

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/12/00997/FPA
FULL APPLICATION DESCRIPTION:	Demolition of remaining dwellings on site and redevelopment with erection of 78 no. dwellings
NAME OF APPLICANT:	Durham Villages Regeneration Company C/O Keepmoat Homes
ADDRESS:	Land at Rowan Court and The Oaks Esh Winning Durham
ELECTORAL DIVISION:	Deerness Valley
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application relates to a parcel of land covering approximately 2 hectares located on the western edge of Esh Winning. The application site formally comprised of a residential estate of some 61 plots, however, the vast majority of the estate has now been demolished with just 10 no. properties still standing on the site. The remains of the site comprises of a mixture of grassland with remains of areas of hardsurfacing, roads and footpaths. An electricity substation, to be retained with the proposed redevelopment, is also situated within the application site. A number of trees are located within the bounds of the site both on the site perimeter and also within some more central areas.
2. The application site lies within a predominantly residential area and one which is undergoing a significant redevelopment programme at the moment. New residential properties are being built on the opposite side of Ridding Road and at nearby College View. A new school has also been recently built also off College View.
3. Though on the very edge of the settlement the application site lies wholly within the bounds of the settlement boundary of Esh Winning, the centre of the village lies approximately 500m to the east of the application site.

The Proposal

4. The application seeks the redevelopment of the site with erection of 78 no. new dwellings comprising of a mixture of 2 and 3 bed 2 and 2 ½ storey properties. A total of

8 no. house types are proposed and these are the same or similar house types to those also being constructed by Keepmoat Homes at the adjacent Ridding Road and nearby College View sites. Each property is served by a mixture of private parking spaces and/or garages with visitor parking spaces interspersed across the site.

5. Two vehicular accesses into the proposed development are sought one at the far western end of Ridding Road and the second, also off Ridding Road, just to the east of the existing access to Hamilton Close. A large area of public open space is proposed roughly in the centre of the site with a footpath and cyclepath link on a north – south axis through the site.
6. The application is accompanied by a S106 agreement proposing that 16 of the 78 dwellings (20%) are affordable homes to be transferred to a registered social landlord.
7. This application is being referred to Committee as it constitutes a major residential development.

PLANNING HISTORY

8. In 1988 planning permission was granted for the conversion of ground floor flats at Nos. 57-60 The Oaks for use as a workshop.
9. In 1991 planning permission was granted for the change of use of public open space to residential curtilage adjacent to No. 1 Rowan Court.

PLANNING POLICY

NATIONAL POLICY

10. 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.
11. 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’.
12. The following elements are considered relevant to this proposal;
13. *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 21st century.
14. *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.

15. *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.
16. *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.
17. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
18. *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.
19. *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

20. *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.
21. 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:

22. *Policy 2 - Sustainable Development* states that planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
23. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
24. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
25. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
26. *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.
27. *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.
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 E5a - Open Spaces within Settlement Boundaries* does not permit proposals which would detract from the functional, visual and environmental attributes they possess.
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 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.
35. *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.
36. *Policy H12A - The Type and Size of Housing* states that the Council will monitor new housing completions and where a certain need is not being met negotiate with developers to ensure the correct balance of the type, density and size of housing provided.
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 H14 - Improving & Creating More Attractive Residential Areas* seeks to improve the environment of existing residential areas and their housing stock.
39. *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.
40. *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.
41. *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.
42. *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.

43. *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.
44. *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.
45. *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.
46. *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.
47. *Policy Q6 – Structural Landscaping* requires new development on the edge of settlements to incorporate peripheral structural landscaping
48. *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.
49. *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
50. *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.
51. *Policy U9 - Watercourses* states that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.
52. *Policy U10 - Development in Flood Risk Areas* states that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative, less vulnerable areas are unavailable, that no unacceptable risk would result, or that appropriate mitigation measures can be secured.
53. *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.

54. *Policy U13 - Development on Unstable Land* will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
55. *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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

56. Northumbrian Water have raised no objections to the application but request conditions requiring the diversion of apparatus and with regards to the disposal of surface water.
57. The Highway Authority have raised no objections to the proposed access arrangements nor to the parking provision for the proposed development. Some modifications are sought to the design/layout of areas proposed for shared surfacing, however.
58. The Environment Agency have raised no objections.
59. The Coal Authority have raised no objections but do request that a condition be placed on any approval requiring site investigation and where necessary remedial works undertaken prior to the commencement of the development.
60. Natural England have raised no objections.

INTERNAL CONSULTEE RESPONSES:

61. The Councils Senior Low Carbon Officer has welcomed the proposed use of solar panels to meet the standard 10% energy reduction requirements, however, further clarity is sought as to the specifics of the scheme.
62. Ecology have raised no objections to the proposal but do recommend that the mitigation measures contained within the submitted protected species reports are conditioned on any approval.
63. Landscape have raised some objection to the degree of tree loss, failure for the layout to take into account the trees on site and a request is made for an amenity space to be created at the western end of the site. Clarity is sought on some boundary treatments and potential impacts on a watercourse at the western edge of the site.
64. Senior Tree Officer requests that the layout is revised so as to allow for the greater retention of trees, some trees are considered to merit a tree preservation order.

PUBLIC RESPONSES:

65. Cllr Wilkinson has offered his support to the proposed development and requested that it be made sure that letters of consultation are issued to residents of The Larches.

66. One further public response has been received from a remaining occupier of Rowan Court raising concerns over whether they would have access retained to their property during construction via roads and footpaths.

APPLICANTS STATEMENT:

67. The applicant has submitted a design and access statement and planning statement in support of the development proposal.
68. The supporting statements consider that the development has been designed to include a strong street frontage with vehicular accesses to properties being gained from the rear. The proposed development is considered appropriate in terms of scale, design and massing in relation to the character of the surrounding area.
69. The development is considered to be well served by public transport with easy access to bus services.
70. The proposed development includes affordable housing provision with 20% affordable housing provided on site.

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=4/12/00997/FPA](http://217.23.233.227/WAM/SHOWCASEFILE.DO?ACTION=SHOW&APPTYPE=PLANNING&APPNUMBER=4/12/00997/FPA)

PLANNING CONSIDERATIONS AND ASSESSMENT

71. 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, impacts on highway safety, affordable housing issues and ecology.

The Principle of the Development

72. The application site is located within the settlement boundary of Esh Winning. The site itself comprises of the remains and land associated with the residential estate of The Oaks and Rowan Court. Although the majority of properties have now been demolished, 10 no. still remain in three blocks across the site as do the remnants of some areas of hardsurfacing, the estate roads, footpaths and an electricity sub station. Areas of the site also comprise of grassed areas which will have formally been areas of public open space adjacent to properties and also overgrown grassed areas formally built upon and containing private gardens. Though the majority of the site is certainly previously developed, some areas must also be considered greenfield land.
73. Policy H3 of the Local Plan accepts the principle of windfall development of previously developed land for residential development. In addition the limited development of small greenfield sites is acceptable within the former coalfield villages such as Esh Winning provided no more than 10 dwellings are proposed and there exists clear regeneration benefits which could not be achieved through the development of previously developed land.

74. Those areas of the site that can be considered previously developed land are considered wholly to be in accordance with the provisions of Policy H3. Rowan Court and The Oaks formally contained a significant number of vacant and boarded up properties and officers consider that the redevelopment of the land with a new build estate would have clear regeneration benefits sought by Policy H3 with regards to any development on greenfield land.
75. Planning proposals must also be considered against the provisions of 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).
76. The key theme running throughout the NPPF is that of sustainable development and this is reinforced within Part 6 of the NPPF specifically regarding housing. Although some parts of the application site can be considered as greenfield land the application would in effect locate a residential estate on land where an estate has stood, the site is within the bounds of an established settlement with appropriate access to facilities and public transport. The development proposal is considered to represent sustainable development in principle and as a result the principle of the development can be accepted.

Impact Upon the Character and Appearance of the Area

77. Part 7 of the NPPF relates to the design of all new development and with good design considered 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. Policies Q5 and Q6 of the Local Plan seek to ensure that new development is served by appropriate landscaping schemes.
78. Revised plans have been submitted during the course of the application in part to overcome some officer concerns on the adequacy of the layout and lack of open and amenity space within the development.
79. The result is that a total of 78 dwellings rather than the originally sought 84 dwellings are now proposed. In the approximate centre of the site an area of open/amenity space is now proposed which will provide both an area of informal recreational space to serve the development but also provides a needed landscaped area to break up the development.
80. The dwellings proposed are a mixture of 2 and 2 ½ storey properties. The proposed house types themselves include those which have previously been considered acceptable and are in the process of being developed at the nearby sites off Ridding Road and at College View whilst the differing house types are very much variations on the same design themes. Officers consider that the house types proposed and their layout across the site is acceptable and would suitably integrate into the locality. The application site does lie on sloping ground and though final levels information was supplied with the originally submitted application documents, replacement levels information has not been supplied since the layout has been revised. However, the levels on the revised layout will reflect those previously submitted on the original layout to which officers did not object in principle. A condition can be attached on any approval to agree final levels and finished floor heights.

81. The Council's Senior Tree Officer and Senior Landscape Architect requested significant alterations to the proposed layout to seek greater tree retention than that originally proposed.
82. The revised layout received does propose some additional tree retention including two significant oak trees which are now to be retained within the centrally located area of open space. There would remain some loss of trees to facilitate the build and on the latest layout submitted this includes 3 no. trees adjacent to Ridding Road with the applicant stating that the reason for this is due to future drainage works necessary for the development.
83. Officers consider that the revised layout is a marked improvement on that originally submitted with greater tree retention possible, though officers acknowledge that the Landscape Section have requested greater retention still. Officers consider that ultimately a condition can be placed on any approval to agree precise tree retention and protection and loss and officers can seek to negotiate that as much tree retention occurs as possible. Ultimately officers do not object in principle on the issue of tree works, however, as the retention of several key specimens will be possible and a suitable compensatory landscaping scheme can be resolved via agreement of a suitably worded condition.
84. Conditions are also recommended for attachment on any approval with regards to final material choices for the dwellings, means of enclosures, colour treatment of doors (to ensure a variety) and hard surface finishes.
85. Officers consider that the impacts of the development upon the character and appearance of the area is acceptable.

Impacts upon Residential Amenity

86. Proposed residential developments must ensure the residential amenity of both existing neighbouring occupiers and the proposed occupiers of the new development are adequately preserved and catered for in accordance with the most relevant Local Plan Policies H13 and Q8.
87. All relationships between the proposed dwellings and the nearest neighbouring properties off Ridding Road, Hamilton Close, Redwood, Merlin Court and The Larches exceed the recommended separation distances as prescribed by Policy Q8 of the Local Plan.
88. The revised layout has addressed officers concerns with regards to relationships within the development itself with the vast majority of all relationships now meeting the requirements of the Local Plan. Officers consider that only a minority of exceptions exist with plots 84 and 19 have a window to window separation of 20.5m (as oppose to the guideline 21m) and the rear elevations of plots 42 and 41 being 11.5m from the gable of plot 45 (as oppose to the guideline 13m). Plot 36 contains a narrow secondary window to lounge that windows within the rear elevation of plot 39 will flank at 17m away rather than 21m. However, officers do not consider that these relationships are so significantly below separation guidelines to be considered unacceptable and warrant objection to the overall development proposal. Furthermore, as the relationships are between proposed dwellings, future occupiers will be able to determine for themselves whether the relationships are satisfactory for their needs and in any case should no cause harm.
89. No objections have been received from neighbouring occupiers with regards to matters of residential amenity. Officers do consider that a condition should be attached to any

approval regarding hours of construction so as to ensure that the construction does not cause unacceptable noise or disturbance at unsociable times of the day.

90. The single letter of response received from a resident who still resides on one of the remaining properties within the application site has raised concerns and requested assurances that during the build they will retain access to and from their property at all times during the development.
91. The proposed layout of the development does not make provision for the concerned residents' property remaining on site but rather that it is to be demolished and replaced and this may ultimately be resolved by way of a compulsory purchase order. Potentially it is feasible that a redevelopment proposal be part implemented with the concerned residents' property remaining or remaining for a temporary period whilst construction is being undertaken. If this instance were to arise officers consider that it is principally the responsibility of the developer to ensure that if a resident remains on site during construction that their rights of access to and from their property are not obstructed.
92. Overall officers do not raise objection to the development proposal on the grounds of harm to residential amenity.

Highway Safety

93. 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.
94. The Highway Authority have commented on the submitted application and no objections have been raised in principle to the development with no objections to the proposed access arrangements which includes two accesses onto Ridding Road nor the parking provision within the latest proposed layout.
95. Officers concur with these views and would add that ultimately this development would effectively replace one residential estate and its associated comings and goings with another.
96. Revised plans submitted during the course of the application have to sought address detailed modifications requested by the Highway Authority, however, it is still considered that some specific design alterations to the shared surface area adjacent to plots 28 and 29 are required but this can be resolved by way of a condition on any approval.
97. The application site is also considered to be adequately served by public transport with a bus stop located within approximately 100m of the application site.
98. Officers therefore raise no objections to the development on the grounds of highway safety, officers do recommend that a condition be attached to any approval to agree final hard surface layout and materials so as to ensure the legibility of the layout and appropriate appearance of the hard surface areas.

Affordable Housing

99. The present stance of the Local Planning Authority with regards to affordable housing is based upon the most up to date evidence base contained within the Strategic Housing Market Assessment (SHMA) which considers that 20% affordable housing provision is required in the former Durham City area on sites proposing 15 dwellings or more.

100. Of the 78 dwellings proposed on the site 16 are to be transferred to a registered social landlord as affordable homes and this equates to the required 20%. A draft S106 agreement to ensure the 20% affordable provision has already been submitted by the applicant and its final execution would ensure the affordable housing provision.
101. Officers therefore raise no objections with regards to affordable housing issues.

Ecology

102. 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 Part 11 of the NPPF most notably at paragraphs 118 and 119.
103. Under the requirements of the Conservation of Habitats and Species Regulations 2010 it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England.
104. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species license from Natural England. This requires an examination of the derogation provisions. The Local Planning Authority must not usurp the functions of the licensing authority in this regard. It is for Natural England to decide licensing applications; the local planning authority must only be satisfied that there is a possibility of a required license being granted. The 2010 Regulations contain three "derogation tests", which are that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment; there must be no satisfactory alternative; and favourable conservation status of the species must be maintained.
105. The application has been accompanied by an extended phase 1 habitat survey and bat survey report. The survey work undertaken recorded bat roosts within 2 no. buildings. The roosts identified were considered to be non-breeding roosts used by small numbers of Common Pipistrelle bats. The development proposal would result in the complete loss of the roosts and disturbance to the small numbers of bats. The survey confirms that a European Protected Species License from Natural England would be required due to the loss of the roosts.
106. Natural England have been consulted on the application who have considered the development against their standing advice procedure and conclude with no objections, broadly satisfied that the mitigation proposals would avoid adverse impacts on the local population of bats and avoid affecting their favourable conservation status.
107. The Council's Ecology team have also commented on the application and have raised no objections but advice that the mitigation measures proposed within the submitted ecological reports and surveys are conditioned on any approval.
108. With regards to the consideration of the three derogation tests officers consider the following with regards to each. On the test that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest, officers consider that there are significant socio-economic benefits and beneficial consequences of primary environmental importance through the

implementation of the development. The development proposal seeks to redevelop a residential area formally comprising of numerous vacant and boarded up houses bringing back into use an established residential area for family housing including affordable housing. The development therefore contributes both in aesthetic and socio-economic terms to the regeneration of the area. In addition, the remaining buildings on site are in a state of disrepair and or decline and their demolition and redevelopment would in the long term preserve public health and safety.

109. With regards to the second test and prospect of satisfactory alternatives officers do not consider that satisfactory alternatives do exist. Potentially the “do nothing” approach could result in buildings on site deteriorating further giving raise to public safety concerns. The redevelopment of the site, it is considered, would result in much needed regeneration and socio-economic benefits which an alternative resulting in either no or only partial redevelopment would not satisfactorily achieve to the same extent. Incorporation of the existing roost buildings into the development would as an alternative appear aesthetically incongruous in comparison to the proposed scheme.
110. With regards to the favourable conservation status of the species, mitigation measures proposed within the submitted survey reports can be conditioned on any approval and these include the provision of alternative roosts being created. The submitted ecological reports state that the bat boxes proposed are to be located at differing locations and at differing elevations to provide year round opportunities for bats. It should be noted that Natural England in their consultation response considered that the favourable conservation status of the species should be retained through the development. Officers therefore consider that the third derogation test is also met.
111. Officers consider there is clearly a likelihood that an EPS license would be granted by Natural England and that due consideration Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 has been given by the Local Planning Authority.
112. With regards to other protected species the submitted ecology and phase 1 habitats survey also recommends mitigation measures so as to avoid harm to nesting birds through tree works and these mitigation measures can be conditioned on any approval. The development is not considered to cause any detrimental impacts upon other protected species.
113. As a result no objections to the proposed development with regards to impacts upon protected species are raised having regards to Policy E16 of the Local Plan, Policy 33 of the RSS, part 11 of the NPPF and having regards to the Conservation of Habitats and Species Regulations 2010.

Other Issues

114. Cllr Wilkinson has offered his support to the proposed development though has requested that it be made sure that the residents of The Larches are issued with consultation letters. These consultation letters were previously issued.
115. The S106 agreement submitted with the application proposes the provision of 20% affordable housing on site and this is discussed in more detail within the affordable housing section to this report. The current S106 agreement does not propose financial contributions towards public art installations or play/recreational space. Supported by Policies Q15 and R2 of the Local Plan these financial contributions are requested as a matter of course on major residential developments. The application contains within its supporting documentation that such financial contributions can emerge from the development profit and the commitment tied down within legal agreements relating to the purchase of the land. However, the appropriate approach in planning terms to

handle a financial planning obligation is through the use of a S106 agreement. Officers therefore consider that the S106 agreement should also include the financial contributions towards public art and play/recreational space and that approval of the application should be on the basis of this legal agreement being entered into.

116. With regards to matters of drainage and having regards to Policy U8A of the Local Plan Northumbrian Water have been consulted on the application and have raised no objections to the application but request conditions requiring agreement on the diversion of apparatus and with regards to the disposal of surface water for the development. Such conditions can be attached on any approval.
117. With regards to contaminated land to which Policy U11 of the Local Plan relates, the application has been accompanied by a preliminary geo-environmental appraisal and this recommends that a further intrusive investigation should be implemented. A suitably worded condition can be attached to any approval to adequately investigate the site and where necessary implement remediation.
118. The application has been accompanied by a sustainability document seeking to demonstrate how a 10% reduction in carbon emissions can be achieved as required by Policy 38 of the RSS and supported by Policy U14 of the Local Plan. Though the Councils Senior Low Carbon Officer has in principle welcomed the proposed use of solar panels to meet the standard 10% energy reduction requirements, it has not been considered that the submitted technical data thus far prove its attainment. However, a condition can be attached to any approval to agree such a scheme.
119. The application site lies within flood zone 1, the least probable to suffer from flooding. However, as the site is over a hectare in size the submission of a flood risk assessment has been necessary and Policies U10 of the Local Plan and 35 of the RSS relate supported by Part 10 of the NPPF.
120. The submitted flood risk assessment makes reference to a drainage ditch at the western end of the site and recommends that this should be unaffected by the development. Policy U9 of the Local Plan specifically relates to development and watercourses. The proposed layout does not indicate any build upon or impact upon this drainage ditch inline with the recommendations of the flood risk assessment. The Environment Agency have been consulted on the application, assessed the development and submitted flood risk assessment and no objections have been raised and the only request made is that the sewerage undertaker (Northumbrian Water) be consulted on the application which has been undertaken. No objections with regards to the development flood risk are therefore raised.
121. The Coal Authority have been consulted on the application and consider that the applicant has gained appropriate and up to date information with regards to the development and coal mining information. No objections are therefore raised though a condition should be attached to any approval requiring a site investigation to be implemented prior to the commencement of the development works. Such a condition can be attached to any approval.
122. The application site does not include any designated public rights of way that could be affected by the development. The submitted layout proposes a footway and cycleway link to a pathway to the north of the site. Within the site a number of hardsurfaced paths which have served The Oaks and Rowan Court still remain and the applicant will separately be required to apply for a stopping up order and an informative can be attached to any approval to ensure the applicant is aware of this.

CONCLUSION

123. The application seeks the redevelopment of a previous housing estate now predominantly demolished and unoccupied except for a minority of properties. Although sections of the site must be considered greenfield, the development proposes the redevelopment of an established housing site with a new housing development and no objections are raised in principle to the application.
124. The proposed layout, revised during the course of the application is now considered to be acceptable with the house types proposed either the same or similar to other developments ongoing within Esh Winning. The development would suitably integrate into the locality.
125. Remaining buildings on site do include bat roosts identified by the ecological surveys undertaken on the site. As these roosts would be lost through the development a EPS license would be required from Natural England and the LPA must satisfy itself that the three derogation tests of the Habitats Directive can be met and a license potentially granted. The tests have been considered and officers conclude that there is a reasonable likelihood of an EPS license being granted and that due consideration to Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 has been given by the Local Planning Authority.
126. No objections are raised with regards to matters of highway safety. The development proposes the provision of 16 no. (20% provision) affordable houses on site which is a major benefit of the proposal. No objections are raised with regards to other material planning considerations.
127. Approval of the application is therefore recommended.

RECOMMENDATION

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

- i. The provision of 16 no. affordable homes onsite
- ii. A financial contribution towards recreational/play space equivalent to £1,000 per dwelling
- iii. A financial contribution towards public art equating to 1% of development cost

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

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

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

Plan nos.

QD637-01-01 Rev A received 4th January 2013

QD637-763B-01 received 2nd November 2012

QD637-1011-01

QD637-RSL869-01

QD637-951-01

QD637-828-01
QD637-836-01
QD637-665-01
QD637-GD-01
QD637-858FE-01 received 29th October 2012

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E5a, E14, E16, H3, H12, H12a, H13, H14, T1, T10, T21, R2, R11, Q1, Q2, Q3, Q5, Q6, Q8, Q15, U8a, U9, U10, U11, U13, U14 of the City of Durham Local Plan 2004.

3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the external walling and roofing materials, details of the colour treatment of entrance doors to the dwellings and details of hard-surfaces to be provided within the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

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

4. Prior to the commencement of the development details of all 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 the appearance of the area and to comply with Policy Q8 of the City of Durham Local Plan 2004.

5. Notwithstanding any details submitted with the application no development shall commence until full details of the proposed design and layout of all areas identified on approved plan QD637-01-01 Rev A received 4th January 2013 as "shared surfaces" have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004.

6. 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) the glass to be used in any first floor window to bathroom or en-suite shall be obscured glazed and non-opening unless the parts that can open are at least 1.7m above floor level.

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

7. 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 development on site. The scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of 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 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and to comply with Policies Q5, Q6 and Q8 of the City of Durham Local Plan 2004.

8. Prior to the commencement of development precise details including a plan shall be submitted to the Local Planning Authority clearly identifying which trees and hedges that are to be removed and which are to be retained and protected during the course of construction works. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and 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. Said protection shall remain in situ until the development has been completed.

Reason: In the interests of the preservation of trees and visual amenity having regards to Policies E14 and Q8 of the City of Durham Local Plan 2004.

9. Prior to the commencement of the development hereby approved, detailed drawings including sections showing the proposed site levels and the finished floor levels of the proposed new dwellings shall be submitted to and approved in writing by the local planning authority. Thereafter the works shall be implemented in accordance with the approved details.

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

10. 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.

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 of the dwellings.

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. Prior to the commencement of the development details of the diversion of existing water mains running across the site and the means of disposal of all foul and surface water resulting from the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and thereafter implemented in accordance with the approved scheme.

Reason: In the interests of adequate drainage and the prevention of flooding having regards to Policies U8A and U10 of the City of Durham Local Plan 2004.

13. No development works (including demolition) shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am to 2pm 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 Policies H13 and Q8 of the City of Durham Local Plan 2004.

14. Prior to the commencement of the development hereby approved the intrusive investigative works recommended with Section 7 of the preliminary geo-environmental appraisal report by Sirius received 29th October 2012 must be undertaken. The results of said investigation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Should the results of the investigative works confirm the need for remedial works to treat any areas of shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the development, the proposed scheme of remedial/mitigation works must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Thereafter the development shall be implemented in accordance with the agreed remedial/mitigation scheme.

Reason: In the interests of the stability of the land sought for development having regards to Policy U13 of the City of Durham Local Plan 2004.

15. No development shall take place unless in accordance with the mitigation detailed within Section E of the bat survey report and Section 5 of the ecology report both undertaken by Dendra Consulting Ltd and both received 29th October 2012.

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

REASONS FOR THE RECOMMENDATION

1. The development proposes the rebuilding of a residential estate on land established for such purposes. Part of the application site can be considered

greenfield land and as a result there is a degree of conflict with Policy H3 of the Local Plan. However, the site and proposal are considered to constitute sustainable development. No harm is considered to occur to the character or appearance of the area with no significant objections raised with regards to other key issues of highway safety and residential amenity. Affordable housing requirements are met through the proposal. Bat roosts do exist in buildings on site sought for demolition and an EPS license will be required. The derogation tests have been considered and officers conclude that there is a reasonable likelihood of an EPS license being granted and that due consideration to Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 has been given by the Local Planning Authority. The development is considered to accord with Policies E5a, E14, E16, H12, H12a, H13, H14, T1, T10, T21, R2, R11, Q1, Q2, Q3, Q5, Q6, Q8, Q15, U8a, U9, U10, U11, U13, U14 of the City of Durham Local Plan 2004.

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, the City of Durham Local Plan 2004 and the provisions of the National Planning Policy Framework. With regards to protected species the due regard has been attributed to the requirements of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010.

2. In particular, the development is considered to cause no detrimental impacts upon the character and appearance of the area and officers conclude that there is a reasonable likelihood of an EPS license being granted and that due consideration to Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 has been given by the Local Planning Authority.
3. One letter of objection/concern has been received during the course of the application requesting assurances that access to their property shall remain during the construction phases. Ultimately the primary responsibility that any rights of access are maintained for the occupier during construction phases lies with the developer.

BACKGROUND PAPERS

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

Responses of the Highway Authority, Northumbrian Water, Environment Agency, Natural England and The Coal Authority

Planning Circular 11/95

Strategic Housing Market Assessment

County Durham Local Plan (Preferred Options)



Planning Services

Demolition of remaining dwellings on site and redevelopment with erection of 78 no. dwellings

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Date 15th January 2012