



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/24/03056/FPA
Full Application Description:	Erection of 1no. dormer bungalow
Name of Applicant:	Mr Bradley Dickson
Address	Land South Of Co-Operative Funeral Service Front Street Sherburn Hill
Electoral Division:	Sherburn
Case Officer:	Mark Sandford (Planning Officer) Tel: 03000 261156 Email: <a href="mailto:mark.sandford@durham.gov.uk">mark.sandford@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site comprises a rectangular parcel of land used as an allotment on the edge of Sherburn Hill village, to the south of a service property (Co-operative Funeralcare Services). The site is bounded by open countryside to the west and south, separated from the funeral parlour by an unmade track servicing storage garages to the north and another allotment is to the east. The land slopes heavily downward from north to south to the extent that the proposed dwelling would be split level. The site is accessed by an unadopted metalled road which is primarily the access for the funeral parlour and also serves as off-street parking for its clients and staff.
2. The site is not covered by any national or local landscape designations but lies adjacent to an Area of Higher Landscape Value, SSSI and Local Wildlife Site. None of the trees within/adjacent to the site are covered by TPOs. Shadforth Parish Public Rights of Way 3 and 15 lie to the west and south of the site (respectively).

### 3.The Proposal

4. The application seeks full planning permission for the erection of 1no. four bedroomed dormer bungalow, associated domestic curtilage including block paved hardstanding and parking area.
5. The application is being reported to (Central and East) Planning Committee at the request of the local ward member (Councillor David Hall) as he believes it is important to the life of the village that local people are able to make their home there.

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## **RELEVANT PLANNING HISTORY**

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6. There is no relevant planning history relating to the application site.

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## **PLANNING POLICY**

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### **National Policy**

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. *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.
9. *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.
10. *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.
11. *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.

12. *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.
13. *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.

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

### **Local Plan Policy:**

The County Durham Plan (CDP)

14. *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.
15. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
16. *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.

17. *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.
18. *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.
19. *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.
20. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* requires all residential and commercial development to 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.
21. *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.
22. *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.

23. *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.
24. *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.
25. *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.
26. *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.
27. *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.
28. *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.
29. *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.

#### Supplementary Planning Documents

30. Development Viability, Affordable Housing and Financial Contributions SPD (2024) – Provides guidance on how CDP Policy 25 and other relevant policies requiring planning obligations for affordable housing or other infrastructure will be interpreted and applied.
31. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
32. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

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

#### Neighbourhood Plan:

33. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

*The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### Statutory Consultee Responses:

34. Town / Parish Council – No comment received
35. Highways Authority – The Local Highway Authority raises no objections to this proposal. However, it should be noted that as the property would be served by an unadopted/private road, the DCC refuse vehicle could not enter the site to collect the refuse from the property.

Therefore, refuse would either need to be collected by a private collection, or bins would need to be taken to the nearest adopted highway and then returned to the site, on the day of collection.

#### Internal Consultee Responses:

36. *Spatial Policy* – The proposed dwellinghouse on this site would need to be assessed against Policies 6 and 10 of the CDP. The issues to consider relate to encroachment into countryside and relationship to the settlement pattern/form and associated landscape and visual impact to the character and appearance of the area. The close proximity of the existing funeral parlour and impact on that business will need to be acceptable.
37. *Landscape Section* – It is doubtful whether the proposed development could be considered as well related to the settlement, or appropriate back land development
38. *Ecology* – The supplied PEA is sufficient to inform the application and no further survey is required. Condition relating to Section 7 of the PEA is required. The LWS adjacent the site is unlikely to be negatively impacted upon by this proposal.
- If the application is self or custom build then it is exempt from BNG.
39. *Public Rights of Way Section* – The application would not have a direct impact on public rights of way.
40. *Environmental Health and Consumer Protection (Nuisance)* – No objection subject to hours of construction conditions. Proposal is unlikely to cause a statutory nuisance.
41. *Environmental Health and Consumer Protection (Contamination)* – No adverse comments to make. There is no requirement for a contaminated land condition. Standard informative should be added.

### **Public Responses:**

42. The application has been advertised via direct letters to the surrounding properties, site notice and published on the Weekly List of planning applications.
43. The following representations have been received in relation to the application:  
1no. letter of objection from the Co-op group representing the Co-operative Funeralcare Services property to the north of the site.
44. These are summarised under the relevant headings below:

#### Objections

##### *Principle*

- The proposal would have a negative impact on the Co-op funeral business due to its naturally discrete nature, specifically that the properties windows would overlook the rear elevation of our premises which will impact upon the ability to provide a respectful and discreet operation for customers and the deceased.

##### *Design*

- The submitted documents make no assessment of the impact of a residential dwelling within the open countryside and within a sensitive landscape area.

#### *Ecology*

- The site is in close proximity to a SSSI and Local Wildlife Site

#### *Other Matters*

- The LPA will be aware that the applicant served a Notice upon the Co-op as there was a covenant applied to the Title when the land was sold by the Co-op in 1993 which states that the land cannot be used other than as an allotment garden, contrary to the current application. Without lifting the covenant the house cannot be constructed. The covenant was applied to ensure the long-term viability of the funeral care business.

### **Elected Members**

45. Councillor David Hall supports the application.

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

### **Applicants Statement:**

46. The applicant has elected not to submit a supporting statement.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
48. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
49. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Visual Impact, Highway Safety, Residential Amenity, Drainage and Flood Risk, Ecology/BNG, Ground Conditions Land Stability, Planning Obligations Other Matters, and Public Sector Equality Duty.

### **Principle of Development**



50. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
51. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 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.
52. The site comprises a rectangular parcel of land currently used as an allotment and accommodating a storage building, located to the south of a funeral parlour. A pre-application enquiry was submitted under reference PREAPP/24/00238 for a similar development (the only aspect that has been changed is the shape of the proposed dwelling). The enquiry received a largely negative response, advising that the location of the site and its relationship to the settlement would be unlikely to be considered acceptable for residential development in regard to CDP Policies 6 and 10.
53. Within the CDP the site is treated as a windfall proposal. Policy 6 (Development on Unallocated Sites) and Policy 10 (Development in the Countryside) are both relevant in assessing the proposal. This is in recognition of the definition of the built-up area within the CDP and that sites outside of, but well related to a settlement should be assessed against both policies.
54. The CDP defines the built up area as land contained within the main body of existing built development of a settlement, or is within a settlement boundary defined in a Neighbourhood Plan, and states that areas falling outside this definition will be regarded as countryside. The supporting text to this policy advises that when assessing whether a site is well-related, the physical and visual relationship of the site to the existing built-up area of the settlement will be a key consideration.
55. Policy 10 states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan (those listed in footnote 54) or meets the exemption development listed in Policy 10 itself. The development does not meet any of the exemptions of Policy 10 and as such it must be considered whether another Policy would be relevant.
56. One of the instances in which new housing in the countryside is permissible is where the development accords with Policy 6. This states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which

are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies criteria a-j of Policy 6

57. The site is not located within the settlement being outside of its built form as defined by the CDP. It is debatable as to whether the site is well-related to the settlement given its relationship to the built form and settlement boundary and as such it is questionable as to whether support can be garnered from Policy 6.
58. The criteria of Policy 6 are as follows
  - a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
59. The dwelling would be constructed to the rear of the existing Co-operative Funeralcare Services which is a well established business of many years. Funeral directors' premises/parlours provide an important and necessary community function and are generally well-related to and located close to their catchment areas. This allows them to provide a local service for people within the locality during a time of bereavement and distress. A funeral director's use is, by its very nature likely to be quiet and discreet in order to provide this essential service to the public and where it is located within a settlement can have an important bearing on it being able to achieve this.
60. It is considered that the introduction of a new dwelling in close proximity to the parlour, particularly one which would require shared use of its main access (which also serves as off-street parking) would potentially impact on how it operates, as well as potentially result in the new dwelling having substandard amenity through access conflicts. The NPPF is clear that planning decisions should ensure that new development can integrate effectively with existing businesses and community facilities. It goes on to stipulate that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
61. A letter of objection was received from the Co-op funeral parlour with concerns raised in regard to how the proposal could potentially affect persons attending the parlour. A rebuttal letter from the agent for the application was received which took into account aspects of the objection in regard to overlooking/privacy from the proposed dwelling to the funeral building itself. However, with a four bedroomed property proposed there would, with some certainty, be incidences when persons accessing or exiting the property would need to walk or drive past/through individuals and groups attending the funeral business. Given the access to the property would be shared with the funeral home, as well as it being used for parking of attendees vehicles, the potential for conflicts arising

would be caused by the development. It is further noted that the access road is not adopted and as such DCC refuse vehicles would not collect from the proposed property and any future occupiers would need to manually drop off and retrieve their bins over a distance of some 70m along the access road to Front Street for collection.

62. On this basis, there is considered to be some conflict with the proposed introduction of a new dwelling in this location sharing an access with a funeral parlour, particularly as the dwelling would create a higher intensity of use by comparison to the existing allotment use. As such, there is some concern that the proposed development would conflict with policy 6a as outlined above.
  - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
63. Due to the location of the site to the rear of the funeral parlour and 1-5 Brighton Terrace, the proposal would represent backland development. Key visual receptors would be from users of PRoW 3 and 15 (Shadforth Parish) to the west and south of the site, although views would likely be intermittent due to existing vegetation. The southern side of Sherburn Hill is typified by dwellings with allotments located to their rear, which is reflected by this site which comprises of an allotment located to the rear of the funeral parlour.
64. The application includes a Site Location Plan which indicates the applicant's opinion that the current building line relevant to this site is taken from the rear elevation of a single property (no. 21 Pennine View). This angled line would be inclusive of the application site to the settlement.
65. Whilst there are two dwellings at Pennine View to the east that would sit as far south as the proposed bungalow, Pennine View was a comprehensive development with its own dedicated access that was granted outline consent in 2005, with the reserved matters subsequently approved in 2007. According to historic aerial imagery, from the 1890's that site was occupied by a row of terraced housing with allotment gardens to the rear until the 1950's, with a commercial garage present on the site from the 1970's until this was demolished and replaced with the residential development now known as Pennine View. At that time, the redevelopment of that site incorporating the removal of a dilapidated commercial garage in a prominent position when entering the settlement from the east was considered to provide a regeneration benefit that outweighed other policy conflicts. As such, the Pennine View development is not comparable to the development proposed by this application.
66. It is however the opinion of the LPA that the settlement pattern is defined by the line of properties to the south of Pennine View and Brighton Terrace, which would exclude the application site. In this context the proposed dwelling would read as a clear incursion in the countryside.
67. Potential conflicts with regard to the access to the property, as well as amenity concerns with clients of the funeral parlour have already been highlighted above

strengthen the case against the appropriateness of the proposed backland development. Given this, the sites visual separation to the settlement and the open countryside adjacent to the site to the west and south, it is considered the proposal is contrary to the character of the settlement and would represent inappropriate backland development.

- c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
68. The site is not accessible open space identified in Open Space Needs Assessment (OSNA) and is not covered by any designations. The site does however immediately abut Sherburn Hill Local Wildlife Site (LWS) to the west. Policy 43 specifies that all development proposals in, or which are likely to adversely impact upon a LWS will only be permitted when it can be demonstrated that the benefits of development in that location outweigh the impacts on the local nature conservation interest or scientific interest on the site and any wider impacts on the network of sites. The Ecology Team consider that any effects on the LWS would not be significant.
69. The site does however contribute positively to the character of the settlement in its existing use as allotment land, maintaining a strong planted settlement edge in keeping with nearby allotment sites to the east and the LWS to the west. It is considered that the construction of a dwelling on the site would disrupt this arrangement and negatively impact on the character of the locality, introducing built development further south of the settlement edge, along with associated domestic clutter in the rear garden area. The proposal does therefore result in the loss of open land that contributes to the character of the area and it is not considered that this can be adequately mitigated.
- d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
70. A single dwelling is consistent with the role and function of Sherburn Hill.. However, it is of a modern and detailed appearance which is somewhat at odds with the character and design of the dwellings and properties closest to it, but it is acknowledged in the wider streetscene other modern dwellings can be found. However, as explored above, it is considered the proposed location of the dwelling in relation to the form and setting of the settlement causes conflict under this criterion, as it reads as an incursion into the countryside, disrupting the settlement edge bringing development out of line with its immediate surroundings. In this location, the erection of a dwelling is therefore not deemed appropriate and harms the character and appearance of the setting of the settlement. In addition, although a dormer bungalow where it faces into the village on its northern elevation, its rear elevation would be two storey in height and would be sited in a prominent position overlooking a significant drop in land levels heading south, making it visible and potentially more conspicuous in this location. As such its two storey height and scale in this location is not deemed appropriate and would impact further on the character of this part of the settlement which is given over to the planted green allotment area.

- e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
71. The proposed property would provide adequate off-street parking for its size and the applicant has indicated in submitted information that the site has a right of access over the funeral parlour's access road. In these circumstances it is considered that the development would not result in unacceptable harm to highway safety in relation to access to the adopted highway and in terms of in curtilage parking. There remains some concern over the potential for conflict with future occupiers of the dwelling seeking access and egress from their property during busy times at the funeral parlour. It is accepted that this would be a civil matter between the two parties to resolve.
- f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
72. The site is within walking distance of the limited service offerings of Sherburn Hill, as well as to bus stops which provide at least one reasonably frequent service (the no. 24 half-hourly between Sunderland and South Shields) to other settlements which provide a broader offering of services, shops and job opportunities. The plans show an EV charging point would be included in the development and as such it is considered there would be no conflict with this criterion.
- g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
73. This is not directly applicable to this proposal given the site is an allotment.
- h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
74. The site is located in Flood Zone 1 which is at lowest risk of flooding and it is proposed to connect the dwelling to mains sewage. With the provision of surface water drainage details it is considered there would be no conflict with this criterion.
- i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
75. The proposal would not utilise brownfield land, however this is not an absolute requirement of criteria (i).
- j. where appropriate, it reflects priorities for urban regeneration.
76. The development would not align with any specific regenerative initiatives.
- 77.

78. Given the above, it is considered that the proposals conflict with several criterion of CDP Policy 6 and indicate that the development does not have an acceptable visual relationship with the settlement being poorly related to it.
79. As the proposal conflicts with Policy 6 and none of the other exemptions with Policy 10 are applicable, the development would also not comply with Policy 10 and as such it is considered the principle of the development is unacceptable.

### **Visual Impact**

80. Part 12 of the NPPF supports development of high quality design. CDP Policy 29 (Sustainable Design) seeks to ensure that all development proposals achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions.
81. The site is not within a Conservation Area or any landscape designations. However an Area of Higher Landscape Value (AHLV) abuts the application site to the south. The predominant house type in the immediate area is two storey traditional terraced dwellings, with the exception of the funeral parlour being single storey and detached, and a distanced two storey detached church to the west. The proposed property would be split level, having a single storey frontage and two storey rear, presenting as a detached dwelling. The property would have an overall modern appearance which somewhat conflicts with the other properties which would be visible in the same streetscene as it, however it is acknowledged that further to the east, the properties of Pennine View are of modern design.
82. While there is some design discrepancy with the local vernacular it is further acknowledged that the site is set well back from all other properties and its visual impact in terms of design when viewed from within the village would not be considered problematic. Limited details have been submitted in terms of materials, as such a dischargeable condition in relation to their submission would be required. However, as already outlined, because it is set well back from other properties, there remains concern over its siting in this location which is considered disruptive to the predominant character at this part of the settlement edge, characterised by allotment and open green spaces which seamlessly connects with the adjacent AHLV to the south. The dwelling in this location would interrupt the settlement edge and further, with a two storey elevation facing across an area of land that drops significantly, it would be visible across the landscape and would be considered to cause harm to the setting of the village, which from this side, currently sits unobtrusively in the landscape.

83. In light of the above it is considered that the proposal due to its siting represents an unacceptable form of development that would be harmful to the character and appearance of the settlement edge and would not be well related to the settlement contrary to Policies 6, 10 and 29 of the CDP and Part 12 of the NPPF.

### **Highway Safety**

84. Policy 21 of the CDP 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 must also have regard to Parking and Accessibility Supplementary Planning Document.
85. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
86. The access to the property would be the existing shared access road with the Co-op Funeralcare business which is unadopted/private which joins Front Street/B1283 to the north. The submitted plans show 4no. off-street parking spaces within the curtilage of the property which would satisfy the Parking and Accessibility SPD requirements.
87. As mention above, the site is considered to be in a sustainable location being within walking distance of the facilities within Sherburn Hill and bus services which provide access to settlements with a greater variety of services and shops. The plans show provision of an EV charging point which again is in line with the SPD and the sustainable transport goals of Policy 21 of the CDP and NPPF. The Councils Highways team have assessed the proposal and raised no objection in terms of highway safety.

### **Residential Amenity**

88. CDP Policy 6 and 31 seeks to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided. Part 8 of the NPPF requires planning decisions to ensure healthy living conditions and emphasises the importance of securing healthy places. Part 15 of the NPPF requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution. Part 15 further seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions.

89. The Councils Nuisance Action team were consulted as part of the proposal and made the observation that the site is regarded as being rural, with residential and commercial properties nearby, surrounded by agricultural type land. Noting that there were no major roads nearby the noise levels at the site should be relatively low and comply with thresholds stipulated in the Technical Advisory notes (TANs). Due to this it was considered that with a suitable condition for a Construction Management Plan to restrict hours of construction, that no objection would be raised and the development would be unlikely to cause a statutory nuisance.
90. In relation to neighbouring properties, the proposed dwelling would be well separated from the residential dwellings to the east (Brighton Terrace), as well as being off-set from them. There are no other properties to the south and west (being open countryside) and more than 21 metres separation distance would be achieved with the funeral parlour to the north. Given the orientation and limited height of the structure due to the sloping site, the development would not unduly overshadow or be over dominant to its neighbours.
91. Policy 29 requires all new residential development to achieve compliance with the Nationally Described Spatial Standard for internal dimensions. For the purpose of assessment the property was originally submitted as a 4 bedroomed 6 person dwelling. Following advice from the case officer due to the property not meeting minimum standards for this designation, it was changed to a 4 bedroomed, 5 person, two storey dwelling. Following this change, the proposal meets the minimum NDSS requirements, although it is noted that no storage is depicted on the plans which would need to be addressed. The proposal would exceed the minimum garden size requirements of the Residential Spatial Standards SPD (RAS SPD).
92. The proposal therefore, is considered acceptable in this respect of Policies 6, 29 and 31 of the CDP and the Council's RAS SPD and would not have any unacceptable impact upon the residential amenity of neighbours or future occupiers.

### **Drainage and Flood Risk**

93. CDP 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.
94. Whilst CDP 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.

95. The development is proposed to be connected to the mains sewer for the disposal of foul sewage which is acceptable. Details of the means of disposal of surface water have not been provided to date. Responsible means of drainage and demonstration of such would need to be submitted by means of dischargeable condition. It is therefore considered taking into consideration the attached condition that the development would accord with Policies 35 and 36 of the CDP.

### **Ecology and Biodiversity Net Gain**

96. Policy 41 of the CDP states proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks. Measures should be appropriate, consistent with the biodiversity of the site and contribute to the resilience and coherence of local ecological networks.
97. In England, BNG became mandatory from 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)(small scale sites 2 April 2024), requiring that developers, unless meeting certain exemptions, must deliver a BNG of 10%. This means a development will result in more or better quality natural habitat than there was before development.
98. In terms of this application BNG exemption has been submitted advising that the applicants propose to develop land as described in the application themselves for their own occupation and do not propose its sale as market housing (in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)).
99. It is accepted that a self-build/custom build dwelling is eligible for an exemption from mandatory biodiversity net gain provisions, as such in the interest of good planning, it is essential to ensure that the dwellings is suitably occupied and constructed for the purpose of the exemptions and therefore if planning permission were to be granted, it would be necessary for the owner to enter into a Section 106 obligation to secure future occupation as a self build dwelling..
100. Notwithstanding the above, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks, and NPPF Paragraph 187 advises that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. NPPF Paragraph 193 d) also 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.

101. The application is supported by a Preliminary Ecological Assessment which the Council's Ecologist has assessed. The information provided was considered sufficient to inform the application and no further surveys were required. Subject to the conditioning of Section 7 (Impact Assessment and Mitigations) of the PEA, no objection is raised.

### **Ground Conditions and Land Stability**

102. Part 14 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. In line with this, CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that: a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development; b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and c. all investigations and risk assessments have been undertaken by an appropriately qualified person.
103. Environmental Health have assessed the proposal and consider that there are no adverse comments to make. The standard contaminated land informative should be included.

### **Planning Contributions**

104. CDP Policy 25 states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs.
105. Policy 25 goes on to state that developers will be required to enter into Planning Obligations which are necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind to the development, in order to secure the mitigation that is necessary for a development to be acceptable in planning terms. In this regard, CDP Policy 25 reflects NPPF Paragraphs 55 and 57.

### *Green Infrastructure*

106. CDP Policy 26 (Green Infrastructure) requires proposals for new residential development 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 secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. On small-scale development, a contribution towards green infrastructure/open space

improvement is necessary to make residential development acceptable in planning terms on account that the future residents of these proposed houses would be using the open space in the vicinity and wider area in which the new house(s) would be situated. It is therefore directly related to the development, and fairly and reasonably related in scale and kind to the development (para 57, NPPF).

107. A planning application for a single dwelling should provide an off-site contribution towards GI/open space provision instead of seeking on-site provision. A scheme of 1 unit would generate a minimum of 2.2 people based on 2021 census data of 2.2 persons per household. The scheme would fall into the 1st category of Table 19 where a contribution should be sought for all typologies of open space. Table 16 of the OSNA sets out the costings, therefore the contribution should be:  $2.2 \times \text{£}790.50 = \text{£}1,739.10$ . (Based on the 50% reduction in recognition that the cost to upgrade facilities can be less providing new facilities altogether). In the event that planning permission was to be granted, the contribution would need to be secured by Planning Obligation.

## **Other Matters**

### *Measures to Minimise Carbon Emissions*

108. Policy 29 of the CDP criteria c) and d) require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources. Limited information has been submitted in terms of the properties net zero credentials, and as such dischargeable conditions would be required for the submission of full details.

### *Broadband Connection*

109. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be a replacement dwelling located within a residential area. Given this, the broadband connectivity would be delivered as the connection is already provided for the existing dwelling. As such it does not appear that there would be any significant constraints to delivering the connectivity in accordance with the requirements of Policy 27 of the CDP. A dischargeable condition to ensure this requirement is met would be required.

### *Other Issues Raised*

110. The Co-operative group submitted an objection to the proposal which included information regarding a restrictive covenant pertaining to the use of the land which is subject to this application. The covenant is said to be in favour of the co-op's adjoining land and restricts the use of the application site to allotment garden only. The applicant submitted information during the course of the application on 13/01/25 that an 'in principle' agreement had been reached with

the Co-op as to removal of the covenant. Information later submitted by the Co-op themselves has confirmed that the agreement to do so was never secured and have confirmed that it would not agree to removal of the covenant in an email to the applicants agent dated 13/03/25.

Whilst matters of legal covenants are entirely civil and separate from the planning decision these details are provided for information only.

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## **CONCLUSION**

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111. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material consideration indicate otherwise. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date 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 the plan should not be followed.
112. In relation to the principle of the development, the application site is not within a built-up area nor well-related to the settlement by virtue of its location and characteristics, constituting inappropriate backland development. The site is within the open countryside and therefore, there is no policy support in principle for the development.
113. It is considered there are no public benefits to the scheme which would outweigh the policy conflicts in this instance.
114. The proposal therefore, is considered to be contrary to Policies 6 and 10 of the County Durham Plan and is recommended for refusal

### Public Sector Equality Duty

115. 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.
116. 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:

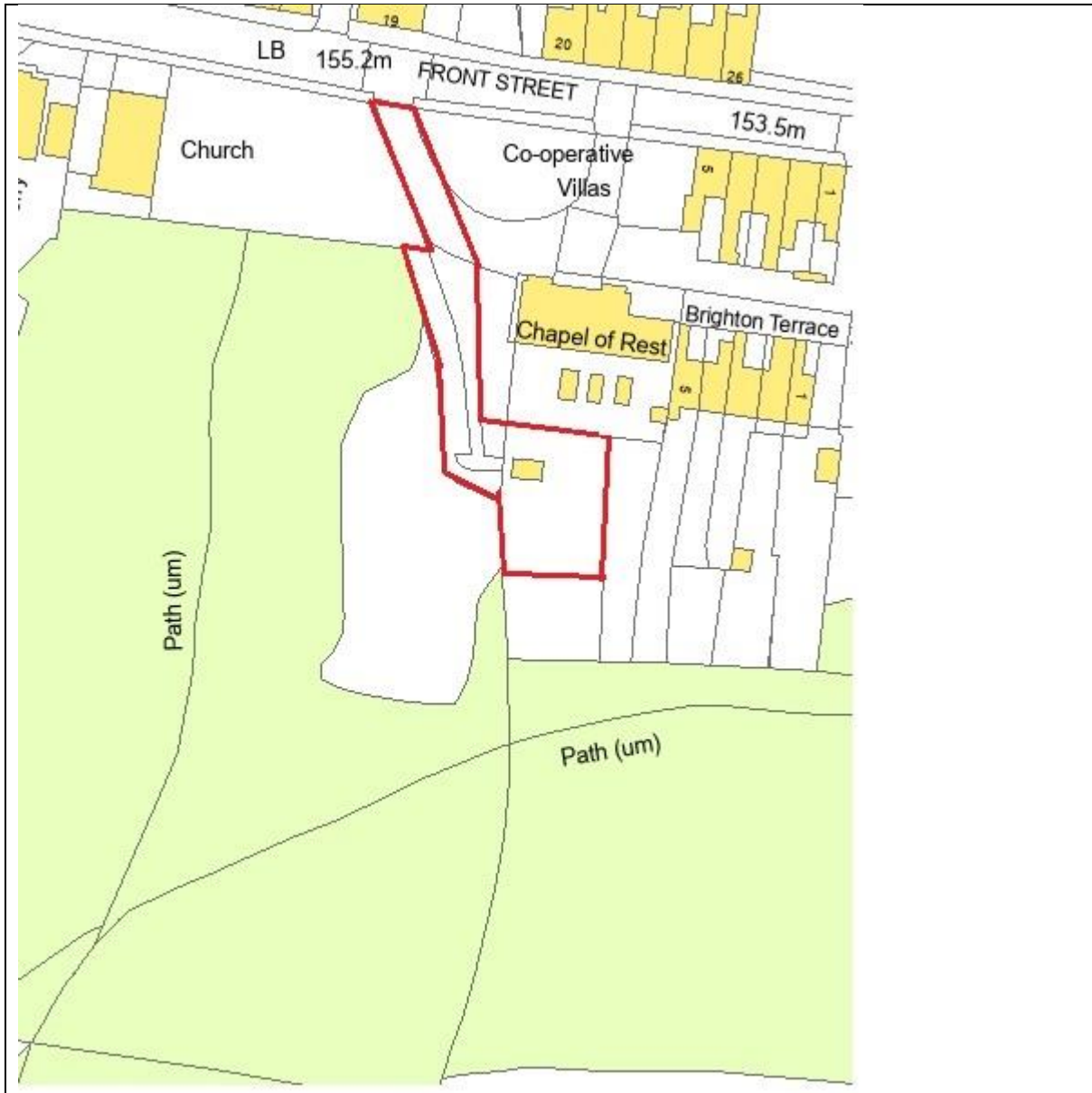
1. The application site lies within the open countryside in a position that is outside of, and not considered well related visually to, the settlement of Sherburn Hill and is not considered to accord with any of the exceptions listed as acceptable through Policy 10 of the County Durham Plan, nor deemed permissible by other specific policies in the Plan as outlined at footnote 54, in particular Policy 6. The existing allotment site contributes positively to the character of the settlement and the proposed development would represent an unwelcome urban incursion into the open countryside. The principle of the development in this location is therefore considered unacceptable.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
National Planning Practice Guidance Notes  
County Durham Plan (2020)  
Development Viability, Affordable Housing and Financial Contributions SPD (2024)  
Residential Amenity Standards SPD (2023)  
Parking and Accessibility SPD (2023)  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



**Planning Services**

Erection of 1no. dormer bungalow

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**Comments**

Date: 20/03/2025