comments indicate that whilst there are typologies of open space (allotments, recreation parks, play space, etc.) that would be required mitigated off-site through the applicant providing payment through a legal agreement (as allowed by Policy 25 of the Plan), the OSNA requires 690sqm of amenity/natural open space on a development of this size.
81. This open space is required to serve the immediate needs of the family housing proposed. The applicant's Open Space Assessment also states that the existing space is not accessible to the public as the land is in private ownership. Publicly available satellite imagery on Google Earth shows the land as open with tracks, desire lines and informal rear garden access apparent for continuous period of at least 20 years. An existing informal amenity is therefore displaced.
82. The absence of any apparent provision on-site undermines the sustainability credentials of the proposal and there is no reason why open space cannot achieve multiple aims of also providing for ecology and drainage requirements described below.

## Residential Amenity

83. That the scheme lacks sufficient detail to demonstrate it will meet the needs of its occupants is further illustrated through assessment of the requirements of Policies 29 and 31 informed by the residential amenity SPD. Combined, these Development Plan Policies require developments to provide high standards of residential amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and ensure amenity for new residents.
84. Guidance within the SPD sets out separation distances of 21m between facing principal elevations and 13m between principal and two storey gable elevations. Additional separation is required where there are changes in levels involved. The submitted 'indicative' scheme shows substandard gardens on at least 4 plots and substandard separation distances on at least 5 plots including where changes in level are involved evidenced by the retaining structures in the higher gardens of the modern housing development at Wesley Lea. The density of development and the relationship to existing homes is a concern raised by local residents. The scheme as presented for 21 dwellings appears in conflict with the requirements to ensure residential amenity as set out in Policies 29, 31 and the SPD.
85. To accommodate the required separation distances and garden length requirements of these Policies changes to the layout are required that, if based on the 'indicative' scheme would likely affect the number of units the site can accommodate.

## Ecology

86. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
87. The applicant has submitted a Preliminary Ecology Assessment for the site which sets out recommendations for building operations to respect the potential for newts and reptiles on the site but does not lead into Biodiversity Net Gain (BNG) – a standard expectation on all development sites, major and minor, a requirement of both the Development Plan and the Framework. The County Ecologist confirms that in the first instance this should be provided on site, with an appropriate 30-year Management Plan, with the fall-back position of the applicant identifying an off-site location to deliver the required gains
88. In the absence of this information the scheme cannot be approved.
89. This is another aspect that requires provision on-site (or a specified alternative) with implications for the quantum of development proposed – again undermining the applicant's aspiration for 21 units.

## Drainage

90. Policy 35 of the Plan requires the management of water must be an intrinsic part of the overall development for major developments. Surface water run-off must be managed at source wherever possible and disposed of in accordance with a Sustainable Drainage hierarchy. No information has been provided to the applicant's approach, usually expected by way of an Outline Drainage Strategy Statement, preliminary layout indicating how SuDS are to be used across the site, outline hydraulic calculations (proposed outfall location, final discharge rate and approximation of on-site storage) and ground investigation report (infiltration testing). Drainage issues are an identified concern of neighbours. The proposal is contrary to the requirements of Policy 35 of the Plan.
91. Again, this is aspect that affects the layout of the site and the amount of development proposed – undermining the applicant's aspiration for 21 units.
92. Policy 36 deals with requirements for foul water disposal. In an established urban area, there has been no indication that this aspect of the proposals presents an issue. In the event of an approval the developer will have to agree discharges into the public sewer direct with Northumbrian Water.

## Affordable Housing

93. Requirements for Affordable Housing in the form of 2 and 3 bed houses to meet the needs of larger families in the area can be addressed by the scheme. The Affordable Housing Team's recommendation that an affordable housing statement be submitted to establish what affordable housing is to be provided and agree the location and products that will be used, with the housing development team are happy to liaise with the developer to agree this should planning permission be granted, can be ensured should the application be approved.

## Planning Obligations

94. Paragraph 57 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. A s.106 Agreement which would secure the following is considered to meet the required tests: the identified contributions for Education, Healthcare, Affordable Housing and part of the Open Space mitigations.

## Other Considerations

95. Policy 29 of the CDP sets out that major new build residential development should achieve CO2 reductions. Part 14 of the NPPF advises that the planning system should support the transition to a low carbon future. The submission advises that at the detailed design stage of the scheme, a 'fabric first' approach will be adopted. A condition can be imposed to secure this in the event of an approval.
96. Requirements for compliance with National Space Standards can be achieved at the 'reserved matters' stage.
97. At this stage the development does not appear to affect the footpath that runs alongside and into the edge of the site. This can be ensured at the 'reserved matters' stage.
98. The site lies within a Mineral Safeguarding Area. Policy 56 of the CDP states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within such areas unless specific criteria apply. Given the context of the site in relation to the existing settlement, the Spatial Policy team have confirmed there is no conflict with this Policy.
99. The implications of development for Contaminated Land, Air Quality and Nuisance can all be addressed by the imposition of appropriate conditions.
100. The proposal has generated some public interest, with 6 representations of objection having been received from local residents. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate. Issues of loss of view and devaluation of property are not material to the planning assessment.

## Public Sector Equalities Duty

101. Officers have considered whether there are implications in the proposals including the loss of the existing land, the nature of the proposed development and the development period that would affect rights under the Human Rights conventions and the Equalities Act 2010 over and above those implicit in the planning assessment, concluding that in this instance there are none.

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## CONCLUSION

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102. 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.
103. In summary, the application site is a sustainable location for new development and capable of accommodating a residential development.
104. It is Officers firm view that the scheme of 21 units based on the layout considered favourably against the old Development Plan does not show Policy compliance with current expectations for residential development, nor any reasonable likelihood that amended plans could achieve the requested number of units as the multiple issues in this case have both individual and a cumulative effect on spatial requirements within the site that the proposals in their current form do not accommodate.
105. These conclusions were reflected in the outcome of the required Design Review, with the two 'reds' attributed to the scheme in this process constituting a refusal reason in its own right.

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## RECOMMENDATION

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

1. The submitted scheme does not provide surety that the development can provide a safe and satisfactory highways layout and meet the adopted parking standards of Durham County Council for a development of 21 residential dwellings, contrary to Policy 21 of the Durham County Plan 2020 and part 9 of the Framework.
2. The submitted scheme fails to show that the requirements of Policies 29e., 31 of the Durham County Plan 2020 and the complimentary Residential Amenity standards SPD 2020 can be achieved in a development of 21 residential dwellings, compromising reasonable expectations of residential privacy and amenity for existing and new residents.
3. No apparent provision for open space has been made within the scheme contrary to the approach required by the OSNA, and as embedded in the requirements for residents' amenity set out in Policies 26, 29e. and 31 of the Durham County Plan 2020.
4. The proposal fails to demonstrate a biodiversity net gain within the site or specify alternate provision contrary to the requirements of Policy 41 of the Durham County Plan 2020 and part 15 of the Framework.
5. The development does not consider the effect on flood risk nor show evidence of or justification for a lack of sustainable on-site drainage features contrary to the requirements of Policy 35 of the Durham County Plan 2020.
6. The application fails the requirements of Policy 29n. of the Durham County Plan 2020, that all development proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents, having been attributed 2 'reds' in the six Outline BfL questions by the Council's Design Review panel.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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, notwithstanding the negative outcome of the assessment.

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## **BACKGROUND PAPERS**

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

Statutory, internal and public consultation responses

The National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan

County Durham Strategic Housing Market Assessment (2019)

Open Space Needs Assessment (2018)

Residential Amenity Standards SPD (2020)

County Durham Building for Life SPD (2019)

Equalities Act 2010





**Planning Services**

DM/21/03388/OUT  
 Land to the rear of 1 to 8 Wesley Terrace  
 Castleside Industrial Estate  
 Castleside  
 DH8 9QB

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**Date** 19<sup>th</sup> May 2022

**Scale** NTS