

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	4/11/00805/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline planning application for the erection of 24 no. dwellings with detailed approval sought for means of access only
<b>NAME OF APPLICANT:</b>	Mr John Frampton
<b>ADDRESS:</b>	The Pottery Front Street Coxhoe Durham DH6 4AX
<b>ELECTORAL DIVISION:</b>	Coxhoe
<b>CASE OFFICER:</b>	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a site of the former Coxhoe Pottery and the remnants of old brick buildings remain on the site. An access road leading from Front Street runs through the northern section of the site and provides access for 2 no. properties. The site also contains a vacant property known as Fairview. The remainder of the site is essentially an overgrown field and contains trees and hedging. A grouping of mature trees subject to a recent tree preservation order line sections of the southern and eastern boundary. Residential properties are located to the north and west with open fields to the east and south.
2. The site is located adjacent to but outside the settlement boundary of Coxhoe and is located at the southern end of the village close to the A177.

### The Proposal

3. This application seeks planning permission for a residential development. The indicative layout and information supplied with the application proposes 24 no. dwellings with a mix of 2, 3 and 4 bed properties including detached, semi-detached and terraced properties.
4. The only detailed matter requested for consideration under this application relates to the access. Matters of the appearance, layout, landscaping and scale of the development

are reserved. The existing access would be improved to adoptable standard with a road width of 4.8m. In order to cater for the required adoptable road a section of hedge to the front of Nos. 15-22 Belgrave Court would be removed as part of the works.

5. This application is being referred to Committee as it constitutes a major development.

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## **PLANNING HISTORY**

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6. There is no history of planning applications with regards to this site.
7. Of interest planning permission was granted for the development of a wildlife habitat on land to the south of the application site in March of this year.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
10. The following elements are considered relevant to this proposal;
11. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
12. *NPPF Part 4 – 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.
13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.

14. *NPPF Part 7 – Requiring Good Design.* 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.
15. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
16. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at:*

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

## **REGIONAL PLANNING POLICY**

18. *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.
19. In July 2010 the Local Government Secretary signalled 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 when the forthcoming Local Government Bill becomes law. 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:
20. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.

21. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
22. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
23. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
24. *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.
25. *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.
26. *Policy 31 - Landscape Character* seeks to promote development appropriate to the special qualities of locations specifically designated for their landscape quality and seeks to promote appropriate management of these areas through the use of integrated management initiatives and character based planning tools.
27. *Policy 32 Historic Environment* requires planning proposals to conserve and enhance the historic environment.
28. *Policy 33 - Biodiversity and Geodiversity* requires planning proposals to ensure that the Region's ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels.
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.
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 E7 - Development in the Countryside* advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
32. *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.
33. *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.

34. *Policy E24 - Ancient Monuments and Archaeological Remains* sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
35. *Policy H5 - New Housing the Countryside* sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
36. *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. 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.
37. *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.
38. *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.
39. *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.
40. *Policy T21 - Safeguarding the Needs of Walkers* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
41. *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.

42. *Policy R11 - Public Rights of Way* states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.
43. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility* states that the layout and design of all new development should take into account the requirements of all users.
44. *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.
45. *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.
46. *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.
47. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
48. *Policy U8a - Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. 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.
49. *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.
50. *Policy U14 - Energy Conservation – General* states that the energy efficient materials and construction techniques will be encouraged.

*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>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

51. The Coal Authority have raised no objections.
52. The Highway Authority have been consulted on the application and the revisions to access arrangements were requested. Revised plans were received during the course of the application and considered acceptable.

53. Northumbrian Water have stated that their sewers cross the site and a scheme to divert or relocate the sewers must be agreed.
54. Coxhoe Parish Council have raised concerns over traffic generation and a request made that the 4 bed properties are replaced with 2 bed bungalows. Open space as oppose to play space is sought on site and any S106 monies should be with regards to schemes identified in the Parish Plan.

#### **INTERNAL CONSULTEE RESPONSES:**

55. Landscape have been consulted on the application and consider that the site is not prominent from the countryside and would fit well with the existing residential boundaries. However, concerns are raised at the loss of hedgerow to facilitate the access.
56. Environmental Health have raised no objections though recommendations with regards to working hours, dust and noise suppression and that no burning of materials on site should occur are made.
57. The Councils Senior Low Carbon Officer have stated that the development should seek to meet level 4 of the Code for Sustainable Homes or otherwise meet the standard 10% energy reduction condition.
58. Public Rights of Way have identified a public footpath to abutting the southern boundary of the site. The development should not affect this footpath though care should be taken with the treatment of the boundary.
59. Archaeology raise no objections but do recommend conditions are attached to any approval with regards to archaeological mitigation and recording.
60. Local Plans consider that the proposal is contrary to policies E7 and H5 of the Local Plan by reason of constituting residential development beyond a settlement boundary. However, the site is considered well related to the settlement and would constitute a logical extension to the village. The development is considered appropriate at the locality but consideration should be given to the fact it is outside the settlement boundary.
61. Asset management originally objected to the proposal on the basis that the development would involve development on Council owned open space and adopted highway. Following the submission of further details to assets clarifying the degree of land to be developed, assets have rescinded this objection.
62. The Councils School Admissions team have raised no objections to the proposed development stating that Coxhoe Primary School has recently been increased in size whilst there are also sufficient secondary school places available.
63. Ecology have raised no objections to the proposal, the mitigation measures within the submitted habitat survey should be conditioned on any approval.
64. The Councils Senior Tree Officer considers that the trees on the southern and eastern boundary of the site are worthy of a tree preservation order. The trees proposed for removal, particularly those in the western sections of the site could be removed and adequately replaced with a re-planting scheme. The hedgerow adjacent to the public footpath to the south should be retained.

## **PUBLIC RESPONSES:**

65. Sixteen letters of representation have been received in relation to the application.
66. Objection to the removal of the hedgerow to form access is raised, the access road is not understood to be wholly owned by the applicant part of it is unregistered. The applicant is not thought to have a right of access across the access lane. Suggestions are made for a revised access arrangement. There is a considered lack of turning facilities at Ivy Cottage and occupiers have to reverse the full length of the access lane to exit onto the main road. A pedestrian passing point indicated on the access plan would increase pedestrian traffic in front of adjacent property.
67. Objection is raised to the number of vehicles using the access lane both during the construction phase and once the development were completed. The passing vehicles would be a hazard to children and cause noise and disturbance. The restriction on working hours proposed by environmental health officers is considered unacceptable there should be no work after 5pm or prior to 9am on a Saturday. Passing vehicles may cause damage to adjacent property coupled with concern over subsidence and cause damage to pipes and drains under the lane. Objection is raised that the development would infringe upon privacy and be a detriment to occupiers outlook and result in a loss of light.
68. The movement of the bus stop to accommodate the access could cause parking problems and traffic hazard.
69. It is considered that there are insufficient school places and lack of availability at Doctors and GP surgeries to cater for the development.
70. Objections are raised to the loss of trees and wildlife which would occur and concern raised over impact upon protected species. It is also considered that the development represents an intrusion into the countryside and the land is understood to be within a landscape improvement area and should be subject to enhancement rather than development.
71. One respondent points out that archaeological artefacts could be found at the site. One respondent acknowledges that the site is identified within the Strategic Housing Land Availability Assessment (SHLAA) but that this has not taken into account some key planning considerations such as highway safety, landscaping etc. This respondent also states that should planning permission be granted they would like to see revisions to the scheme to ensure adequate privacy and amenity, retention of landscape features, provision of turning facilities for their property, suitable boundaries are provided and measures to protect pedestrians at the access are incorporated.
72. One respondent states that the application documents claim the site has suffered from anti-social behaviour and vandalism but this is not the case.
73. The site contains some asbestos materials and it is understood that in the past unregulated substances were dumped on the land. Investigative work into land contamination by the applicant is inconclusive. Objection is raised to the claims within the submitted design and access statement that the development would improve security to properties on Belgrave Court, the submitted documents also incorrectly describe adjoining houses as former council stock.
74. One local resident queries what will happen to an old brick garage which forms part of the boundary of their property as a result of the development.



75. A freedom of information request was made by one respondent in relation to the sale of Council land adjacent to Belgrave Court.

#### **APPLICANTS STATEMENT:**

76. The applicant has submitted a statement in support of the proposal which states that the development is to provide a total of 24 detached, semi-detached and terraced dwellings. The submitted plan is however only indicative in that this is an outline application. The scale of the development fits in with its surroundings and the new development to the south. High quality landscaping is proposed at the outset.
77. The application site is considered to constitute previously developed land and is identified as a "green" site within the SHLAA.
78. Since the submission of the application the Government has introduced the National Planning Policy Framework (NPPF) which now replaces the former planning policy statements. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which it says should be seen as a golden thread running through both plan-making and decision-taking.
79. The site is considered to be a sustainable location for new housing development being conveniently located for access to a wide range of social and community facilities in Coxhoe and public transport.
80. The Core Strategy Consultation allows for further housing at Coxhoe, outside the limits for development set out in the adopted Local Plan. The benefits of allowing development on this application site significantly and demonstrably outweigh any adverse impacts.

*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=11/00805/OUT>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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81. 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, impact upon the character and appearance of the area, impacts on residential amenity, ecology, and highway safety.

### The Principle of the Development

82. The vast majority of the application site with the exception of the access point is located adjacent to but outside of the settlement boundary of Coxhoe as defined within the City of Durham Local Plan.
83. Local Plan Policy E7 identifies land outside settlement boundaries as being the countryside. Policy H5 of the Local Plan relates to new housing outside settlement boundaries in the countryside and states that such housing will only be acceptable in

exceptional circumstances where required for persons employed mainly or solely in agriculture or forestry and even then a series of criteria must be met.

84. The proposal seeks planning permission for a general residential development, not development for any agricultural or forestry workers. As a result the proposed development must be considered to be in conflict with the contents of policies E7 and H5 of the Local Plan.
85. However, planning proposals must be considered with reference to the NPPF. The City of Durham Local Plan is not a plan adopted in accordance with the Planning and Compulsory Purchase Act 2004 but rather pre-dates it though policies were “saved”. As a result the NPPF advises that due weight should be given to relevant policies in the Local Plan according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
86. The key theme running throughout the NPPF is that of sustainable development and introduces a presumption in favour of sustainable development. With regards to residential development in countryside locations the NPPF at paragraph 55 advises that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances.
87. The application site is not isolated, it immediately abuts existing development and the settlement of Coxhoe. It is well related to other residential property and is within close proximity to existing services and facilities in the village. The County Durham Local Plan, set to replace the existing Local Plan, is still emerging and is at the preferred options stage. The document may therefore be subject to change, however, some weight can be attributed to its content and particularly with regards to housing need which is supported by the evidence based document the Strategic Housing Market Assessment (SHMA). The SHMA and County Durham Plan preferred options identify a housing allocation of 450 houses at Coxhoe lending weight to the considered suitability of Coxhoe to cater for further residential development.
88. In the current period of changing planning policy, to help provide clarity and direction, Cabinet approved in May of this year the advisory document “Assessing Development Proposals in a changing National Planning System”. This document considers that the following questions should be considered as key criteria in determining the acceptability of a development contrary to the Local Plan in the changing planning system.
89. *Does the proposal meet the objectives of the emerging County Durham Plan and does it comply with the emerging spatial strategy?*

The County Durham Plan identifies a need for housing, identifies Coxhoe as one of the 23 smaller towns and villages in the County capable of supporting levels of growth commensurate with their sustainability, physical constraints, land supply and attractiveness to the market. The emerging County Durham Plan is not proposing the use of settlement boundary limits tightly drawn around existing settlements unlike the existing the Local Plan. The proposed development of 24 no. dwellings is not considered to represent such a significant number of new dwellings that it could be considered to undermine the emerging plan. As a result the development is considered to comply with the objectives of the emerging County Durham Plan.

90. *Does the proposal deliver current needs or contribute to improved facilities in the locality?*

91. The application has been accompanied by a S106 agreement which proposes 20% affordable housing across the site (discussed in more detail elsewhere in this report), a financial contribution the equivalent of 1% of build costs to go towards public art and a contribution of £1,000 per dwelling to go towards play and recreational facilities in accordance with the requirements of Policies Q15 and R2 of the Local Plan.
92. The application is therefore considered to contribute towards providing affordable housing, art and improved local facilities as required. In addition to providing additional homes sought across the County these benefits are considered to demonstrate a delivery of need and improved facilities.
93. *Is there Community Support?*
94. A total of 16 letters from local residents raising concerns and objections have been received in relation to the development which clearly shows a degree of lack of support within some parts of the community. The Parish Council have also raised some objections in relation to highways matters, the house types proposed and queried S106 agreements. It must be noted that the majority of objections received relate to specific matters rather than in principle objections and these are discussed in more detail throughout this report.
95. *Is the Proposal Sustainable?*
96. With the location of the former Pottery buildings and dwelling known as Fairview within the bounds of the site part of the application site can be considered previously developed. The applicant considers that the site is wholly previously developed. However, other sections of the site appear as relatively unkempt grassland and the definition of previously developed land excludes garden associated with residential property. Much of the site must therefore be considered greenfield.
97. However, the application site is considered to be located in an appropriate and sustainable location. As described above the application site is not isolated adhering to NPPF advice, it immediately abuts existing development and the settlement of Coxhoe. It is well related to other residential property and is within close proximity to existing services and facilities in the village. Some public objection concerns the considered lack of local school and doctors surgery spaces. The Council school admissions team has been consulted and school places are considered to be available in the primary school and at local secondary schools, aided by a recent extension to the primary school in Coxhoe. Less assurance can be provided over the availability of places at doctors surgeries. However, the application is at this stage in outline only so some weight can be attributed to the length of time which is likely to occur between any grant of planning permission and the occupation of the development, by which time greater availability may have emerged. On balance officers consider that the proposal is adequately sustainable.
98. On balance, officers consider that the principle of the development can be accepted.

#### Impact upon the Character and Appearance of the Area

99. Part 7 of the NPPF relates to the design of all new development and with good design a key aspect of sustainable development, indivisible from good planning. Policies H13, Q1, Q2 and Q8 of the Local Plan seek to ensure that new development is appropriately designed whilst policy E14 seeks to retain trees and hedgerows of value where possible and replace those lost.

100. Some public objection to the development relates to the impact of the development upon the local landscape and countryside and the loss of trees and hedgerow.
101. The application site does lie beyond the settlement boundary and would develop a grassed and landscaped parcel of land albeit in a rather unkempt state. The newbuild would undoubtedly have some impact upon open character of the site and immediate area.
102. Landscape and tree officers have been consulted on the application. Landscape have not objected to the principle of the residential development at the site, the development would not be unduly prominent from the countryside and would fit well with the existing residential boundaries. Landscape and the Senior Tree Officer have raised objection to the loss of hedgerow to facilitate the access. It was also recommended that the trees of highest quality on the southern and eastern boundaries of the site are protected by a TPO.
103. The TPO has duly been served to protect the quality trees within the site bounds. The loss of a section of hedge of approximately 29m in length adjacent to Belgrave Court would be needed to provide an access of adequate width suitable for adoption. Trees within the site are also sought for removal including a grouping of tall leylandii also adjacent to Belgrave Court. The loss of the hedge is considered regrettable by officers and it does provide a quality and soft screen adjacent to Belgrave Court. However, it is not considered by officers to be such a detrimental impact to warrant refusal of the planning application. Sections of the hedge to the front of Nos. 22 to 15 Belgrave Court are shown as being retained on plan. A landscape scheme formulated as part of the reserved matters submission can provide some compensatory planting of trees, shrubs and plants.
104. With the application being in outline and the layout, appearance and scale of the development reserved, the detailed consideration of the visual impact of the dwellings and their siting would be considered within the reserved matters application.
105. Indicative details in the form of a layout and some detail of house types and scale parameters have been provided and in principle officers consider that the development of 24 houses could be achieved successfully at the site.
106. Officers raised no objections with regards to the impacts of the development upon the character and appearance of the area.

#### Impacts upon Residential Amenity

107. Within the public responses received some objections have been raised with regards to harm to residential amenity including a loss of light, outlook and privacy. One respondent recommends house types and distances from the development which they would consider is acceptable. Further concerns relate to the passing of vehicles causing noise and disturbance.
108. Policies H13 and Q8 seek to ensure that new developments preserve the amenities of residents. Policy Q8 provides detailed guidance separation distances between properties to ensure adequate amenity.
109. With the application being in outline with all detailed matters reserved except for access, the precise layout of the development, proximity of properties and siting of windows is at this stage unknown.

110. However, the indicative layout suggests that separation distances recommended within policy Q8 can be achieved both within the proposed estate and with regards to existing neighbouring property. The gable end of the plot 1 dwelling for example is shown as being 16m from the front elevation of No. 20 Belgrave Court, properties at Anchor Cottages have rear elevations in excess 21m from plots 3-7. The reserved matters stage would allow for full details of the siting, size and orientation of dwellings to be finalised and officers consider that adequate privacy and amenity for all existing and proposed occupiers can be maintained in accordance with the guidance contained within Policy Q8.
111. Some public objection relates to the passing of vehicles and potential for noise and disturbance both once the development is complete and during the construction phase. One objector considers that the recommended working hours prescribed by Environmental Health are not appropriate and should be more restrictive.
112. With the existing plot containing largely green space and vacant premises any development of any nature is bound to create some increase in activity at the site. However, the proposed use of residential development is considered appropriate within the area which is predominantly residential. The impact of noise from commuting vehicles, passing pedestrians, children playing etc will be an increase from the present situation but it would remain commensurate with any residential development adjacent to existing residential property.
113. Some noise during the construction phase of any development will again be expected. However, the development of a relatively small number of properties as proposed will not pose any exceptionally disturbing activities above or beyond what can be expected for any new development adjacent to existing property.
114. Officers do not consider that the potential for noise or disturbance is such that it would warrant refusal of the application. The proposed working hours condition requested by Environmental Health is the standard recommended on such developments and comes from good practice recommendations within and is considered suitable at the site. It must be taken into consideration that if working hours are heavily restricted this would result in a more protracted build time.
115. Much public objection is with regards to the proposed removal of hedging adjacent to Belgrave Court. Some concerns relate to harm to visual amenity, pedestrian safety and wildlife discussed elsewhere in this report, however, concerns also relate to the harm to amenity with a loss of privacy.
116. With regards to privacy officers do not consider that the removal of the hedge would cause a loss of privacy that would warrant refusal of the application. As discussed above houses can be located within the site so as to adhere to recommendations of Local Plan policy and ensure privacy. An increase in pedestrian traffic would occur in the area and so more pedestrians will be visible to the occupiers of residents within Belgrave Court. However, it is not considered that this passing of pedestrians would create such an invasion of privacy to warrant refusal of the application. Furthermore the applicant has suggested that some replacement planting could be achieved and this would be considered at the reserved matters stage.
117. Overall, officers do not raise objection to the development on the grounds of harm to residential amenity.

## Highways Issues

118. A key concern within the public responses on the planning application relates to issues surrounding highway safety.
119. Policy T1 of the Local Plan relates to highway safety and part 4 of the NPPF seeks to promote sustainable transport.
120. Objections to the application include a consideration that the access point is hazardous, that the development will create traffic generation detrimental to highway safety and that the comings and goings and removal of hedgerow adjacent to property will be a safety threat to children and pedestrians. The occupiers of Ivy Cottage state that they must reverse the entirety of the length of the current access road due to an absence of turning space.
121. The access is the only detailed matter sought for approval under this application. The existing access lane is a narrow unadopted access road and the application proposes improvements to this with its widening to 4.8m, provision of footpaths and standard access taper to provide adequate visibility.
122. The Highway Authority have been consulted on the application and no objections to the plans have been received. The access is considered suitable for the movements associated with the development of 24 dwellings. No objections are raised with regards to the visibility from the access. No specific concerns are raised by the Highway Authority with regards to any conflict between existing residents within properties using the existing lane and those within the new development. Officers have noted the concerns with regards to vehicles reversing down from Ivy Cottage. However, officers visited the site and the property has a very large front hardstand curtilage and there would appear space to perform manoeuvres to exit in a forward motion.
123. One response received states that the movement of the bus stop would in itself create a hazard. However, the Highway Authority have not made any requirement that the bus stop to the front of 1-3 The Pottery moves as a result of the development.
124. The concern is noted that the removal of the hedgerow adjacent to Belgrave Court could result in a hazard to pedestrians and children from passing vehicles. However, it is not considered that would cause any demonstrable harm to safety to warrant refusal of the application. Furthermore the applicant has suggested that some replacement planting could be achieved and this would be considered at the reserved matters stage.
125. Overall no objections on the grounds of highway safety are raised.

#### Ecology

126. Policy E16 of the Local Plan and Policy 33 of the RSS seek to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through the NPPF most notably at paras. 118 and 119.
127. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation (Natural Habitats etc) Regulations 1994 (since amended). These regulations established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations, it is a criminal offence to kill injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.
128. Concern has emerged from the public consultation exercise with regards to the impact of the development upon protected species and wildlife in general.

129. The application has been accompanied by an extended phase 1 ecological survey and a bat survey. The extended phase 1 survey recommended that any vegetation clearance should occur between September and March to avoid the bird breeding season. With regards to great crested newts, local ponds were identified, however the assessment found that the development would unlikely affect great crested newts. No evidence of mammals were found though some recommendations on working methods are made in the report to ensure their safeguarding. The bat survey found no evidence of bats using or roosting in the buildings on site and as a result no harm to bats was considered to occur from the development. Enhancement measures are recommended however, in the form of providing bat boxes/tubes.
130. Ecology have raised no objections to the proposal, the mitigation measures within the submitted habitat surveys should be conditioned on any approval, however.
131. As a result no objections are raised with regards to the impact of the development upon protected species in accordance with Policy E16 of the Local Plan, Policy 33 of the RSS and the provisions of the NPPF.

### Planning Obligations

132. The application has been accompanied by a S106 agreement proposing 20% affordable housing across the site and a financial contribution of £1000 per dwelling towards open space and recreational facilities and over £12,000 as a public art contribution.
133. The public art and recreational space contributions are considered to adhere to the requirements of Policies Q15 and R2 of the Local Plan.
134. With regards to the affordable housing provision, the latest evidence base emerging from the strategic housing market assessment and proposed within the preferred options of the new County Durham Plan as agreed by Cabinet 24<sup>th</sup> July requires 20% affordable housing. The proposal is therefore considered to meet the current affordable housing need within the former Durham City area.

### Other Issues

135. Much public objection to the development has surrounded queries over the land ownership and rights of access of the applicant with regards to the access lane. The application was initially submitted with the applicant certifying that they did not own all of the land within the application site but that the other land owner, the County Council, which owns the section of hedge adjacent to Belgrave Court had been notified.
136. Following the receipt of objection and officers requests for clarity, the applicant accepted that sections of the access lane are unregistered land and not within their ownership.
137. In order for a planning application to be deemed valid and appropriate for determination an applicant must accompany a planning application with the correct certification with regards to land ownership. The applicant has during the course of the application publicised within a local newspaper that an application has been submitted and invited any land owner or tenant to come forward with comment in accordance with the provisions of Article 11 of the Development Management Procedure Order. Ultimately matters of land ownership and rights of access across land are separate legal matters beyond the remit of the Local Planning Authority. However, the Local Planning Authority must seek to ensure that the correct certification processes have been met and officers consider that this has now occurred.

138. Some public objection relates to the potential for damage to property and that the site could suffer from subsidence. The application site falls outside of the Coal Authority's referral zone on planning applications but a consultation was issued to the Coal Authority whom responded with no comment.
139. With regards to damage to property from passing vehicles and the construction process, the liability with regards to damage to property principally lies with the developer. Officers do not consider that the application should be refused on the potential damage to property.
140. One respondent has discussed the history of the site as a pottery and the potential for archaeological artefacts. The Local Plan has a specific policy regarding development and archaeology, E24 whilst part 12 of the NPPF advises on all aspects of the historic environment. Archaeology have been consulted on the application and no objections have been raised to the development though conditions are recommended on any approval with regards to archaeological mitigation and recording.
141. Some public objections have been raised to some documentation and commentary by the applicant such as referring to some local properties as ex Council stock and that the site currently suffers from vandalism which is disagreed with by residents. The applicant's agent has admitted some inaccuracies in the content of the Design and Access Statement following commentary from residents.
142. One resident has raised a query about what would happen to an old garage building which forms part of their boundary if the development were approved. The applicant's agent has stated that this could be removed as part of the development though this would be resolved at the reserved matters stage when the precise layout and boundaries of the development would be designed.
143. Some public concerns have been raised over potential unregulated disposal of materials and substances on the site in the past and whether correct investigation into contaminated land is being undertaken. The application has been accompanied by phase 1 environmental desktop study. Policy U11 of the Local Plan relates to contaminated land. The desktop investigation recommends that an intrusive site investigation occur and remediation measures undertaken. A condition can be attached to any approval to ensure that a full investigation and remediation of any potential contaminants at the site occurs.
144. The Parish Council have requested that some of the houses proposed are replaced with bungalows. Ultimately the housing types would be resolved at the reserved matters stage, however, the reporting of the Parish Councils request has now been made to the applicant and their agent.
145. Northumbrian Water have raised no objections to the development as such though sewers are located beneath the site and therefore agreement must be reached for their diversion. An informative can be attached on an approval to this effect.
146. With the proposal being a major residential development, a scheme to reduce energy consumption to the equivalent of 10% within the development is required and a standard condition can be attached to this effect.

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## **CONCLUSION**

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147. The application site does lie outside of the settlement boundary of Coxhoe and as a result the development is contrary to Policies E7 and H5 of the Local Plan. However, with the emergence of the NPPF and the development of the new County Durham Plan development proposals are required to be assessed in the light of a changing and evolving planning system.
148. A key consideration is whether the development can be considered sustainable. With the proximity to Coxhoe as a whole, access to a range of facilities and services, availability of some public transport links and the road network officers consider that the development is sustainable and represents a logical addition to the settlement.
149. The development is not considered to undermine or be in conflict with the emerging local plan. Consideration should be given to the number of objections received and whether this clearly illustrates a lack of community support.
150. Much public objection relates to more matters of detail such as residential amenity, visual amenity, highways implications and land ownership. Officers have sought to discuss these matters within the report.
151. On balance, officers consider that the proposed development would constitute an appropriate and sustainable development at the location with no harmful impacts emerging which would warrant refusal. Approval is therefore recommended.

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## **RECOMMENDATION**

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

- i. The provision of 20% affordable housing
- ii. A contribution of £24, 000 for recreational and play space
- iii. A contribution of £12, 913 for public art

1. Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters shall be made to the Local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved shall be carried out in strict accordance with the following approved plans:  
Indicative sketch layout 09.58.03 received 7<sup>th</sup> December 2011

Proposed Access 09.58.04 received 28<sup>th</sup> May 2012

Proposed Access (hedging detail) 09.58.04 received 28<sup>th</sup> May 2012

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E7, E14, E16, E24, H5, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q5, Q8, Q15, U5, U8a, U11 and U14.

4. 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 and vehicular hardstand 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.

5. The hereby approved development shall be carried out in accordance with a scheme of landscaping within the application site to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site. The scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The landscaping scheme shall also clearly indicate those existing trees and hedges to be retained through the development. The works agreed 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, either planted through the scheme itself or existing on site shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity having regards to policies Q5 and Q8 of the City of Durham Local Plan 2004.

6. Notwithstanding the information submitted within the application, no development shall commence until a precise schedule of works to trees and hedges within the application site including any felling, lopping, topping or pruning has been first submitted to and then approved in writing by the Local Planning Authority. Furthermore no construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges to be retained are protected by the erection of fencing comprising of a vertical and horizontal framework of scaffolding, well braced to resist impacts and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005 and in accordance with a plan to be first submitted to and then agreed in writing by the Local Planning Authority. Said protection shall remain for the entirety of the development works.

Reason: In the interests of visual amenity having regards to policies Q5 and Q8 of the City of Durham Local Plan 2004.

7. Prior to the commencement of the development details of means of enclosure shall be submitted to and approved in writing by the Local planning authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

Reason: In the interests of visual amenity having regards to policies Q5 and Q8 of the City of Durham Local Plan 2004.

8. 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.

9. No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a mitigation strategy document that has been submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:
- i. Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
  - ii. Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
  - iii. Post-fieldwork methodologies for assessment and analyses.
  - iv. Report content and arrangements for dissemination, and publication proposals.
  - v. Archive preparation and deposition with recognised repositories.
  - vi. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
  - vii. Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
  - viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason: To protect sites of archaeological interest having regards to policies E24 and E25 of the City of Durham Local Plan.

10. Prior to the occupation of any dwelling hereby approved, a copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy subject to condition 9 shall be deposited at the County Durham Historic Environment Record.

Reason: To record and advance understanding of the significance of heritage assets and to make this information as widely accessible to the public as possible in accordance with Policy 24 of the Local Plan and Part 12 of the NPPF.

11. 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.

12. No development shall commence until details of the means of disposal of foul and surface water have been submitted to and agreed in writing by the Local Planning Authority.

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.

13. No development shall take place unless in accordance with the recommendations and enhancements detailed within section 4 of the extended phase 1 survey and section 4 of the bat survey both compiled by Durham Wildlife Services.

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

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## **REASONS FOR THE RECOMMENDATION**

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1. The application proposes a residential development beyond the settlement boundary of Coxhoe and as a result is considered a departure from Policies E7 and H5 of the Local Plan. However, given the proximity of the site to Coxhoe, existing development, services and facilities the application is considered to constitute sustainable development in accordance with the provisions of the NPPF. No harm to the character of the area, highway safety or the amenities of neighbouring occupiers is considered to occur through the development. Detailed matters regarding landscaping, drainage and investigations into archaeology and contaminated land can be resolved at the reserved matters stage and through the discharge of conditions. The development is considered to accord with relevant Policies E14, E16, E24, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q5, Q8, Q15, U5, U8a, U11 and U14 of the City of Durham Local Plan 2004. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive brought into effect through The Conservation (Natural Habitats etc) Regulations 1994.

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, the City of Durham Local Plan 2004 and the provisions of the National Planning Policy Framework.

2. In particular the principle of the development was considered acceptable despite the conflict with Policies E7 and H5 of the Local Plan.
3. A total of 16 objections have been received from local residents and further concerns expressed from the Parish Council. Objections raised related to a range of issues including land ownership, visual amenity, residential amenity, highway safety, impact on trees, hedgerows and impact on wildlife and protected species. The content of the objections are presented within this recommended report. However, officers do not consider that the points raised would warrant refusal of the application.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
Regional Spatial Strategy  
National Planning Policy Framework  
Internal consultee responses  
Public responses  
Response of the Highway Authority  
Parish Council Response  
Response from Coal Authority  
Response from Northumbrian Water  
Planning Circular 11/95  
County Durham Local Plan (Preferred Options)



**Planning Services**

Outline planning application for the erection of 24 no. dwellings with detailed approval sought for means of access only

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**Date 11<sup>th</sup> September 2012**