



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/23/01681/FPA
Full Application Description:	Erection of 22no. dwellings, together with formation of the site access, landscaping and associated works
Name of Applicant:	Mandale Homes
Address:	Land to the East of Holdforth Crescent, South Church Road, Bishop Auckland, DL14 6DU
Electoral Division:	Woodhouse Close
Case Officer:	Gemma Heron Senior Planning Officer 03000 263 944 <a href="mailto:gemma.heron@durham.gov.uk">gemma.heron@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site relates to an undeveloped parcel of land that measures approximately 1.16 hectares in area, located within the settlement of Bishop Auckland. The site is bound by South Church Road (A689) to the west; Weardale Railway Line to the north; the River Gaunless to the east and residential properties to the south. The site is accessed via South Church Road before falling away at a significant level, towards the River Gaunless. An approximate level change of up to 7m is evident from South Church Road to the most eastern part of the site.
2. In terms of planning constraints, the Grade II Listed Building (The Grand Hotel) is located to the west across South Church Road. A Public Right of Way (Footpath 37, Bishop Auckland) runs centrally through the site in a north-south direction, leading to a pedestrian crossing on the Weardale Railway line to the north of the site. The site lies partly within Flood Zones 2 and 3. The site also lies within a Coal Mining High Risk Area.

#### The Proposal

3. Full planning permission is sought for the erection of 22no. dwellings alongside the formation of a site access, landscaping and associated works. The development would comprise:
  - 14 x 2-bedroom bungalows
  - 8 x 3-bedroom bungalows
4. The dwellings would be laid out in two lines of development centred around an access road and a turning head leading from South Church Road. Each of the dwellings would be compliant with the Nationally Described Space Standards (NDSS) and would be provided on an open market basis, with no affordable housing proposed as part of the development.
5. In order to accommodate the significant level changes on the site, engineering operations are proposed to raise the land level of the eastern section of the site to match the level of South Church Road. This would include the erection of retaining walls and structures to the rear of residential gardens on the eastern boundary.
6. The wider site would incorporate an area of Public Open Space to the southern section of the site. It is proposed to divert the existing PROW to follow the footpath proposed around the new access and turning head.
7. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as it constitutes a housing development which exceeds 10 dwellings.

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## **PLANNING HISTORY**

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8. 3/2004/0600 – Proposed residential development comprising 9no. 4 bed detached split level houses and 47 self-contained flats to the South Church Road Frontage. Refused 17<sup>th</sup> September 2004.
9. 3/2013/0407 – Residential development (outline up to 28 dwellings. Approved 14<sup>th</sup> May 2015.

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## **PLANNING POLICY**

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### **National Policy**

10. A revised National Planning Policy Framework (NPPF) was published in September 2023. 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.
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 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.
18. *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.
19. *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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

20. *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:**

21. 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; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; noise; public rights of way and local green space; planning obligations; use of planning conditions.

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

### **Local Plan Policy:**

The County Durham Plan (CDP)

22. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
23. *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.

24. *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.
25. *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.
26. *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.
27. *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.
28. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.

Any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.

29. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable,

including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards.

30. *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.
31. *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.
32. *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.
33. *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 wastewater 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.
34. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts
35. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value

unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

36. *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.
37. *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.
38. 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.
39. *Policy 56 (Safeguarding Mineral Resources)* states 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. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.
40. The Council's Residential Amenity Standards Supplementary Planning Document (SPD) 2020 provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
41. The Council's Parking and Accessibility Supplementary Planning Document (SPD) 2023 provides guidance on parking and access for new development.

<https://www.durham.gov.uk/cdp>

## Neighbourhood Plan:

42. There are no neighbourhood plans which apply to this application site.

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## CONSULTATION AND PUBLICITY RESPONSES

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### Statutory Consultee Responses:

43. *Lead Local Flood Authority* – Object to the application. Advise that there is no treatment proposed for the carriageway surface water run-off and the hydraulic calculations should take into account all storms events up to and including 1 in 100 year event plus 45% climate change and 10% urban creep. The discharge rates should be no more than Greenfield run-off rate for the location.
44. *Coal Authority* – No objection subject to conditions.
45. *Highways Authority* – Advise that the amended site plan addresses most of the previous concerns in relation to parking, vehicle manoeuvrability and electric vehicle charging points to meets the requirements of the Parking and Accessibility SPD.
46. However, the plans do not demonstrate that the visibility at the proposed access would meet the 85th percentile speed along the A689. The submitted plans only show the minimum visibility splay required for the 30mph speed limit which is not acceptable. Historical speed survey records indicate that the 85<sup>th</sup> percentile speed is 32.9mph and therefore a visibility splay of 2.4m x 76m to be clearly demonstrated that it is achievable. It is likely this can be achieved by ensuring any vegetation is clear from the visibility splay in the northerly direction and by amending the boundary of the public open space in the southerly direction.
47. *Environment Agency* – Advise that there are discrepancies on the red line boundary drawings as there is a significant difference along the border of where Flood Zone 3 is situated and the submitted plans. The application proposes to significantly raise land at the eastern boundary. Land raising must not take place in the flood plain and the red line boundary must reflect this.
48. *Network Rail* – Object to the proposal raising concerns about the impact of the scheme upon operational railway safety, in particular reference to the adjacent railway level crossing. The development may increase the amount of people using the crossing, this is likely increase the amount of risk on the operational safety of the crossing. It is recommended that the public right of way is diverted along the A689 and the crossing closed at the developers expense. In the event of approval conditions relating to Construction Phase; Drainage; Lighting; Trespass Proof Fencing; Landscaping; and Noise Mitigation are recommended.

### Non-Statutory Responses:

49. *Spatial Policy* – Advise that the site lies within the built-up area of Bishop Auckland and has previously been assessed as part of the SHLAA process but at the time was unavailable. The site is an unallocated site within the County Durham Plan and Policy 6 of the CDP would apply. In this case, 10% of the homes (2 dwellings) would be required for affordable home ownership as the site is in a low value area.



50. *Viability Team* – Advise that the Financial Viability Appraisal (FVA) has been reviewed, contrary to the finding of the appraisal it is recommended the development would remain viable even in the event affordable housing, NHS and Open Space financial contributions are provided.
51. *Affordable Housing Team* – Advise that there is a significant need for affordable units in this area and the need for bungalows is the highest in the surrounding locality.
52. *Archaeology* - No objections.
53. *Ecology* – Advise that the application has not demonstrated that the development would not result in a net loss of biodiversity. With respect to the Preliminary Ecological Appraisal, it is noted that there is a moderate risk tree on site with respect to bats clarification is required on whether or not the tree is to be removed or retained.
54. *Landscape Section* – Comments provided by Council’s Design Review process as summarised under ‘Design and Conservation’.
55. *Education* – Advise that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required.
56. *Environmental Health Nuisance* – Advise that the information submitted is not sufficient to allow full consideration against the thresholds stated in the Technical Advice Notes (TANs). Noise from the road and rail network is likely to impact future receptors. The potential for noise from the rail network is acknowledged by the applicant in the Design and Access Statement in which they refer to a Noise Impact Assessment being submitted; however, no noise impact assessment has been submitted.
57. *Environmental Health Land Contamination* – Advise that the Phase 1 identifies the need for further site investigation. Therefore, a Phase 2 -4 Report is required which can be secured via planning conditions.
58. *Tree Officer* – Advise that the loss of trees is not considered to be significant. The design requires significant level changes with a retaining wall being constructed in proximity of retained trees outside of the application site. There is no reference to the impact on the RPA of the retained trees.
59. *Design and Conservation* – Comments provided by Council’s Design Review Team which scored that the proposal would gain 7 ‘Red’ Classifications; 3 ‘Amber’ Classifications and 1 ‘Green Classifications’. Concerns have been raised stating how the scheme does not integrate appropriately into the existing pedestrian and highway network; the scheme does not achieve acceptable pedestrian connections to existing services and facilities; it does not provide an acceptable housing mix; the scheme does not create a place with locally inspired or otherwise distinctive character; the scheme does not take advantage of existing topography and landscape features; parking provision is insufficient; the location of public space is questionable and private space is impacted by retaining walls.

60. *Air Quality* – Advise that the development will not have a significant impact upon air quality and there would no air quality concerns for the future occupants of the development.
61. *Open Space Neighbourhoods* – Advise that concerns are raised that the development would make the verge maintenance of the area unsafe due to South Church Road being busy with traffic alongside being on a near blind hill and corner.
62. *Public Right of Way Team* – Advise that the proposed development site as Footpath 37 running through the centre of it. The proposed diversion route has unnatural turns along the new estate road, these should be refined and where possible a natural route should be followed. The current site has several desire lines (lines walked which are not the definitive public right of way) the desire lines link South Church Road to the footpath. The development should provide provision for pedestrian access from South Church Road to the west of the site this will enable easier access for residents located on the west of the site to access the railway crossing and footpath 37.

### **External Consultees**

63. *NHS* – Require a financial contribution of £10,626 to be secured via a Section 106 agreement.
64. *Northumbrian Water Ltd* – No response received.
65. *Police Architectural Liaison Officer* – Offer no comments.

### **Public Responses:**

66. The application has been advertised by way of a site notice, press notice and individual notification letters sent to neighbouring properties.
67. Two letters of objection and 1 letter of representation has been received. The main concerns are summarised below:
  - Loss of trees and nature conservation as the site has a lot of trees alongside being full of wildlife.
  - Impact upon privacy of surrounding residential properties.
  - Construction of the site will cause noise, traffic generation and significant disruption.
  - Impact upon the view out of existing residential properties.
  - Drainage as the site has a lot of drainage infrastructure present.
  - The proposal may cease access to the railway pedestrian crossing which is well used.
  - Concerns with the access and highway safety.

*The above 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/>*

### **Applicants Statement**

68. For the reasons set out within the Planning, Design, and Access Statement, the applicant considers that the detailed proposals will satisfy all relevant policies of the development plan and NPPF provisions, as well as supplementary guidance. This is on the basis the proposals have been informed by the constraints and opportunities of the site, and will:

- Represent a modest quantum of development, and be of an appropriate layout and density, bearing in mind the site constraints;
- Make a positive contribution towards the Council maintaining a 5YHLS;
- Not introduce a land use that has not been approved previously on the site;
- Use suitable materials, both in terms of the dwellings and hard landscaping, which can be secured by condition. The applicant originally proposed artificial stone, but is happy to propose a suitable brick if the Committee would prefer such;
- Deliver much needed bungalows, of two and three-bed sizes, with clear demand for such according to the latest Strategic Housing Market Assessment;
- Reflect the character of the settlement in an appropriate manner, with a linear form of development fronting onto South Church Road;
- Not create any unacceptable residential amenity issues for either new or existing residents, subject to implementing suitable noise mitigation measures that can be secured via condition. A revised site layout has also been prepared to ensure all gardens now meet the requires standards in terms of minimum 9m depth;
- Be served by a previously approved point of vehicular access. The revised site layout prepared now addresses previous junction radii comments, provides a suitable quantum of visitor parking, increases road widths and resident parking, and indicates electric vehicle charging points and bin and cycle storage facilities;
- Be located in a sustainable location, a short walk from the town centre, with a footpath to be provided along the site frontage on the eastern side of South Church Road;
- Allow for a Public Right of Way diversion within the layout;
- Deliver a significant and policy compliant area of public open space on-site, even excluding the land of the drainage tank. The above-referenced revised site layout now proposes this more boundary planting and railings to frame and enclose more securely;
- Not tangibly increase flood risk, on or off-site. The area of the site within Flood Zone 3 is very small, at around 38sq.m, with the proposed houses located substantially above this. Moreover, the applicant's Engineers have advised that such could be designed out through further revisions, if the Committee were minded to defer the application to achieve such;
- Not give rise to any unacceptable heritage impacts, subject to further archaeology work being secured by condition;
- The aforementioned revised site layout corrects the position of the railway crossing, which in our view should resolve the Network Rail concerns by reducing the extent of proposed PRow alongside the railway line; and
- If biodiversity net gain cannot be achieved on-site, an off-site contribution towards such can be secured by a S.106 Agreement.

69. Lastly, the applicant has also considered changing the scheme to propose split-level dwellings (as shown indicatively in the earlier consent) particularly

along the eastern half of the site. If the Committee were otherwise satisfied with the proposals and would look favourably on the development if split level dwellings were proposed, the applicant would be happy to defer to achieve such.

70. With regards to the viability response from the Council, we fundamentally disagree with this and consider the example of values chosen by the Council are not comparable. As a result, we remain of the firm view that the development is not viable with affordable housing contributions, which is not unexpected for a scheme of this scale in the lower value area based on the whole plan viability work. This scheme does however deliver an enhanced M4(2) specification (100% as opposed to 66%) and help to meet the need for bungalows within the authority area.
71. In view of the above, we respectfully encourage the Committee to support the application in its current form or defer if it is considered that with some of the proposed changes and/or more information the Committee could support the application.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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72. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the Principle of development, Locational Sustainability, Scale/Design/Landscaping and Visual Impact, Highway Safety, Residential Amenity, Infrastructure and open space provision, Affordable Accessible and Adaptable Housing, Ecology, Flooding/Drainage, Ground Conditions, Sustainability and other matters.

### Principle of Development

73. 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) constitutes 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.
74. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
75. In considering the previous planning history, planning permission was granted in 2015 for outline planning permission for residential development of up to 28 dwellings (Reference: 3/2013/0407). This application was for outline consent only with all matters reserved and was assessed under the policies of the Wear

Valley District Local Plan. This permission has lapsed so does not provide a fallback position for the development of the site. Since the approval of this application, the local and national planning policy context has changed considerably, and the development is to be assessed under the up-to-date policies of the County Durham Plan. The previous application was also assessed in the tilted balance in the presumption in favour of sustainable development due to the age of relevant policies of the Wear Valley District Local Plan and the Councils Housing supply position at the time.

76. Turning to an assessment against relevant County Durham Plan (CDP) Policies. The application site is not allocated for housing within CDP Policy 4, the site is however within the built-up area of Bishop Auckland . Therefore, the application falls to be considered against CDP Policy 6, this policy sets out that the development of sites which are not allocated in the plan or a Neighbourhood Plan within a built-up area which accord with all relevant development plan policies, and which:
- a. *are compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land;*
  - b. *do not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;*
  - c. *do not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;*
  - d. *are appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;*
  - e. *would not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;*
  - f. *have good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;*
  - g. *do not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;*
  - h. *minimise vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;*
  - i. *where relevant, make as much use as possible of previously developed (brownfield) land; and*
  - j. *where appropriate, reflect priorities for urban regeneration.*
77. It is considered that criteria a), b), c), d), e) and f) will be the most relevant in this case, all of which are covered in more detail in the main body of this report.

78. The proposal would comprise a development of bungalows within a Sub Regional Centre, Bishop Auckland, and is considered to have access to a range of services, facilities and public transportation to make the site a suitable location for housing under CDP Policy 6 in principle, subject to detailed considerations of the criteria of CDP Policy 6 and material planning consideration as detailed within the following sections of the report.
79. In considering the principle of the development, the proposal would be a suitable location for housing under CPD Policy 6. The main issues therefore relate to whether the impacts of the development in terms of design, landscaping, highways, flood risk, developer contributions and other material planning considerations would be within acceptable parameters as detailed in the remainder of this Committee Report.

#### Locational Sustainability of the Site

80. CDP Policy 6 Criteria f requires that developments on unallocated sites have good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. CDP Policy 29 requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities, and emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
81. The NPPF sets out at Paragraph 105 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 110 of the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst Paragraph 112 of the NPPF amongst its advice seeks to facilitate access to high quality public transport.
82. In considering this the development against the above policy context, Bishop Auckland is identified as a Sub Regional Centre with a wide range of employment opportunities, retail provision and accessible services. The Chartered Institute of Highways and Transportation 'Proving for Journeys on Foot' document contains suggested acceptable walking distances for pedestrians to access facilities and services. In terms of access to bus routes, a walk of 400m falls within the 'desirable' range. In this respect, there are four bus stops within 250 metres of the site which is well within the 400 metres desirable range which would comply with this standard. Also, there is existing highway and footpath links from the outside of the application site into the centre of Bishop Auckland where there are a wide range of facilities and services.
83. Overall, it is considered that the site has access to an array of services and facilities to serve the development proposed and that these are within a relatively easy reach of the site and can be accessed by public transport. Established bus services, walking and cycling routes would give future residents alternative options to the private motor car to access services and facilities.

84. In conclusion, the application site is within a sustainable location in accordance with Policies 6, 21 and 29 of the County Durham Plan, and the National Planning Policy Framework.

#### Scale/Design/Landscaping and Visual Impact

85. CDP Policy 6 criterion d) requires that development on unallocated sites is appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.
86. CDP Policy 29 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. In total, CDP Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
87. CDP Policy 39 states 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. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects.
88. CDP Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
89. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 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.
90. The site comprises a grassed field area that has significant land level changes from the public highway to the River bordering the eastern boundary of the site. The site is not located within a conservation area and contains no designated heritage assets. However, it is within the setting of a Grade II Listed Building to the immediate west of the site across the A689. There are no other landscape designations on the land and none of the trees are protected by a Tree Preservation Order.
91. The application has been considered by the Council's Internal Design Review Team in accordance with CDP Policy 29 and the Building for Life SPD 2019. The scheme has received 7 'Red' classifications; 3 'Amber' classifications and 1 'Green' Classification. In relation to the red classifications, these were classified in regard to 'Connections'; 'Meeting Local Housing Requirements' 'Character'; 'Working with the site and its Context'; 'Streets for All'; 'Car Parking'; and 'Public and Private Spaces'.

92. Policy 29 of the CDP sets out: *'Schemes with one or more red will not be acceptable and will be refused planning permission unless there are significant overriding reasons.'*
93. To expand on the Design Review feedback, under 'Character', the proposed house types are standard, lacking in locally inspired or other distinctive character. The house types do not have any architectural features which are characteristic of their immediate surroundings in Bishop Auckland. In addition, the landscape character of the site would be impacted due to the significant levels changes proposed and the inclusion of a high retaining wall along the eastern boundary leading to a 'red' score for character.
94. Furthermore, under 'Working with the site and its context', the proposed layout does not take advantage of the topography or landscape character of the site. The development proposes extensive engineering operations to raise the land levels along the eastern boundary to create a site around the same level of South Church Road. This land levelling in some places extends to approximately 7 metres in height through the formation of a large retaining structure. The proposal presents a significant engineering operation to change the topography and landscape character of the site, rather than working with the existing land levels as other neighbour residential developments have done in the past. This has a negative impact on the site and its context which results in the proposal obtaining a 'red' score for working with the site and its context.
95. In respect of the Grade II Listed Building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 outlines that the Local Planning Authority will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
96. In this regard, the proposal is within the setting of the Grade II Listed Grand Hotel which lies immediately adjacent the site to the west with the public highway intervening the application site and designated heritage asset. The site at present is a parcel of open land which falls away from the public highway utilising the natural landform of the flood plain of the River Gaunless to the east. At present, the site has a neutral impact upon the setting of the Listed Building. The introduction of housing onto this site would alter the setting of the Listed Building. However, the dwellings would be single storey and the Listed Buildings is already set within a residential context with South Church Road and the railway infrastructure forming part of the setting. It is considered that whilst the setting of the Listed Building would alter, its significance can still be understood and read within the site's context which would be acceptable and not result in harm.
97. In regard the diversion to the PROW Footpath 17, Question 1 of the Design Review and BfL SPD relates to 'Connections'. Also, Policy 26 of the CDP states: *'Proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.'*



98. In assessing the impact of the diversion, the PROW Team have been consulted on the application and they identify that the proposed diversion route has unnatural turns along the new estate road which should be refined and where possible, a natural route should be followed. The Team also comment that the site should provide provision for pedestrian access from South Church Road to the west of the site as this will enable easier access for residents located on the west of the site to access the railway crossing and Footpath 37. In considering the development against CDP Policy 26, based on the comments from the Design Review Panel and the PROW Team, the proposal would result in the deterioration in the quality and experience of Footpath 37 by diverting it to an unnatural route around the proposed access road. The diversion is not a direct, convenient or attractive route for pedestrians due to the unnatural nature of the route as well as the lack of connection with South Church Road. Therefore, the diversion of the PROW would fail to comply with CDP Policy 26.
99. Overall, as the proposal has received 7 'red' classifications under the Design Review Panel and CDP Policy 29 is clear that any proposals with one or more 'red' classifications should be refused planning permission. The development is considered to represent poor design with standard house types that do not reflect the locally distinctive character of Bishop Auckland, alongside an overengineered approach to the site levels to result in a scheme which does not relate to the site and its context. The development would also lead to an adverse impact on the existing PROW, the proposed replacement route would not be convenient or attractive route for pedestrians. Therefore, the proposal is considered contrary to the Building for Life SPD, Policies 26 and 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

#### Highway Safety/Access

100. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. CDP Policy 6 criterion (e) require development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
101. The County Durham Parking and Accessibility SPD 2023 set out that a 2 bedroom or 3-bedroom dwelling will require a minimum of 2 in-curtilage parking spaces and 1 active charge point alongside 1 visitor/non-allocated parking space per 4 dwellings would be required.
102. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
103. Concerns have been raised by the public in regard to highway safety. Access to the site is proposed to be taken via South Church Road before turning towards the north to a turning head. The development would provide 2 in-curtilage parking space for each 2-bedroom bungalow and 2 in-curtilage parking spaces for each 3-bedroom bungalows.

104. The Highways Authority advised that the amended site plan does show adequate parking provision, as well as vehicle manoeuvrability and electric vehicle charging points to meet the requirements of the Parking and Accessibility SPD 2023.
105. However, the Highways Authority advise that the amended site plan does not demonstrate the required visibility splay at the site access. The submitted plans only show the minimum visibility splay for a 30mph highway, however, historical speed survey records indicate that the 85<sup>th</sup> percentile speed is 32.9mph and therefore, a visibility splay of 2.4m x 76m needs to be demonstrated. The amended site plan does not demonstrate the required visibility splay. Although, the Highways Authority outline that the required splay is likely to be achievable on the site by removing vegetation in the northerly direction and by amending the boundary of the Public Open Space in the southerly direction.
106. Therefore, whilst the required visibility splay has not been demonstrated by the plans submitted, it is likely this could be achieved with further amendments to the scheme which could be controlled by pre-commencement planning conditions. Overall, on balance, the inadequate visibility splay can be controlled via condition and will not form a reason for refusal of the application. The proposal complies with CDP Policy 21 in regard to highway safety and parking provision.
107. In addition, as above, the application has been assessed under the Council's Internal Design Review Team and received three red classifications relating to highways matters. One for 'Streets for All'; one for 'Car Parking' and one for 'Public and Private Spaces'. Concerns were raised that the highway design at the vehicular access cannot be achieved safely from an engineering perspective and there is insufficient resident and visitor parking spaces. Since the Design Review comments, an amended site plan has been submitted which, in consultation with the Highways Authority, shows acceptable parking provision on the site to address the 'red' from the Design Review Panel in regard to 'Car Parking'.
108. As identified above, the application site is located immediately adjacent to the Weardale Railway Line which is maintained by Network Rail. Network Rail have been consulted on the proposal and raise objections to the development identifying concerns on the operational railway safety. It is advised that the development may increase the usage and risk of a railway crossing along with the diversion to the existing PROW is likely increase the risk on the Level Crossing.
109. CDP Policy 21 under (e) sets out that developments in the vicinity of level crossings (both vehicular and pedestrian) will be expected to assess the potential increase in risk at each crossing affected and indicate the appropriate mitigation required to reduce or remove such risks.'
110. Whilst recognising the location of the existing crossing and public right of way which utilises the crossing, it is considered reasonable to assume that the development would materially increase the use of the crossing. As outlined in the response from Network Rail, this increase in usage may increase the risk at the crossing point. No consideration of the risks posed by the development,

along, has been undertaken by the applicant contrary to the requirements of CDP Policy 21.

111. Overall, no assessment of the potential increase in risk through the intensification of use of the adjacent pedestrian rail crossing has been submitted, contrary to Policy 21 of the CDP.

#### Residential Amenity

112. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
113. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
114. A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council, which recommends that dwellings should benefit from private, usable garden space of at least 9 metres long.
115. In considering the development against this policy context, each of the dwellings would have a private amenity space to their rear. However, one of the plots would have a substandard garden at approximately 7.5 metres in length. Although an amended plan has been submitted to increase garden depths, this does not align with the submitted engineering design of the site. Increasing garden depths would have the effect of altering the position and size of the proposed retaining wall. This policy deficiency in relation to private gardens need to be taken into consideration in the planning balance.
116. The Residential Amenity Standards SPD also sets out separation distances for new development to comply with. It states that a minimum distance of 21.0m between habitable room windows, where either dwelling exceeds single storey, and a minimum of 18.0m between habitable room windows and both dwellings are single storey should be achieved. Where a main facing elevation containing a habitable room window is adjacent to a gable wall which does not contain a habitable room window, a minimum distance of 13.0m shall be provided where either dwelling exceed single storey or 10.0m where both dwellings are single storey.
117. In reviewing the to the site layout against these requirements, each of the dwellings would be single storey bungalows and therefore, there needs to be 18 metres between habitable room windows. The proposed site layout demonstrates that the dwellings would meet this level of separation to comply with this requirement of the Residential Amenity Standards SPD.
118. The site is directly to the south of the Weardale Railway Line as well as being adjacent South Church Road. These transport links are likely to provide significant noise impacts for future residents. No assessment of the impact of these site characteristics have been undertaken through a noise impact

assessment. Whilst in some instances a planning condition could require a noise impact assessment to be submitted prior to the commencement of the development, in this case, due to the site characteristics, especially the railway line to the immediate north, it is considered that further detail on the impact upon future residents is required prior to the determination of the proposal to assess the impact, which could result in changes to the site layout and the quantum of development achievable. Environmental Health Officers advise that an acoustic report carried out by a competent person to establish whether sound attenuation measures are required to protect future residents from the transferral of sound from rail traffic/ commercial noise should be carried out. As this information has not been submitted, there is insufficient detail within the application to assess the impacts of the railway and road traffic in terms of noise upon future occupants.

119. Overall, the proposals do not demonstrate that a good standard of amenity would be achieved for future residents which fails to accord with Policies 29 and 31 of the County Durham Plan, Parts 12 and 15 of the National Planning Policy Framework and the Residential Amenity Standards SPD.

#### Infrastructure and open space provision

120. CDP Policy 25 supports securing developer contributions where mitigation is necessary to make the development acceptable in planning terms including for social infrastructure such as education and health facilities.
121. CDP Policy 26 seeks to resist development proposals which would result in the loss of open space or harm to green infrastructure, unless the benefits of the development clearly outweigh that loss or harm, and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirement. The Policy also outlines that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality.
122. Paragraphs 55-58 of the NPPF explain the circumstances when it is appropriate for planning obligations to be used to mitigate the impacts of the development. Paragraph 98 of the NPPF highlights that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Paragraph 130 requires amongst its advice that developments function well and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
123. It is important to ensure that development proposals contribute to improvements in infrastructure capacity to mitigate for the additional demands that new development creates. By securing financial contributions through planning obligations, developers would help fund the physical, social and environmental infrastructure that is needed to make development acceptable and ensure that the development mitigates its impact upon existing infrastructure.

124. In relation to open space provision, the Council's Open Space Needs Assessment (OSNA) 2018 is considered the most up to date assessment of need. It identifies the five typologies (allotments; amenity/natural greenspace; parks, sports and recreation grounds; play space (children) and play space (youth), sets out requirements for public open space on a population pro rata basis and whether provision should be either within the site, or through a financial contribution towards offsite provision, in lieu taking into consideration factors such as the scale of the development, existing provision within suitable walking distances and the level of contribution sought.
125. In this respect, the proposal would need to make a financial contribution of £34,344 in relation to off-site open space and a minimum of 720sqm of on-site amenity/natural green space would be required. The proposed site plan shows on-site amenity space to the southern section of the application site which in size terms would meet this requirement.
126. The Council's Education Team have been consulted on the application and confirm there is no requirement in this instance for a financial contribution for education.
127. Paragraph 93 of the NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. Paragraphs 55-57 of the NPPF explain the circumstances when it is appropriate for planning obligations to be used to mitigate the impacts of the development. This provides policy justification, alongside CDP Policy 25 to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal.
128. The NHS have been consulted as part of the application and confirm they would be seeking a financial contribution totalling £10,626 would be required to mitigate the developments impact in respect of G.P provision and increased capacity.
129. In terms of the financial contributions for the development, these would be £10,626 for the NHS and £34,344 for open space which would need to be secured via a Section 106 agreement. However, the applicant has submitted a Financial Viability Appraisal for the scheme outlining that the scheme would be unviable if the policy required financial contributions were secured via a Section 106 Agreement.
130. Paragraph 58 of the NPPF sets out that '*It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into use.*'
131. The Council's Viability Team have assessed the Financial Viability Appraisal and dispute the findings of the applicant's viability appraisal. It is advised that the development would remain viable despite the costs associated with the financial contributions for open space and the NHS being secured via a Section

106 agreement. Consequently, the proposal is contrary to Policies 25 and 26 of the County Durham Plan and Paragraphs 55-57 and 93 of the National Planning Policy Framework and would not mitigate its impact in this respect.

#### Affordable, Accessible and Adaptable Homes

132. CDP Policy 15 requires applications for 10no. or more units to provide a percentage of Affordable Housing provision which is accessible, adaptable and meets the needs of those residents unable to access the open housing market. The application site is located within a low value area where 10% of the approved units must be provided for affordable home ownership. Since the CDP was adopted, the Government's First Homes policy has come into force and requires a minimum of 25% of all affordable housing units secured through developer contributions to be First Homes. The 25% expected First Homes contribution for any affordable product can make up or contribute to the 10% of the overall number of homes expected to be an affordable home ownership product on major developments as set out in the NPPF.
133. The Council's Spatial Policy Team have been consulted on the application and advise that to address housing need, 10% of the dwellings provided would need to be affordable which on a scheme of 22no. units, equates to two affordable units.
134. As above, the applicant has submitted a Financial Viability Appraisal which concludes that the scheme would be unviable if they were to deliver 2no. affordable units as part of the scheme. However again as above, the Council's Viability Team consider that the scheme would remain viable despite the costs of affordable housing (and other contributions). It is therefore considered that there is no justification to waive the affordable housing requirements on the development and as such it is in conflict with CDP Policy 15 and Paragraph 58 of the NPPF. In addition, under the Design Review Process, Question 4; Meeting Local Housing Requirements, the scheme was also scored a 'red' due to their being no affordable housing provided on the scheme.
135. CDP Policy 15 also states that in order to meet the needs of older people and people with disabilities, on sites of 5 units or more, 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard. Furthermore, on sites of 10 or more, a minimum of 10% of the total number of dwellings on the site should be of a design and type that would increase housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include:
  - Level access flats;
  - Level access bungalows; or
  - Housing products that can be shown to meet the specific needs of multi-generational family.
136. In this regard, the applicant has advised that all of the units would be built to M4(2) Standard of Building Regulations. The proposal would provide 22no. bungalows which would be in excess of the policy requirement for two units to

be suitable for older people. These are benefits of the scheme to be weighed in the planning balance.

137. Overall, the proposal would fail to comply with Policy 15 of the County Durham Plan as no affordable housing would be provided as part of the development and there is no viability argument for this as the scheme would be viable with a developer profit with this policy requirement.

## Ecology

138. Paragraph 180 d) of the NPPF advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks 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.
139. A Preliminary Ecological Appraisal (PEA) and DEFRA Biodiversity Net gain Metric has been submitted to accompany the application. The PEA identifies that there is a moderate risk of a tree on site with respect to bats roosts and recommends that this tree is retained. The PEA also sets out that the development should lie outside of the 10m riparian buffer corridor. This is a strip of vegetation extending 10m back from the edge of the river bank.
140. The Council's Ecology Officer advises that the findings and general conclusions of the PEA are sound. However, it has been requested that confirmation is provided that the tree with bat roost potential is protected and that development lies outside out the 10m Riparian buffer. Based on the site layout, it would appear that the tree would be retained on the southern boundary of the site. In relation to the riparian buffer, the submitted amended plan demonstrates the required buffer to address this point.
141. In relation to the requirement for net biodiversity gain, it is advised that the submitted metric does not reflect the submitted site and landscaping plan resulting in a net loss of biodiversity of 8 units. This leads to insufficient information being submitted to show how the scheme will deliver a biodiversity net gain.
142. Whilst the applicant has confirmed they would be willing to enter into a legal agreement to provide an off-site contribution to achieve a net gain, the Council's emerging Contributions SPD sets out the Council's position where biodiversity net gain cannot be delivered on-site. In the first instance, the provision of compensation on land owned or controlled by the applicant where habitat enhancement, restoration or creation can be undertaken would need to be offered and agreed via a S106. Then if this is not possible, the developer would need to enter into an agreement with a delivery provider for off-site BNG. Then if it is demonstrated that this cannot be carried out, the applicant can provide the Council with an off-site financial contribution for the Council to deliver and maintain the required number of units. In considering this, no information has been submitted to demonstrate how the applicant will provide a net gain and securing a financial contribution should be the last resort.

143. Therefore, insufficient information has been submitted to demonstrate how the proposal would meet a biodiversity net gain, with the submitted information demonstrating a net loss of 8 biodiversity units on the site with no appropriate off-setting being provided. The proposal would fail to meet Policy 41 of the County Durham Plan and Part 15 of the NPPF.

#### Flooding/Drainage

144. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 of the NPPF advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 169 of the NPPF goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
145. CDP Policies 35 and 36 relate to flood water management and infrastructure. CDP Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. CDP Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. CDP Policy 6 criterion f states development should '*minimise vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding*'.
146. The Lead Local Flood Authority have reviewed the submitted drainage strategy for the development and advise comment that no treatment is proposed for the carriageway surface water run-off. Furthermore, the hydraulic calculations do not consider all storm events up to and including the 1 in 100-year event plus 45% climate change and 10% urban creep. Therefore, the submitted drainage strategy does not comply with the requirements of Policies 35 and 36 and Part 14 of the NPPF.
147. In addition, part of the site lies within Flood Zones 2 and 3 due to the proximity of the River Gaunless. The Environment Agency advise that there are discrepancies between the submitted plans. With some plans indicating that gardens would be located within the flood zones which would cause issues of flood risk for the future occupiers of these dwellings. In addition, the application proposes to significantly raise land along the eastern boundary which the Environment Agency object to, advising that land raising must not take place in the flood plan.
148. In reviewing the submitted information and comments from the Environment Agency, based on the proposed levels plans, which is considered the most accurate site layout submitted, residential properties and gardens are not located with the respective flood zones. However, the development does propose re-grading and land raise within the flood zone, which equates to a



38sqm surface area. Whilst amended plans could be submitted to remove this area, this would likely add the requirement for an additional retaining features. at this point no assessment has been made of the impacts of this encroachment into the flood zones and the impact on downstream flooding.

149. Overall, it is considered that the development would not adequately manage surface water on the site and does not demonstrate that the proposed development would not exacerbating flood risk elsewhere. The proposal therefore fails to comply with Policies 6, 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

#### Ground Conditions

150. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
151. The application has been supported by a Phase 1 Risk Assessment. The Council's Contaminated Land Team have been consulted on the reports supplied and they confirm that a Phase 2-4 Report may be required for the development as the Phase 1 identifies the need for further site investigation. This can be secured via planning condition.
152. A section of the application site is located within the Coalfield High Risk Area and accordingly a Coal Mining Risk Assessment has been undertaken. The Coal Authority have been consulted and confirm that they have no objections subject to conditions.
153. CDP Policy 56 seeks to safeguard mineral resources. Significant areas of the County fall into such mineral safeguarding areas, including the application site and wider area. Although a non-mineral development is proposed, it is not considered that the current proposals would sterilise mineral resource taking into account the scale of the site and residential setting. No objections are raised in this regard and the proposal does not conflict with CDP Policy 56.
154. The proposal is considered to comply with Policies 32 and 56 of the County Durham Plan and Paragraph 183 of the National Planning Policy Framework.
155. CDP Policy 29 Criterion (c) requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.
156. In addition, CDP Policy 29 criterion o) requires all major residential development to achieve reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations.
157. CDP Policy 29 Criterion d) requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and

appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.

158. An energy assessment has been provided to demonstrate compliance with CDP Policy 29. However, the Building Regulations have changed since the submission of this application and now require all new homes to produce 31% less CO<sub>2</sub> emissions than what was previously acceptable in the Part L regulations and there have been changes to Part F in respect of ventilation with new regulations in respect of overheating and electric vehicle charging. In light of the changes to Building Regulations, the development would now need to meet this new requirement and as this is covered under separate legislation there is no need for a condition to reflect this.
159. By virtue of the recent changes to Building Regulation requirement, the proposal is considered to exceed the requirements of Policy 29 of the County Durham Plan and accords with Part 2 of the National Planning Policy Framework.

## Other Matters

### *Broadband*

160. CDP Policy 27 relates to utilities, telecommunications and other broadband infrastructure and requires any residential and commercial development to be served by a high-speed broadband connection and where this is not appropriate, practical or economically viable, developers should provide appropriate infrastructure to enable future installation.
161. In considering this policy requirement, due the location of the development within Bishop Auckland, there would be existing high-speed broadband availability in the area to comply with CDP Policy 27. A condition is recommended requiring the precise broadband details to be submitted to comply with CDP Policy 27.

### *Air Quality*

162. In relation to Air Quality, CDP Policy 31 sets out: "Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibrations or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level."
163. In assessing this, the application site is not located within a designated Air Quality Management Plan and the Council's Air Quality Team have been consulted on the application who have no objection to the development subject to a condition requiring the submission of a Construction Management Plan to include a Dust Management Plan. Therefore, the development is compliant with Policy 31 of the CDP in terms of air quality.

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## CONCLUSION

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164. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan which is the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision making, this means approving development proposals that accord with an up-to-date development plan without delay.
165. The application site is within a sustainable location with access to local facilities, services and public transportation within Bishop Auckland in accordance with Policies 6, 21 and 29 of the County Durham Plan, and the National Planning Policy Framework. The development would boost the supply of accessible bungalows within the area, which weighs in favour of the development.
166. However, in terms of design, the proposal has received 7 'red' classifications under the Design Review Panel, Policy 29 of the CDP is clear that any proposals with one or more red should be refused planning permission. The development is considered to represent poor design with standard house types that do not reflect the locally distinctive character of Bishop Auckland alongside an overengineered approach to the site levels to result in a scheme which does not relate to the site and its context. Also, the PROW diversion is not direct, convenient or an attractive route for pedestrians due to its unnatural route. Also, the assessment of the garden lengths contributes to the overall poor design of the scheme. Therefore, the proposal would be contrary to the Building for Life SPD, Policies 26 and 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
167. In terms of highway safety, the amended site plan does show adequate parking provision, as well as vehicle manoeuvrability and electric vehicle charging points to meet the requirements of the Parking and Accessibility SPD 2023. However, the Highways Authority advise that the amended site plan does not demonstrate the required visibility splay at the site access although it is likely this could be achieved with further amendments to the scheme which could be controlled by pre-commencement planning conditions. Overall, on balance, the inadequate visibility splay can be controlled via condition and will not form a reason for refusal of the application. The proposal complies with Policy 21 in regard to highway safety and parking provision.
168. No assessment of the risks associated with the likely increase of the pedestrian crossing on the Weardale Railway has been submitted. Therefore, the proposal fails to accord with Policy 21 of the County Durham Plan and Parking and Accessibility SPD 2023 and Part 9 of the National Planning Policy Framework.
169. In terms of the residential amenity, the proposals do not demonstrate a good standard of amenity for future residents in relation to potential noise impacts, contrary to Policies 29 and 31 of the County Durham Plan, Parts 12 and 15 of the National Planning Policy Framework.
170. In regard to affordable housing and developer contributions, whilst a Financial Viability Appraisal has been submitted, on review the development is

considered remain viable despite the required financial contributions to mitigate its impacts and the provision of affordable housing. Consequently, the proposal is contrary to Policies 15, 25 and 26 of the County Durham Plan and Paragraphs 55-57 and 93 of the National Planning Policy Framework.

171. In relation to ecology, insufficient information has been submitted to demonstrate how the proposal would meet a biodiversity net gain, with the submitted information demonstrating a net loss of 8 biodiversity units on the site with no appropriate off-setting being provided. The proposal would fail to meet Policy 41 of the County Durham Plan and Part 15 of the NPPF.
172. The development would not adequately manage surface water on the site and does not demonstrate that the proposed development would not exacerbating flood risk elsewhere. The proposal therefore fails to comply with Policies 6, 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.
173. Overall, the benefits associated with of the development are not considered sufficient to outweigh the significant policy conflict, there are no material considerations which indicate otherwise and therefore the application is recommended for refusal.

#### Public Sector Equality Duty

174. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
175. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **RECOMMENDATION**

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

1. The development is considered to represent poor design that adversely impacts on the character and appearance of the surrounding area when assessed against the County Durham Plan Building for Life Supplementary Planning Document and contrary to Policies 6 and 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
2. Insufficient information has been submitted to demonstrate how the development would result in a biodiversity net gain. The proposal would therefore fail to accord with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.
3. The development would not adequately manage surface water on the site and does not demonstrate that the proposed development would not exacerbate flood risk elsewhere. The proposal therefore fails to comply with Policies 6, 35

and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

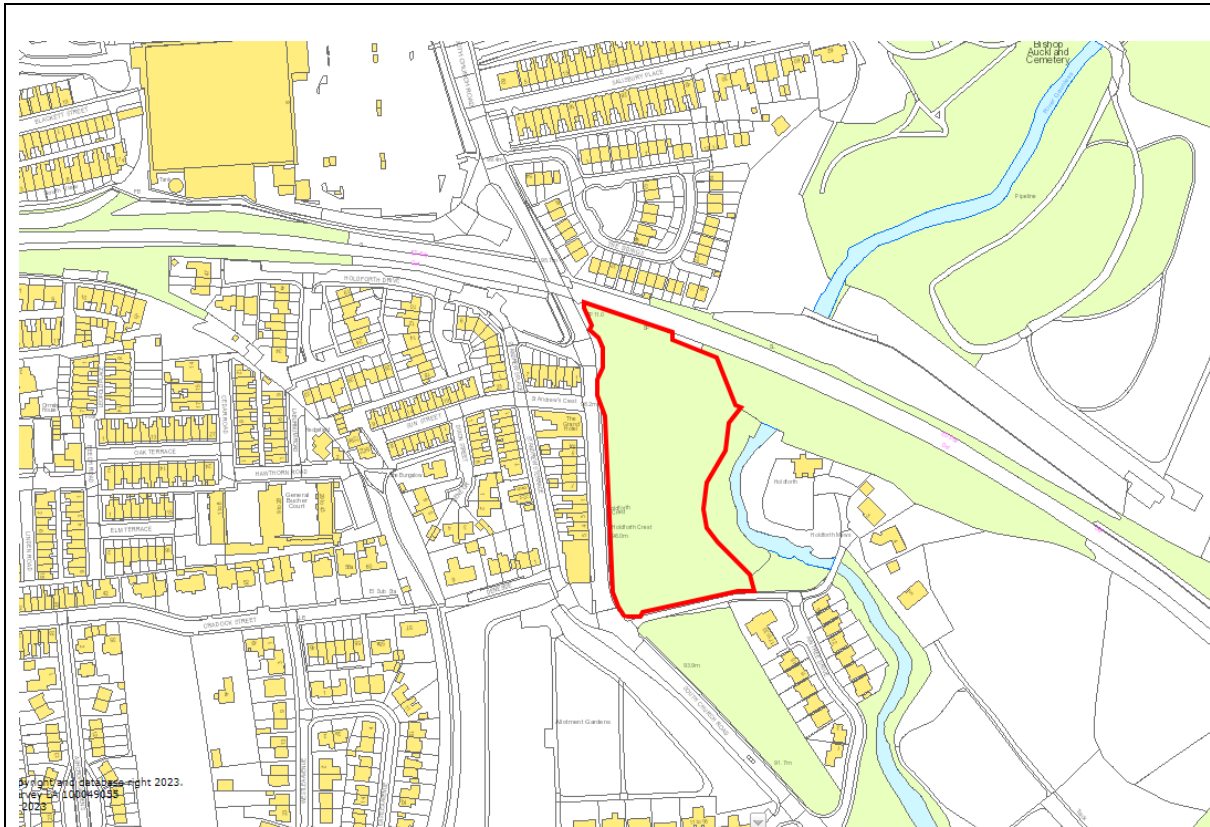
4. The development would not provide 10% on-site affordable housing and would not mitigate its impacts in relation to increased pressures on open space provision and the NHS capacity, while remaining viable. The proposal therefore fails to comply with Policies 15, 25 and 26 of the County Durham Plan and Paragraphs 55-57 and 93 of the National Planning Policy Framework.
5. No assessment of the risks associated with the likely increase of the pedestrian activity on the pedestrian crossing on the Weardale Railway as a result of the development has been submitted and the diversion of Footpath 37 would result in the deterioration in the quality and experience of the footpath by diverting it to an unnatural route. Therefore, the proposal fails to accord with Policy 21 and 26 of the County Durham Plan.
6. Insufficient information has been submitted to demonstrate the impacts of the railway line and road traffic upon the amenity of future occupiers in relation to noise. Therefore, the proposal does not demonstrate a good standard of amenity for future residents which fails to accord with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
County Durham Strategic Housing Market Assessment 2019  
County Durham Plan Building for Life Supplementary Planning Document 2019  
Parking and Accessibility SPD 2023  
Residential Amenity Standards Supplementary Planning Document 2020  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



**Planning Services**

Erection of 22no. dwellings, together with formation of the site access, landscaping and associated works

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**Comments**

**Date:**

23<sup>rd</sup> November 2023