

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/11/00823/FPA
FULL APPLICATION DESCRIPTION:	Erection of 29 no. dwellinghouses, formation of access and associated works
NAME OF APPLICANT:	Gleeson Homes and Regeneration
ADDRESS:	Former Ushaw Moor County Infants School, Temperance Terrace, Ushaw Moor, Durham, DH7 7PQ
ELECTORAL DIVISION:	Deerness Valley
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of the former curtilage of the Ushaw Moor County Infants School, located off Temperance Terrace and Cockhouse Lane, Ushaw Moor.
2. The school buildings have been demolished and the site is now predominantly a large expanse of hardstanding with some areas of unkempt grass and a small number of immature trees. The site is bounded by enclosures on all sides comprising of a mixture of walling, railings and fencing. There is an existing vehicular access at the eastern side of the site via a back lane to the rear of South View. The site is not level with a significant slope falling from the north towards the south.
3. The site is located within the settlement boundary of Ushaw Moor towards the western end of the village. Terraced properties are located to the north, east and west of the site with the St Lukes Church building also adjacent to the west. To the south lies Cockhouse Lane and beyond open countryside and fine views are available from the application site towards the south over the Deerness Valley. The village centre, which is a designated local centre within the Local Plan is within close proximity just over 200 metres to the east.

The Proposal

4. This application seeks planning permission for the erection of 29 no. dwellinghouses. A mix of five house types are proposed comprising of a mix of 2, 3 and 4 bed properties and a mix of semi-detached, terraced and detached properties.
5. The proposed access to the site is via the road to the west and the internal road would run through the middle of the site terminating in the east with no access through to the rear of South View. Properties would be arranged to the north and south of this internal road with those to the south comprising of groups of terraced properties and those to the north semi-detached and detached properties. Parking would be provided for each property through a mixture of garaging and dedicated spaces. The properties to the south of the internal access road are orientated to face onto Cockhouse Lane, those to the north face the access road itself.
6. This application is being presented to Committee as it constitutes a major development proposal.

PLANNING HISTORY

7. The application site comprises of a currently vacant parcel of land which formerly comprised of the Ushaw Moor County Infants School. Since demolition of the school this application is the first formal application seeking to redevelopment the site.
8. Previous planning history relates only to minor developments when the site was utilised as a school including the provision of new enclosures and demountable classroom units none of which is of significant relevance to this proposal.

PLANNING POLICY

NATIONAL POLICY

9. In July 2011 The Government published the National Planning Policy Framework in its draft form. The draft framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. The presumption means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the development should not be allowed if it would undermine the key principles for sustainability in the Framework. Being in draft format and a consultation document it is subject to potential amendment. It can be considered a material consideration, although the weight to be attributed to it will be a matter for the decision maker in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.
10. *Planning Policy Statement 1 (PPS1): Delivering Sustainable Development* sets out the Governments overarching planning policies on the delivery of sustainable development through the planning System.
11. *Planning Policy Statement 3 (PPS3): Housing* underpins the delivery of the Government's strategic housing policy objectives and the goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.
12. *Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation*, sets out planning policies on protection of biodiversity and geological conservation through the

planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.

13. *Planning Policy Guidance Note 13 (PPG13): Transport* - seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight. It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car.
14. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, accommodate housing principally within urban areas and recognise that provision for movement by walking, cycling and public transport are important but may be less achievable in some rural areas.
15. *Planning Policy Statement 23 (PPS23): Planning and Pollution Control* - sets out the planning approach to pollution control, the location of polluting development and where possible ensure new development is not affected by pollution.
16. *Planning Policy Statement 25 (PPS25): Development and Flood Risk* explains how flood risk should be considered at all stages of the planning and development process. It sets out the importance of the management and reduction of flood risk in planning, acting on a precautionary basis and taking account of climate change.
17. Flood risk should be considered on a catchment-wide basis and where necessary across administrative boundaries, assuming the use of flood plains for their natural purpose rather than for inappropriate development.
18. The PPS says that susceptibility of land to flooding is a material planning consideration that the Environment Agency has the lead role in providing advice on flood issues and that developers should fund flood defences, where they are required because of the development.

REGIONAL PLANNING POLICY

19. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
20. In July 2010 the Local Government Secretary signaled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies by making Orders under Section 109 of the Localism Act 2011. Both the RSS and the stated intention to abolish are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. Policies of particular relevance to this application are as follows:

21. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
22. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
23. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
24. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
25. *Policy 24 - Delivering Sustainable Communities* states that planning proposals should seek through design to promote social cohesion, reduce inequalities as well as meeting sustainable development objectives.
26. *Policy 28 - Gross and Net Dwelling Provision* - Advises that Local Development Frameworks should make provision for average annual level of total dwelling construction in the period 2004-2021.
27. *Policy 29 - Delivering and Managing Housing Supply* - Advises that Local Development Frameworks and/or planning proposals shall deliver and manage housing supply
28. *Policy 30 - Improving Inclusivity and Affordability* sets out that developments should provide a range of housing types and sizes responding to the needs of all members of the community as well as addressing affordability issues.
29. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.
30. *Policy 38 - Sustainable Construction* seeks to promote development which minimises energy consumption and promotes energy efficiency. On major development proposals 10% of their energy supply should come from decentralised and renewable or low-carbon sources.

LOCAL PLAN POLICY: (City of Durham Local Plan 2004)

31. *Policy E14 - Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
32. *Policy E16 - Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be

avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

33. Policy H3 - *New Housing Development within the Villages* allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units. Exceptionally, the limited development of small greenfield sites will be permitted in the coalfield villages most in need of regeneration provided.
34. Policy H12 - *Affordable Housing* seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. The associated Cabinet approved (December 2006) Supplementary Planning Document advises that 30% of all dwellings on a site providing over 25 dwellings should be provided as affordable units in perpetuity. Affordable Housing is defined in PPS3 as being housing which includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
35. *Policy H12A – Type and Size of Housing* – states that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.
36. *Policy H13 - Residential Areas – Impact upon Character and Amenity* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
37. *Policy T1 - Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
38. *Policy T10 - Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
39. *Policy R2 - Provision of Open Space – New Residential Development* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
40. *Policy Q3 - External Parking Areas* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
41. *Policy Q5 - Landscaping General Provision* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
42. *Policy Q8 - Layout and Design Residential Development* sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of

their surroundings. The impact on the occupants of existing nearby properties should be minimised.

43. *Policy Q15 - Art in Design* states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
44. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
45. *Policy U8a - Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
46. *Policy U11 - Development on Contaminated Land* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:

<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

47. The *Highway Authority* initially raised some concerns with regards to the layout of the development, disjointed arrangement of parking spaces and gradients on site. However, these objections were removed following the receipt of an amended layout.
48. *Northumbrian Water* have commented on the application and require a scheme to be agreed to divert a public sewer that lies beneath the site. A condition is also advised for attachment on any approval to agree the disposal of surface water from the site.
49. *Brandon and Byshottles Parish Council* fully support the proposal considering that it will contribute to the regeneration of Ushaw Moor.

INTERNAL CONSULTEE RESPONSES:

50. *Design and Conservation* have commented on the application and broadly consider the development to accord with the advice of a development brief formulated for the site. It would be considered an improvement if the rear building line of the development followed that of the adjacent terraces and some concern is raised at the number of and design of house types.
51. *The Senior Ecologist* has raised no objections to the application though advises that the mitigation measures within the submitted ecological report are conditioned on any approval.
52. *Environmental Health* have raised no objections but recommendations are made with regards to limiting working hours on site, dust suppression, reducing noise and vibration during the construction and prevention of burning materials on site.

53. *The Senior Low Carbon Officer* has stated that the standard 10% energy reduction condition applies to the site and should be met.

PUBLIC RESPONSES:

54. Two letters of representation have been received in response to the Council's public consultation exercise.
55. Objection is raised to the impact of the development upon terraced property opposite with a loss of view, light and devaluing of property. The development would lead to the reduction in the amount of land on which children can play. Concern is raised on the grounds of highway safety and parking provision and whether existing utilities and refuse services can cope with the additional homes. It is considered that the properties will end up being privately rented and not owner occupied.

APPLICANTS STATEMENT:

56. The application has been accompanied by a planning statement, design and access statement, statement of community involvement and affordable housing statement in support of the proposal. The applicant considers that the site is located within a sustainable location would good access to services, facilities and local schools. The proposed development would make use of previously developed land. The site contains no significant ecological or landscape features of merit.
57. The development is considered to be sympathetic to its surroundings with the layout retaining the strong building line evident on Cockhouse Lane. All proposed properties are two storey to respect the neighbouring residential properties. The development comprises largely of 2 and 3 bed homes seeking to provide home ownership opportunities for families on relatively low incomes.
58. The applicant has submitted details of community consultation on the proposed development, public response levels were considered to be low but of those responses the majority were in favour of the development.
59. Financial contributions by way of a S106 are proposed with regards to open space and public art.

*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:
<http://217.23.233.227/WAM/showCaseFile.do?action=show&appType=planning&appNumber=11/00823/FPA>*

PLANNING CONSIDERATIONS AND ASSESSMENT

60. 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 in this instance relate to the principle of development, the impact upon the character and appearance of the area, the provision of affordable homes, impact upon the amenity of nearby occupiers and impact upon highway safety.

Principle of the Development

61. This application site comprises of the former Ushaw Moor County Infants School which has previously been demolished. The site has started to be taken over by long grass but much of the site is covered by hard surfaces. The site is enclosed by walling, fencing and railings. The site is considered to constitute previously developed land. The application site is also located within the settlement boundary of Ushaw Moor. Ushaw Moor has a designated local centre and contains amenities within easy walking distance of the application site including a newsagents, convenience stores and public houses.
62. Policy H3 of the Local Plan accepts the principle of residential development on previously developed land within settlements such as Ushaw Moor. National and regional guidance contained within PPS3 and the RSS also have a preference for the development of previously developed land located within sustainable locations. The draft National Planning Policy Framework establishes a presumption in favour of sustainable development, which this development is considered to comprise.
63. The principle of residential development is therefore considered to wholly accord with local, regional and national planning policy guidance with the site suitable for residential development. As a result, officers do not object to the proposal in principle.

Impact upon Visual Amenity and the Character and Appearance of the Area

64. A key consideration in the determination of this application is the suitability of the design, scale and massing of the proposal and in turn its impact upon the character and appearance of the area.
65. PPS1 and PPS3 promote high quality design and development that is sympathetic to its surroundings. This approach is replicated in policy 8 of the RSS which requires that all developments are sympathetic to their surroundings.
66. Policies H3, H13, Q8 of the Local Plan also identify that development will not be considered acceptable where it would have an adverse effect on the character of the surrounding area whilst policy E14 seeks to retain trees and hedges of value where possible and replace those which are lost to development.
67. The local area is predominantly residential and largely comprises of traditional terraced properties laid out with strong established building lines. Recently built residential estates and properties are located in the area however, including at St Lukes Mews just to the west of the application site.
68. The proposed development has had revisions made to the layout during the course of the application with adjustments to the house types proposed and an overall increase in the number of dwellings from an initially proposed 26 to 29 no. dwellings. The development proposes semi-detached dwellings and terraced properties fronting on Cockhouse Lane which maintains the strong building line adjacent to the main road. Access would be gained from the side street to the west which has the benefit of retaining that expanse of uninterrupted dwellings fronting on Cockhouse Lane sympathetic to the street and terraced character of the area.
69. A mixture of house types are proposed, a matter that Design and Conservation have some concerns with in terms of the degree of variation and suitability of house types to the area given the terraced and quite uniform nature of the local area. This must be

balanced with providing a mix and variety of housing types for proposed occupiers an aim of Policy H12A of the Local Plan.

70. All properties are two storey which compliments the local area. The appearances of the proposed properties have resemblances to other recent residential properties in Ushaw Moor such as St Lukes Mews and those to the south of Broom Lane. The proposed housetypes exhibit simple and traditional design utilising pitched roofs, symmetry to fenestration and use of cills. Officers consider that the proposed dwellings would suitably assimilate into the area.
71. The application site contains no landscape features of significance and no trees of maturity or value would be lost to the development. A couple of young silver birch, a young rowan tree and shrubs would be lost to the development however, these could be more than compensated for within the landscape plan for the redevelopment of the site.
72. The front boundary of the site comprises of an original Victorian wall with railings atop and the proposed development seeks to retain this which would add quality and maturity to the site as well provide an indication to the past school use of the site.
73. Overall the proposed scale and design of the development is considered to be appropriate in the area and the development is considered to accord with Policies E14, H3, H13, Q5 and Q8 of the Local Plan in this regard.

Impact upon Residential Amenity

74. Policies H3, Q8 and H13 of the Local Plan seek to ensure that the amenities of neighbouring residents and land users are preserved through new developments.
75. Policy Q8 of the Local Plan provides advice on the layout of residential development and provides separation distance guidance seeking to ensure that the residential amenity of all occupiers is retained within a development. This guidance states that from a window to a single storey gable 6m separation should be maintained and to a two storey gable 13m should be maintained. This is to ensure that adequate outlook is retained for occupiers and that one development is not too overbearing upon another. In terms of privacy Policy Q8 advises that 21m should remain between the main facing windows.
76. Within the application site itself officers consider that each property is provided with adequate privacy and amenity. Distances between properties are considered to accord with the guidance contained within Policy Q8 of the Local Plan.
77. Some representations from residents residing in the terraces to the north of the application site have raised objections on the grounds of impact upon residential amenity, namely loss of light. It must be considered that with the present site being vacant, properties directly to the north have an open aspect towards the south and any redevelopment of the site will have some impact upon this.
78. The application site slopes significantly from north towards the south. As a result the proposed dwellings will be set on much lower ground than the terraced properties which flank to the north. Indeed the highest points of the proposed properties nearest to those on Temperance Terrace will finish at the approximately the same level as the eaves of the existing adjacent properties. Officers consider that the change in levels will help to reduce the impact upon both loss of light and outlook for the properties on Temperance Terrace. It must also be considered that Policy Q8 of the Local Plan recommends that

13m should remain from a window to a two storey gable to allow for adequate amenity and prevent development from being too close and too overbearing. The separation distances between properties on Temperance Terrace to the north and the proposed dwellings vary between 17.5m and 18.5m. Coupled with the beneficial impact of the change in levels officers consider that the proposed development will not result in harmful levels of reduction in light or outlook for occupiers in Temperance Terrace.

79. With regards to privacy, separation distances from the rear of the northernmost proposed properties and those on Temperance Terrace do fall short of the 21m recommended with Policy Q8 of the Local Plan with distances varying between 17.5m and 18.5m. It must be taken into consideration that the local area is one of a predominantly terraced character with existing properties generally being quite densely arranged and closely positioned from one another. For instance properties on Temperance Terrace and those properties at the Waltons Buildings and Cooks Cottages are located between 10m and 14m apart, which is significantly less separation than the proposed plans would provide between the new dwellings and Temperance Terrace. The levels of privacy residents would have is therefore greater than other properties in the immediate area. It must also be noted that in response to the Council's consultation exercise no objections have been raised with regards to matters of privacy.
80. Officers consider that the separation distances between properties being slightly below that which Policy Q8 advises must be balanced against the more intimate terraced arrangement of properties in the immediate area and indeed more widely the benefits of the vacant site being reused which this development proposes. Officers are satisfied that the impact of the proposed development upon the residents to the north of the application site would be acceptable.
81. The end terrace No. 1 Waltons Buildings flanks the application site to the west and this property has a single window in the gable though this is not understood to be to a main habitable room but to a kitchen. This window would in part flank the side elevation of the plot 19 dwelling but this is a gable end some 12 metres away and this raises no significant residential amenity concerns. The gable end of the proposed plot 1 dwelling flanks No. 32 South View but this property contains only a flanking window to a landing rather than a main habitable room and this again eases concerns over impacts upon amenity.
82. A more awkward relationship with No. 1 Cooks Cottages and the plot 29 dwelling exists. The building line of the proposed northernmost dwellings is such that the rear building lines do project beyond the adjacent terraces commencing with No. 1 Cooks Cottages. Although the gable end of the existing terrace is blank a kitchen offshoot containing windows does flank the plot 29 site and the rear elevation of the terrace contains windows understood to be to a lounge and a bedroom. The proposed layout of the development has altered since first submission including the plot 29 dwelling house type changing from the 401 type to 400 which is a slightly smaller property. The proposed plot 29 dwelling is set in from the shared boundary with the adjacent terrace by approximately 2.5. The proposed property is also orientated so that the roof slopes away from the adjacent terrace to the ridge. Despite the projection beyond the building line of the adjacent terrace the aforementioned aspects of the layout and house type do mitigate impact. Furthermore it must be considered that prior to demolition works on site the former school building, a building of significant scale was sited adjacent to South View similarly projecting well beyond the rear building of those properties. No objections have been received from the occupiers of the property No. 1 South View and officers consider that the relationships created by the development would remain acceptable.
83. Letters of representation which have been received in response to the consultation exercise raise some objection on the grounds of a loss of a view, the devaluing of

property values and difficulty in selling property. The loss of a private view from property and impacts of a development upon the value of property are not material planning considerations to be attributed weight in a planning decision.

84. On balance officers consider that the impacts of the development upon residential amenity both of the prospective occupiers and existing nearby occupiers would be acceptable. In some instances the proximity of the proposed dwellings to neighbouring residential property does not quite accord with the guidance within Policy Q8 of the Local Plan namely the window to window distances between the site and Temperance Terrace whilst the plot 29 dwelling does project significantly beyond the rear elevation of the adjacent terrace No. 1 Cooks Cottages. However, the generally intimate relationships in the local area must be taken into account, some consideration can also be attributed to the impact of the former school which was sited on the land previously and the overall benefits of redeveloping the vacant site should also be considered. Officers do consider it appropriate for permitted development rights for extensions to be removed from the proposed properties so that the Local Planning Authority retains control of future additions to the properties.

Highways Issues

85. Policy T1 of the Local Plan seeks to ensure that new developments are not harmful to highway safety whilst Policy T10 seeks to limit parking provision to encourage alternative modes and transport and reduce the land take of development.
86. The Highway Authority raised initial concern at the originally submitted layout on the grounds of the disjointed arrangement of parking spaces and the gradients proposed on site. The architect has submitted revisions to the layout together with further details on the gradients and levels on site. The objections of the Highway Authority have since been withdrawn. One letter of objection raises concerns with regards to highway safety and the junction with Cockhouse Lane. Since the receipt of this letter, the layout has been revised and access would now be taken from the side street to west which has far slower vehicle speeds and numbers.
87. Parking provision within the site is considered acceptable noting that Policy T10 of the Local Plan seeks to limit parking provision in new development so as to promote sustainable transport choices. The site is within close proximity to bus stops.
88. As a result officers do not raise objection to the proposal on the grounds of harm to highway safety in accordance with Policies T1 and T10 of the Local Plan.

Affordable Housing

89. The provision of affordable housing where a need has been identified is encouraged through PPS3 and Policy 30 of the RSS requires a range of dwelling types and sizes, including affordable housing and alternative forms of tenure, to meet the needs of all sectors of the community. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2008 and supplies the evidence base for 30% affordable housing across the former Durham City area, while PPS3 (Para 29) makes plain the importance of the SHMA in setting targets. Where a developer puts forward an offer of less than 30%, a financial appraisal of the scheme must be undertaken to ensure that the maximum amount of affordable housing is achieved whilst ensuring the scheme remains viable.

90. The application was initially submitted with no affordable housing proposed for the site. The developer considering that the provision of affordable housing would render the development unviable for development. It was proposed that 10% of housing would utilise the Governments "First Buy" scheme a nationally available product which allows eligible first time buyers to purchase homes with the advantage of an equity loan. However, this product is not a PPS3 compliant form of affordable housing recognised by planning.
91. The Councils Estates Team in consultation with planning officers have undertaken both an analysis of the development appraisal provided by the applicant and also undertaken their own development appraisal. The outcome of this appraisal is that it is considered that the provision of 30% affordable housing on the site would indeed render the development unviable. However, it is considered that an off-site contribution of affordable housing the equivalent of 10% of total on site units (3 no. dwellings) could be achieved and still make the site viable to bring forward for development.
92. In liaison with colleagues from housing and assets a sum of £79,976 has been identified as an offsite contribution towards affordable housing equivalent to three units or 10%.
93. The financial contribution towards affordable housing of £79,976 would be ring-fenced from the land sale and transferred to the existing Section 106 account the exact time of transfer to be agreed by Head of Planning and Assets. This sum would then be controlled by the Section 106 working group who would ensure that the monies are used for off site affordable housing within the same electoral division.
94. In conclusion following thorough viability testing the development will provide 10% affordable housing offsite which can then be allocated within the electoral division satisfying the Policy requirements of H12 of the Local Plan and the Strategic Housing Market Assessment.

Impact upon Protected Species

95. When determining planning applications where protected species have been identified, local planning authorities must demonstrate that the decision has been made in the correct manner, particularly that the species has been identified as a protected species and that the LPA has discharged its duty to have regard to the Conservation of Habitats and Species Regulations 2010 which transpose the requirements of the European Habitats Directive into UK law, and any other relevant legislation such as the Wildlife and Countryside Act. Where there is likely to be a disturbance to protected species, caselaw has established that local planning authorities must consider whether the Applicant might obtain a relevant licence from Natural England. This requires an examination of the derogation provisions which also form the basis of the licensing regime. However, the Planning Authority must not usurp the functions of the Licensing body in this regard. It is for Natural England to decide licensing applications, the planning authority must only be satisfied that there is a possibility of a required licence being obtained
96. The application has been accompanied by an ecology report comprising of an extended phase 1 habitat survey and protected species surveys. The submitted report concluded that the site is of little ecological value and the surveys found no evidence of the presence of protected species. It is not considered that the proposed development would cause harm to any protected species, and therefore as there is unlikely to be a need for a licence, it is not necessary to consider the chances of such a licence being granted.

97. The Council's ecologist has commented on the application and no objections have been raised though the mitigation measures suggested within the submitted report are recommended to be conditioned on any approval. These mitigation measures relate to the timing of the removal of trees and shrubs to avoid the bird breeding season and the inclusion of berry bearing species in the landscaping plan. Such a condition can be attached to any approval.
98. No objections are therefore raised to the development with regards to the impact upon protected species in accordance with Policy E16 of the Local Plan, Policy 33 of the RSS and PPS9.

Other Issues

99. Some public objection to the application considers that the development would result in the loss of an area of play space for children. However, the application site is not a parcel of open space either formally or informally laid out which is suitable for play. Though it is possible that children and young people enter the site, the site is essentially an unkempt and semi derelict parcel of land which is not suitable for any recreational activity.
100. Furthermore in accordance with the provisions of Policy R2 of the Local Plan the application has also been accompanied by a S106 agreement proposing a financial contribution towards the improvement of play and recreational facilities in the area.
101. Some public objection raise concerns as to whether refuse services and utilities can cope with the additional homes. Northumbrian Water have submitted comments on the application and no objections are raised in principle. A public sewer is located under part of the application site and agreement would need to be reached on this being relocated which can be ensured by way of a condition. The submitted plans already indicate a proposed easement with regards to this. Details of foul and surface water disposal can be conditioned in accordance with Policy U8a of the Local Plan. With regards to refuse collection, officers do not consider that the provision of 29 additional homes would hinder refuse collection within this part of Ushaw Moor.
102. One public respondent considers that the proposed homes will not become owner occupied but privately rented. The supporting documents to the planning application suggest that the proposed dwellings would be marketed at owner occupiers, likely smaller families and those on modest incomes. Ultimately, whether the properties are owner occupied or privately rented is subject to market forces.
103. PPS23 relates to pollution control in planning and Local Plan Policy U11 relates to contaminated land on development sites. The application has been accompanied by a desk top geo-environmental assessment and this concludes that the overall risk of land contamination is low with no potentially contaminating historical uses of the site. No comments have been received from Environmental Health with regards to the specific content of the report, however. It is considered appropriate that on any approval a condition be attached requiring a detailed scheme of investigation into whether contaminants are present on site and measures to mitigate such potential site contaminants.
104. Environmental health do consider that there is the potential for noise disturbance during works and it is recommended that a condition restricting working hours is attached to any permission. Environmental Health also consider that the working methods and use of plant and machinery should be in accordance with BS5228 Noise and Vibration Control on Construction and Open Sites. It is also recommended that a condition be attached requiring the submission of a dust assessment and controlling methods. All

waste material must be disposed of in the correct and proper manner and the burning of any materials on site shall be prohibited.

105. Officers consider that a condition should be attached to any approval limiting the hours at which works can occur. The application has been supported by a construction and site management plan which also looks to address matters of dust suppression and noise from the development. With this in mind and the controls Environmental Health have under their legislation and remit it is not considered necessary to add further conditions with regards to such matters on any approval.
106. The application has been supported by a sustainability statement and the Councils senior low carbon officer considers that 10% on site energy reduction may be achieved on site though the submitted statement does not fully demonstrate this or expand on renewable energy options. Policy 38 of the RSS seeks to ensure that all major development proposals a 10% energy efficiency reduction is achieved. The Local Planning Authority has a standard condition which can be attached to any approval to ensure that such a scheme is devised and this condition is recommended for attachment on any approval.
107. Policy Q15 of the Local Plan seeks the provision of artistic elements in design and public art features. The Council supports the principle of “percent for art” encouraging developers to allow a pre-agreed proportion of the capital cost of development to commission art works. The applicants have submitted a section 106 agreement which includes a financial contribution being made towards public art.

CONCLUSION

108. This proposal seeks to provide residential development on previously developed land within an existing settlement close to services and facilities. The proposed development is considered to represent a sustainable development and a sequentially preferable use of land. The principle of the development is considered wholly appropriate.
109. The Council has thoroughly assessed the viability of the site and levels of affordable housing that could be achieved without rendering the development unviable. An off-site financial contribution to the equivalent of 10% on site affordable housing is considered to be appropriate taking into consideration the need to provide affordable housing whilst taking into account economic viability. Financial contributions towards public art and open and recreational space are also proposed by the applicant.
110. The proposed development is considered to cause no detrimental impact upon the character or appearance of the area and the amenities of both prospective occupiers and existing nearby residents would be maintained through the development.
111. No objections to the development are raised on grounds of highway safety and no other objections on material planning grounds are raised with regards to the development.
112. As a result approval of the application is recommended.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions and subject to the entering into of a Section 106 agreement to secure:

- the payment of a commuted sum for the provision or improvement of amenity space/play space equipment of £29,000;
- the payment of a commuted sum towards the provision of public art works of £8, 551.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

SD701

SD704

SD (Garage threshold/Drive) received 21st October 2011

201/1A

301/1B

303/1A

310/1 received 16th December 2012

GH8:L:06A received 27th January 2012

400/1 received 13th February 2012

GH8:L:01 rev I

GH8:L:07

GH8:L:03F

GH8:L:04F

GH8:L:05C received 22nd February 2012

Reason: To define the consent and ensure a satisfactory form of development having regards to Policies E14, E16, H3, H12, H12A, H13, T1, T10, R2, Q3, Q5, Q8, Q15, U5, U8A and U11 of the City of Durham Local Plan 2004.

3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity having regards to Policy Q8 of the City of Durham Local Plan 2004.

4. The hereby approved development shall be carried out in accordance with the submitted landscaping scheme as shown on plan GH8:L:03F. The landscaping works shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the provision of an adequate landscaping scheme in accordance with Policy Q5 of the City of Durham Local Plan 2004.

5. No development approved by this permission shall be commenced until:
- a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the LPA;
 - b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
 - c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
 - d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
 - e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

Reason – To remove the potential harm of contamination in accordance with Policy U11 of the City of Durham Local Plan 2004.

6. No development shall take place unless in accordance with the mitigation measures detailed within section 8 of the submitted ecology report dated 18th October 2011 undertaken by Elliot Environmental Surveyors.

Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004.

7. No construction works shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am to 12 noon on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policy H13 of the City of Durham Local Plan 2004.

8. Notwithstanding the information submitted and prior to works commencing, a detailed scheme for the disposal of foul and surface water including full details of a sewer diversion scheme shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and implemented in accordance with the approved scheme thereafter.

Reason: To prevent pollution of the water environment and in the interests of appropriate drainage of the site in accordance with Policy U8A of the City of Durham Local Plan 2004 and Planning Policy Statements 23 and 25.

9. Prior to the commencement of development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to the first occupation and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policy U14 of the City of Durham Local Plan and Policy 38 of the Regional Spatial Strategy for the North East.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A, B or E of Part 1 of Schedule 2 of the said Order shall be carried out.

Reason: In the interests of preserving residential amenity in accordance with Policy Q8 of the City of Durham Local Plan 2004.

REASONS FOR THE RECOMMENDATION

1. The proposed development is considered to be an acceptable development in principle reusing previously developed land within an existing settlement for residential purposes. No objections are raised with regards to the impact of the development upon visual amenity, the amenity of neighbouring occupiers, highway safety or harm to protected species. The application has been accompanied by a S106 agreement proposing contributions towards affordable housing, public open space and public art. The application is considered to accord with the requirements of Policies E14, E16, H3, H12, H12A, H13, T1, T10, R2, Q3, Q5, Q8, Q15, U5, U8A and U11 of the City of Durham Local Plan 2004.

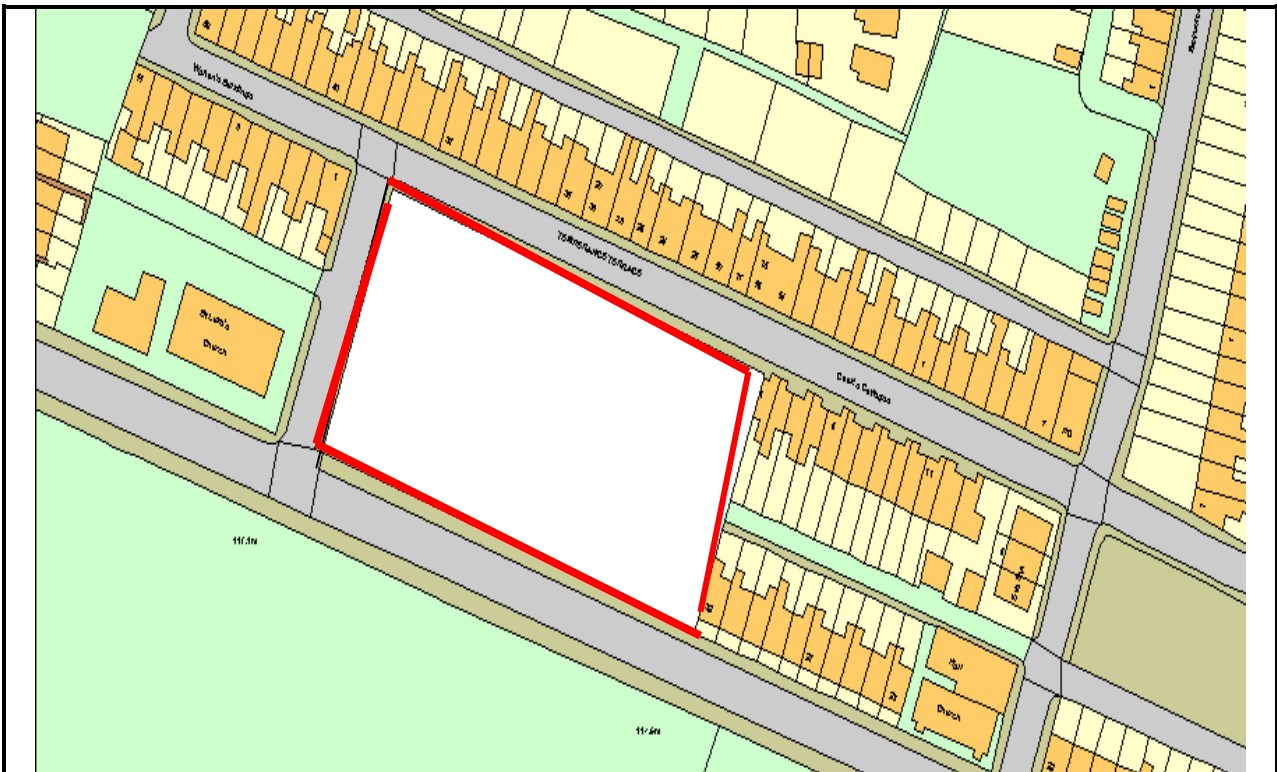
This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 and the City of Durham Local Plan 2004 which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. Due regard has also been given to the discharge of obligations required by the Conservation of Habitats and Species Regulations 2010.


2. More specifically, this proposal represents a suitable re-use of currently vacant previously developed land within an established settlement. The design and layout of the development is considered appropriate to the area. A detailed assessment of the provision of affordable housing taking into account site viability has been undertaken with off site provision to the equivalent of 10% of the total site units considered acceptable.
3. Public objection to the proposal relates to loss of a view, the impact upon residential amenity, property values, loss of children's play space, impact upon local refuse collection, utilities and highway safety. Matters of property values and loss of a private view are not material planning considerations. Key material planning considerations including impact upon highway safety and residential amenity have been considered and impacts deemed acceptable. The site is not considered to constitute a formal children's play space that should be protected for this purpose. The scale of the development considered to cause no detriment to local utility servicing or refuse collection.

BACKGROUND PAPERS

Submitted Application Forms and Plans and supporting documentation
Submitted Design and Access Statement, Planning Statement, Affordable Housing Statement and Statement of Community Involvement

City of Durham Local Plan 2004
 Regional Spatial Strategy for the North East
 Draft National Planning Policy Framework
 Planning Policy Statements 1, 3, 9, 23 and 25 and Planning Policy Guidance Note 13
 County Durham Strategic Housing Market Assessment
 Responses from The Highway Authority
 Response from Northumbrian Water
 Response from Parish Council
 Internal consultee responses
 Public responses
 Planning Circulars 11/95



 <p>Durham County Council</p> <p>Planning Services</p>		
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