

# COMMITTEE REPORT

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### APPLICATION DETAILS

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**APPLICATION No:** 4/12/00591/VOC

**FULL APPLICATION DESCRIPTION:** Variation of condition 2 of planning application 11/00479/FPA substituting Wren house type and amending parking provision together with seeking removal of S106 obligations

**NAME OF APPLICANT:** Bett Homes North East

**ADDRESS:** Former Omnibus and Welfare Club Front Street  
Quarrington Hill Durham DH6 4QF

**ELECTORAL DIVISION:** Coxhoe

**CASE OFFICER:** Henry Jones  
Senior Planning Officer 03000 263960  
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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application relates to the site of the former omnibus depot and welfare club which have previously been demolished. The site has for a lengthy period comprised of areas of rubble and hard standings in part starting to be reclaimed by the landscape with long grass. Works have now commenced on the site following the approval of planning permission in October 2011 for the erection of 12 no. dwellings. A sales and information temporary office building is located within the site adjacent to the Front Street. The site is enclosed by 2 metre high fencing on much of the perimeter with lower railings located adjacent to the property 'Newfield'. The site slopes quite steeply to the south-east.
2. The application site lies within the settlement boundary of Quarrington Hill, a village located to the south east of Durham City. The site is located in a prominent location at a crossroads on the Front Street. Land to the north-east of the site is reclaimed countryside. A public house, The Half Moon is located nearby on the opposite side of the Front Street and a bus stop is located immediately adjacent to the south east corner of the site.

## The Proposal

3. This application seeks to vary condition 2 of the previously approved application 11/00479/FPA (Erection of 12 no. dwelling houses) in order to substitute the Wren house type with a 3 bed version as oppose to the previously approved 2 bed version. Due to the resultant increase in accommodation at the site, the parking provision has been revised on a new layout plan with an increase of parking spaces from 17 no. spaces to 21 no. spaces.
4. In addition the applicant has not submitted a S106 agreement to accompany this application. The previously approved application was subject to a S106 agreement with financial contributions totalling £16,800 for play/recreational space facilities and public art installations. However, within this application the applicant has sought to demonstrate that the financial contributions should not be applied due to the economics of the development and need to minimise the costs of the development.
5. This application is being referred to Committee at the request of Local Divisional Members and Parish Council.

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## **PLANNING HISTORY**

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6. Planning permission was first granted for the redevelopment of the site in outline in 2001. This permission was renewed in 2004. A further outline permission was granted for 14 no. dwellings in 2006.
7. In 2008 planning permission in full this was granted for 14 no. dwellings. Then in 2010 planning permission was granted for 6 no. detached dwellings.
8. This currently pending application seeks to vary condition 2 on a subsequent application approved in October 2011 for the erection of 12 no. dwellings.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. 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.
10. 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’.
11. The following elements are considered relevant to this proposal;
12. *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.

13. *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.
14. *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.
15. *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.
16. *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.
17. *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.

*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* states that 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 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.
27. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.
28. *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)

29. *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.
30. *Policy H3 - New Housing Development within the Villages* allows for windfall development of previously developed sites within the settlement boundaries of a number

of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.

31. *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.
32. *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.
33. *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.
34. *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.
35. *Policy Q3 - External Parking Areas* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
36. *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.
37. *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.
38. *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
39. *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.
40. *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.
41. *Policy U15 - Energy Conservation – Renewable Resources* permits the generation of energy from renewable resources provided there is no adverse effect on the visual

appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

*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:**

42. The Highway Authority initially raised some objections to the application as proposed parking spaces were located beyond the bounds of the application site and land ownership of the applicant. During the course of the application a revised layout was submitted to take account of this and the Highway Authority have raised no objections.
43. Coxhoe Parish Council has objected to the proposed removal of the S106 contributions and has also requested that the application is determined at planning committee not under delegated powers.

### **INTERNAL CONSULTEE RESPONSES:**

44. Asset Management has been consulted on the application in order to assess the submitted development appraisal. Asset management has focused attention upon the proposed incomes per m<sup>2</sup> for the area. Evidence of incomes per m<sup>2</sup> in nearby Cox hoe are higher than the developer has supplied. However, this is expected to be the case. Quarrington Hill lacks recent new build residential developments to use as a direct comparison with the submitted appraisal. However, a comparison can be made with the second hand market and using this as guide, the figures that the applicant has supplied are considered to be acceptable.
45. Local Plans have also been consulted with specific regard to the submitted appraisal data and the comparison with the evidence gathered with regards to the CIL. Local Plans have stated that they would fully expect income levels in Quarrington Hill to be low and they are consistent with some other very low incomes identified in the CIL evidence base.

### **PUBLIC RESPONSES:**

46. Cllrs Morgan and Plews have both objected to the proposed removal of the S106 contributions.
47. The Quarrington Hill Village Partnership has objected to the proposed removal of the S106 contributions. These monies could have potentially funded the proposed play equipment sought adjacent to the community centre. It is considered that the applicant is evading both their social and contractual obligations. The application should be heard at planning committee.
48. Two letters of objection have been received from local residents with objection raised to the proposed removal of the S106 contributions. Objections are raised to the actions of the developer since the commencement of works including the siting of the sales office, attempts to erect temporary balustrade fencing and wrought iron fencing. Concerns are

raised that the revised layout would harm access/egress arrangements at the property "Newfield".

#### **APPLICANTS STATEMENT:**

49. The application has not been accompanied by an applicant's statement as such, however, in support of the development appraisal submitted as part of the application the applicant has stated that the development is not making any profit. The S106 contributions are therefore sought for removal so that the developer can trade out what is described as a "distressed asset".

*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=4/12/00591/VOC>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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50. Planning permission is sought to vary condition 2 of planning application 11/00479/FPA (Erection of 12 dwellings) substituting a house type and amending the parking layout. In the determination of this type of application the Local Planning Authority must have due regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan and other material considerations and a new grant of planning permission would result if the proposal is approved. The application has not been accompanied with a S106 agreement unlike under application 11/00479/FPA, the applicant seeking to demonstrate that the financial contributions are not viable.
51. The key issues relate to acceptability of the 3 bed house type as oppose to the 2 bed, the revised layout including parking provision and also the acceptability of the absence of financial contributions towards play/recreational space and public art. However, as a new planning permission would be granted, the issues pertaining to the original grant of planning permission namely the degree of compliance with the principle of the development, impact on the character and appearance of the area, highways issues and any other material matters should be considered in the decision making process though they have previously been deemed acceptable.

#### The Principle of the Development

52. The development relates to a parcel of previously developed land located within the settlement boundary of Quarrington Hill. Policy H3 of the Local Plan accepts the principle of residential development on previously developed land within Quarrington Hill and the NPPF and RSS also consider that residential development should be located in sustainable locations.
53. As with the previous application approved in 2011 no objections are raised to the principle of the development.

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

54. Within the assessment of the previous planning application 11/00479/FPA the local area was considered to contain a mix of properties including traditional terraces but also immediately adjacent is a large detached dwelling and a modern bungalow. The local

area was not considered to contain an especially distinct vernacular and the proposed erection of the 12 new dwellings was not considered to cause any harm to the character or appearance of the area in accordance with the most relevant Local Plan policies H13, Q3, Q5 and Q8 and Policy 8 of the RSS. Since the last approval the NPPF is now in place and part 7 deals specifically with design issues.

55. The revision to the Wren house type proposed under this application would have minimal visual impact simply resulting in the addition of a further first floor window.
56. Of more significance is the need for additional parking spaces as this would result in provision of a total of 9 no. spaces immediately adjacent to the Front Street as oppose to the approved 6 no. spaces. In general it is considered most appropriate in design terms to locate parking spaces in more discreet locations and extensive areas of parking or hard surfacing can be somewhat unsightly. On balance, however, officers do not consider that the increase from 6 to 9 spaces adjacent to the Front Street would be so harmful as to warrant refusal of the application. It must be considered the vacant site has been something of a local eyesore and the development of a new estate would be an improvement in visual terms. Conditions can be added to any approval to agree a landscaping scheme and vehicular hardstands to further ease impact. Details of the external materials for the dwellings have been submitted and are considered acceptable.
57. On balance the revised house type and layout proposed are considered acceptable.

#### Impacts upon Residential Amenity

58. Proposed residential developments must ensure the residential amenity of both existing neighbouring occupiers and the proposed occupiers of the new development are adequately preserved in accordance with the most relevant Local Plan policies H13 and Q8.
59. Within the assessment of the previously approved application 11/00479/FPA the development was not considered to cause harm to the residential amenity of neighbouring occupiers or the prospective occupiers of the development. Reference was made to the open countryside flanking to the north east and the areas of open public space to the south east. No harm was considered to occur upon the occupiers of the terraces opposite on the Front Street. The large property Newfield is the nearest residential property to the development and it was understood that the flanking gable end window within that property was to a bathroom rather than a main habitable room whilst the rear elevations of plots 11 and 12 would largely face a garage rather than genuinely useable curtilage.
60. Within the development site adequate space between properties was considered to be provided whilst garden spaces, whilst not large, were considered adequate for what are quite modest properties, however, permitted development rights for extensions were removed at that time.
61. Officers do not consider that the revised house type resulting in a 3 bed property rather than a 2 bed property and the revised parking arrangements pose any significant changes to the development with regards to residential amenity and no objections are raised by officers as a result.



## Highways Issues

62. Policy T1 of the Local Plan seeks to ensure that all development is acceptable in terms of highway safety whilst Policy T10 seeks to limit parking provision in development to promote sustainable transport choices and reduce the land take of development. Part 4 of the NPPF also seeks to promote sustainable transport choices.
63. Within the assessment of the previously approved application it was considered that the access arrangements and layout of the development was acceptable from a highways perspective. The parking provision was considered to be quite low but appropriate given the proposed types of dwellings and likely car ownership levels. No objections were therefore raised with regards to highways issues.
64. The Highway Authority initially raised some objection to the application as proposed parking spaces were located beyond the bounds of the application site and land ownership of the applicant.
65. During the course of the application a revised layout has been submitted by the applicant with all parking spaces now located within the applicant's ownership and within the bounds of the application site. The layout proposes an increase in 4 no. spaces from the originally approved application to cater for the increase in accommodation from 2 bed to 3 bed of the Wren house type.
66. The Highway Authority has assessed the revised plan and no objections are raised.
67. One public response to the proposed development has raised concerns with regards to the impact of the development upon access/egress arrangements for their property Newfield. The occupier of Newfield had not objected to the previous application as it was understood that the development would have a layout that would retain acceptable visibility for their egress and access. However, objection was raised to the originally submitted plans on this application as the additional parking and pedestrian route would infringe upon visibility.
68. However, since this objection was received the layout plan has been amended and the parking spaces and indeed pedestrian footpath moved farther from the property Newfield. With no objections raised from the Highway Authority with regards to matters of visibility for the access/egress arrangements of Newfield officers consider that the latest layout is acceptable in highway safety terms.
69. As a result no objections are raised with regards to highways issues having regards to Policies T1 and T10 of the Local Plan, Policy 7 of the RSS and part 4 of the NPPF.

## S106 contributions

70. The previously approved application 11/00479/FPA was accompanied by a S106 agreement proposing financial contributions towards play/recreational space and also public art totalling £16,800. These contributions are linked to Local Plan Policies R2 and Q15 relating to open space within residential developments and art in design. Such contributions are standard requirements in line with Local Plan policy on major residential developments.
71. However, within this application the applicant has not submitted a S106 agreement, instead arguing that the payments are not affordable given the economics of the development.

72. To support their case the applicant has provided a development appraisal. Essentially this appraisal explains that the developer is making no profit from the development.
73. Colleagues in Asset Management and Local Plans have been consulted on the submitted appraisal evidence. Asset management did at first query the prospective income figures within the submitted appraisal as these were considered to be low. However, Local Plans were then consulted and asked to compare the submitted income figures with the CIL evidence. Local Plans stated that comparably low figures did emerge from the evidence gathered on work on the CIL. Following this Asset Management considered and researched the figures further and compared the incomes proposed with houses recently sold in Quarrington Hill and with further information from Local Plans with regards to the CIL evidence. Asset Management concluded that the figures are accurate and would not dispute them. Therefore it can be considered that the Gross Development Value of the scheme as put forward is realistic.
74. Paragraph 173 of the NPPF stresses the importance of viability as a material planning consideration; "sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable". Paragraph 160 also advises that Local Planning Authorities must consider the needs of businesses and any changes in circumstances "work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability".
75. The developer has "written down" the value of the land on their balance sheet by about a half of what they paid, reflecting the current market conditions. The theory being to recoup this elsewhere in the business or at another time and against their tax obligation. If you take the envisaged total build costs and subtract from the Gross Development Value (envisaged sales income) and minus the Section 106 obligation the development breaks-even the balance covering the now "written down" value of the asset (land).
76. In real terms the business is still running the loss from the asset value but this is offset so it would appear on the company's balance sheet that the site breaks even. Furthermore the appraisal does not include any developer profit which ordinarily a developer is entitled to, averaging around 20% of the Gross Development Value (Sales income). So effectively on paper at least the developer is forgoing any profit.
77. So the developer is forgoing their profit and then another similar amount again for the written off asset which they are hoping to offset against the business. So on the basis that the developer has no guarantees of seeing any return and is bearing all the risk the Local Authority cannot reasonably justify their contribution when the market does not appear to support it.
78. Of course reading this rather pessimistic approach, one would question why anyone with common sense would even develop the site. This is where risk and marketing play their role, the developer will of course be trying to secure an uplift in the value per square metre on the grounds that this is a new product in Quarrington Hill, no comparable choice and hoping that will create a small local market to raise these values, versus the cost delay in the time taken to sell. At best this is speculative and obviously developer risk, the market may not respond or respond quickly and values will stay very low.

79. As the LPA we cannot bank on this subjective market uplift but look at the hard facts that this market is very much at the bottom end and this development is running a substantial loss. Even if the income rose a few pounds per square metre it would have to be a significant/revolutionary uplift to offset the substantial losses already outlined. At best it will reduce the burden on the rest of the business in recouping the loss. Therefore, regrettably it would be unreasonable for any section 106 monies to be required.
80. Public and local member objection to the application includes objection to the loss of the S106 monies, the applicant failing to adhere to the previous commitment and the impact the lack of investment would have on the community play facilities in particular.
81. However, officers must acknowledge the content of the NPPF particularly at paragraph 173 detailed above and the need for obligations to take into account the economics of the development. The NPPF explains that the contributions should be requested in the context of the developer being able to achieve competitive returns and deliver the development.
82. The loss of S106 monies is clearly a negative for the provision of play/recreational facilities and public art within the local community and this is genuinely regretful, but this must be balance against Local Planning Authorities not overburdening developers with planning obligations. Officers therefore raise no objection to the absence of the S106 contributions within this application for the reasons detailed above.

#### Other Issues

83. Within the public responses received with regards to the application some objection has been raised with regards to the actions of the developer namely the attempts to erect balustrade fencing and wrought iron fencing and erection of a sales office considered to be out of the red line boundary of the site and ownership of the applicant. From a recent site visit it would now appear to officers that the sales office is located within the bounds of the application site and their ownership. With regards to the erection of fencing, there is at present high fencing surrounding the site much of this will be close the site off to the public during construction phases. Ultimately revised enclosures throughout the entirety of the site would be agreed via a condition on any approval.
84. The previously approved application 11/00479/FPA was accompanied by environmental investigation reports investigating the potential for land contamination on site given the former use as an omnibus depot. Previous reports and comments from Environmental Health had considered the site to be of only low risk and conditions have previously been added to planning permission certificates to submit further investigations and remediation (where necessary) regarding contaminated land. Such a condition can be added once again.
85. A condition regarding working hours, advised by Environmental Health was previously attached to the permission and this can be done once again.
86. Similarly a condition was attached to the previous approval to ensure that a 10% carbon emission reduction occurs through the development and this can once again be attached to any further approval.
87. Conditions are also recommended for attachment with regards to means of enclosures, vehicular surface treatment, disposal of foul and surface water and landscaping. In addition to ensure that the residential amenity of residents is retained, permitted development rights for extensions, roof alterations and outbuildings are, once again, proposed for removal and bathroom windows within the Wren property must be obscured.

88. With regards to protected species, under the previous planning application, the vacant brownfield site was not considered to be one of ecological value and no detailed surveys or reports with regards to protected species were deemed necessary. This application seeking a variation of condition on that permission is considered again to have no impact with regards to protected species.
89. The redevelopment scheme consists of 12 no. dwellings and as a result is below the threshold at which affordable housing is requested. No affordable homes were proposed as part of the previous approval or under this application.

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## **CONCLUSION**

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90. This application seeks to vary the approved plans of a previously approved application for 12 no. dwellings. This application was approved quite recently in October 2011 and as a result the principle of the overall development is considered acceptable.
91. The key issues relate to the impacts of the revised house type and layout, particularly with regards to highway safety and also the acceptability of the application not now proposing a S106 agreement providing financial contributions towards play/recreational space and public art.
92. With regards to the highways issues, the revised plan received during the course of the application has been considered by the Highway Authority and no objections have been raised, access arrangements and parking provisions considered to remain acceptable.
93. With regards to the absence of the S106 monies, the applicant has supplied a development appraisal and evidence to support the arguments that these monies should no longer be paid. The supplied information has been assessed by colleagues in both Asset Management and Local Plans and the appraisal figures are deemed accurate. Although the loss of the S106 contributions is clearly a negative, given the emphasis that the NPPF places on Local Planning Authorities to consider the economics of developments and the need for planning obligations to be applied in this context, officers support the argument in this instance.
94. Approval of the application is therefore recommended.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before 6th October 2014.

Reason: To ensure planning permissions are not extended by Section 73 applications and that the time limit remains consistent to the original consent 11/00479/FPA pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans: LIN\_PL\_1, LIN\_OPP\_PL\_1 received 18th August 2011, WRE\_PLANNING received 15<sup>th</sup> June 2012, QH/SL/01 received 30<sup>th</sup> August 2012 and WRE\_PLANNING\_OPP received 27<sup>th</sup> September 2012.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies H3, H13, T1, T10, R2, Q3, Q5, Q8, Q15, U8A, U11 and U14 of the City of Durham Local Plan 2004.

3. Details of any fences, walls or other means of enclosure to be erected on any of the site boundaries or within the site shall be submitted to and approved by the Local Planning Authority in writing before development commences. Development shall thereafter be completed in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q8 of the City of Durham Local Plan 2004.

4. Notwithstanding the information shown on the submitted plans details of the surface treatment of all vehicle hard standing areas shall be submitted to and approved in writing by the Local Planning Authority before work commences and thereafter implemented in accordance with the approved scheme.

Reason: In the interests of the visual amenity of the area and to comply with Policy Q8 of the City of Durham Local Plan 2004.

5. No development shall commence until a scheme catering for foul and surface water discharge has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: To ensure that adequate arrangements for the disposal of foul and surface water discharges are made in accordance with Policy U8A of the City of Durham Local Plan 2004.

6. 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.

7.
  - a) Prior to the commencement of development a detailed remediation scheme to bring the site to a condition suitable for the intended use through the removal, containment or otherwise rendering harmless any contamination must be prepared and approved in writing by the Local Planning Authority.
  - b) 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;
  - c) 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
  - d) 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 ensure that risks from land contamination are minimised in accordance with Policy U11 of the City of Durham Local Plan 2004.

8. The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by the Local Planning Authority prior to the commencement of any construction and/or development of any landscape finishes to the site and which scheme may provide for the protection of existing and planting of new trees and/or shrubs (including species, sizes, numbers and densities), the provision of screen fences or walls, 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 works agreed to 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 years following planting.

Reason: In the interests of the visual amenity of the area and to comply with Policies Q5 and Q8 of the City of Durham Local Plan 2004.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development ) Order 1995 (or any Order revoking and re-enacting that Order) the glass to be used in the window to bathroom in house type "The Wren" shall be obscure to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be non-opening unless those parts of the window that can open are more than 1.7m above finished floor level and shall remain so.

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

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

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

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

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

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## **REASONS FOR THE RECOMMENDATION**

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1. The development is considered to represent the efficient use of a previously developed plot of land within a settlement boundary with no detrimental impact upon the character or appearance of the area, the amenities of residents or highway safety in accordance with Policies H3, H13, T1, T10, Q3, Q5, Q8, U8A, U11 and U14 of the City of Durham Local Plan 2004. The application is not accompanied by a S106 agreement pursuant to play/recreational space or public art contributions with regards to Policies R2 and Q15 of the Local Plan. However, this is considered to be justified based on the development appraisal data submitted.

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.

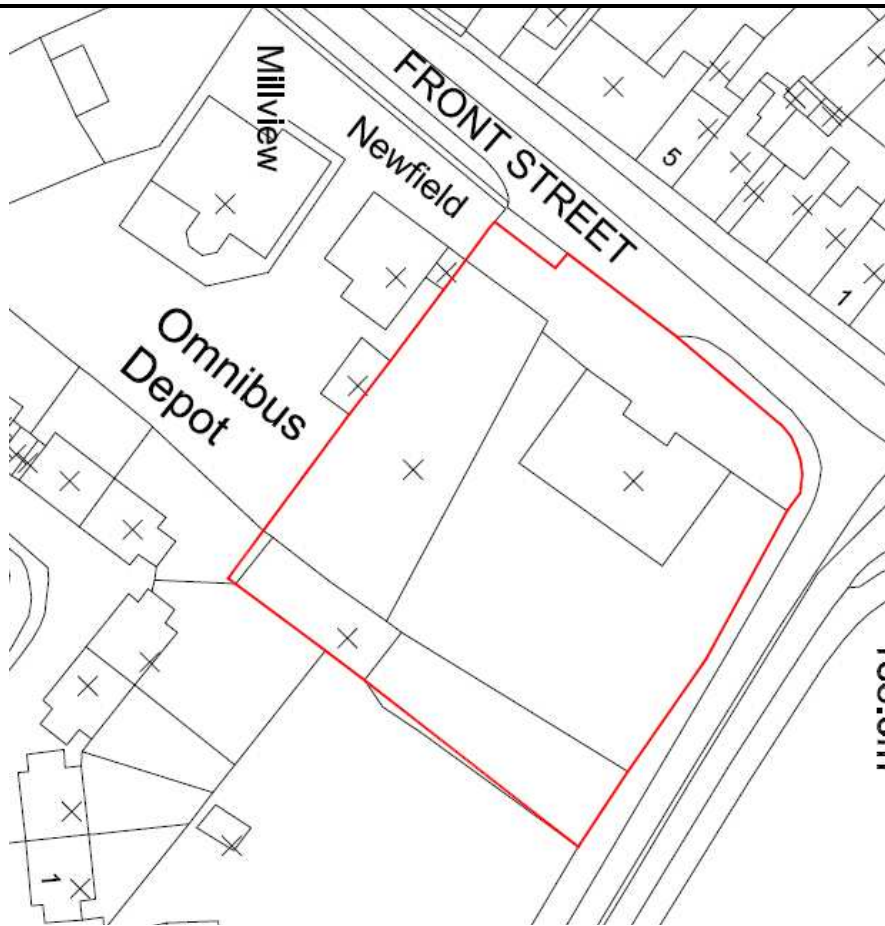
2. In particular, the impacts of the revised layout upon highway safety has been considered acceptable and the absence of a S106 agreement justified by the applicant and critiqued by officers.
3. Objections from Parish Council, local Councillors and members of the public relate to the absence of the S106 contributions, highway safety and some actions by the developer. These issues are considered within the planning considerations section of this report it is concluded that planning permission should be granted.

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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 Responses  
Responses from Local Divisional Members  
Planning Circular 11/95  
County Durham Local Plan (Preferred Options)



**Planning Services**

Variation of condition 2 of planning application 11/00479/FPA substituting Wren house type and amending parking provision together with seeking removal of S106 obligations

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**Date 9<sup>th</sup> October 2012**