

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/12/00909/FPA
FULL APPLICATION DESCRIPTION:	Residential development of 34 no. dwellings
NAME OF APPLICANT:	Dunelm Homes
ADDRESS:	Land east of Littleburn Lane and Onslow Terrace Langley Moor Durham
ELECTORAL DIVISION:	Brandon
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 0.8 hectares located outwith but adjacent to the settlement boundary of Langley Moor within both the designated Green Belt and forming part of the Browney Valley as defined by the Local Plan. To the west of the application site commences the built up area of Langley Moor with neighbouring residential properties on Onslow Terrace and Littleburn Lane. To the south of Littleburn Lane the Littleburn Industrial Estate is located. To the east of the application site lies the main east coast railway lane.
2. Historical maps indicate the presence of some buildings and what appear blocks of garages to be located on the southern end of the site. These buildings have since been removed from the site and returned to the landscape although some concrete surfacing still remains. However the site should be considered as being predominantly greenfield. The site boundaries are formed by a mixture of fencing and hedgerow.

The Proposal

3. The application seeks the development of the site with the erection of 34 dwellinghouses comprising of a mix of detached, semi-detached and terraced properties ranging from 2 to 4 beds and all 2 storeys in height. A total of 7 no. house types are proposed. Of the 34 dwellings sought 7 no. are proposed to be affordable homes which equates to 20% affordable housing provision on site. The affordable homes are proposed to be transferred to a registered provider.
4. Two vehicular accesses into the proposed development are sought one at the far north of the site which would provide the vehicular access to a parking court for just 6 no. properties and some visitor parking. A further access farther south provides access to

the majority of remaining properties, with 6 no. properties gaining access directly from Onslow Terrace.

5. The application is accompanied by a S106 agreement to ensure the provision of 7 no. affordable homes and to provide financial contributions of £26,000 and £34,000 towards public art installations and play/recreational space respectively.
6. This application is being referred to Committee as it constitutes a major residential development.

PLANNING HISTORY

7. In 1992 planning permission was refused for a residential development on part of the application site and an appeal was dismissed on the grounds that residential development at the site was unacceptable in principle and would harm the character and appearance of the area.
8. In 1995 an application for use of part of the site for the purposes of a car park was withdrawn. Later in 1995 planning permission was refused for an industrial development on the site on the grounds of harm to the amenities of residents and harm to highway safety.
9. Also in 1995 planning permission was refused for a mixed use development of 5 no. residential properties and 5 no. business and workshop units on the grounds of harm to residential amenity, that the development would be contrary to the Local Plan and the intention to separate the residential and commercial uses in the area and harm to highway safety.
10. In 1997 The Inspectorate dismissed an appeal of the Council's decision to refuse planning permission in outline for a residential development on the site. The Inspector found the development contrary to the provisions of the Local Plan and policies to preclude residential development on the land.
11. In 2004 planning permission was refused for a residential development of 13 no. dwellings (in outline) on the grounds that it constituted the unacceptable development of greenfield land, unacceptable residential development beyond a settlement and inappropriate development in the Green Belt.
12. Although not relating to the application site, also of some relevance to the proposal is the approval in 2009 on nearby land for a mixed use development comprising of a supermarket (full planning permission) and outline application including details of access for the erection of children's nursery and erection of 19 no. dwellings. In 2010 approval of the reserved matters for the residential development comprising of 17 no. dwellings which includes the erection of 12 no. dwellings arranged around a turning head located off Onslow Terrace.
13. In addition following the grant of outline consent in 2004, approval of the reserved matters for 18 no. dwellings to the north of the application site (now known as Wesley Court) was granted in 2005.

PLANNING POLICY

NATIONAL POLICY

14. 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.
15. 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’.
16. The following elements are considered relevant to this proposal;
17. *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.
18. *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.
19. *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.
20. *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.
21. *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.
22. *NPPF Part 9 – Protecting the Green Belt.* The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
23. *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.

24. *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.
25. *NPPF Part 12 – Conserving and enhancing the historic environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

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

REGIONAL PLANNING POLICY

26. *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.
27. 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:
28. *Policy 2 - Sustainable Development* states that planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
29. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
30. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.

31. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
32. *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.
33. *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.
34. *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.
35. *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.
36. *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)

37. *Policy E1 Durham City Green Belt* - outlines the presumption against inappropriate development in the Green Belt in order to preserve its intrinsic openness.
38. *Policy E7 Development in the Countryside* - advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
39. *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.
40. *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.
41. *Policy E24 - Ancient Monuments and Archaeological Remains* sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local

importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.

42. *Policy H5 - New Housing in the Countryside* sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
43. *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.
44. *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.
45. *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.
46. *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.
47. *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.
48. *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.
49. *Policy R14 – Browney Valley* – Seeks to encourage the informal recreational potential of the Browney Valley whilst ensuring that all development proposals also accord with other land designations within the Browney Valley including the Green Belt and areas of high landscape value.
50. *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.
51. *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.
52. *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.

53. *Policy Q6 – Structural Landscaping* requires new development on the edge of settlements to incorporate peripheral structural landscaping
54. *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.
55. *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
56. *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.
57. *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.
58. *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.
59. *Policy U12 - Development near Contaminated Land* states that development will only be permitted within the vicinity of contaminated land where it can be demonstrated that measures can be undertaken to prevent any harmful affects of said contamination.
60. *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.
61. *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:

62. Northumbrian Water have raised no objections to the application.
63. The Highway Authority have raised no objections to the application.

64. The Environment Agency advises the LPA of the proximity of the application site to industrial units, some of which will be regulated under Environmental Permitting Regulations. Potentially new occupiers of properties could be exposed to noise from industrial units though only in very limited instances would the Environment Agency revoke an operator's license. Advice is also provided with regards to land contamination and foul water disposal guidance and good practice.
65. The Coal Authority have raised no objections but do request that a condition be placed on any approval requiring an intrusive investigation and where necessary remedial works undertaken prior to the commencement of the development.
66. Brandon and Byshottles Parish Council object to the proposal on the grounds of the implications of the development upon traffic congestion namely upon Mill Road and the A690.

INTERNAL CONSULTEE RESPONSES:

67. The Councils Senior Low Carbon Officer has objected to the proposal as it stands with no adequate demonstration of a 10% reduction in carbon emissions or compliance with the relevant building regulations pertaining to energy reduction.
68. Landscape have raised no objections though additional requests on characteristics of soil and also excavation levels are made.
69. Ecology have raised no objections regarding the impacts of the development upon protected species, however some concerns over the landscaping scheme and proposed planting of cotoneaster (an invasive species) are raised.
70. Archaeology have raised no objections subject to conditions on archaeological evaluation and mitigation being applied to any approval.
71. Design and Conservation make reference to the location of the site within the Green Belt and make a series of layout alteration requests.
72. Planning Policy object to the proposal in principle due to the location of the site within the Green Belt and also raise some objections to the submitted layout.
73. Senior Tree Officer raises no objections.
74. Environmental Health raise no objections though request further details on a proposed acoustic barrier and details of the property such as windows and ventilation details.

PUBLIC RESPONSES:

75. 15 no. letters of objection have been received with regards to the development and a petition opposed to the development with 52 signatures has also been received.
76. Some objection relates to highways issues with objections raised with regards to more traffic and congestion, inadequate parking and dangers to children playing in the street. A query is raised as to whether infrastructure improvements have been considered.
77. Objections are raised regarding the impact of the development upon views, privacy and noise and disruption emerging from the build. Concerns are raised that an increase in crime could occur as a result of the increase in population.

78. Questions are raised over the need of the development and reference is made to nearby recently built properties which have struggled to sell, remained empty or have been rented to poorly behaved tenants.
79. Objections are raised to the building of the homes on Green Belt land and one respondent seeks clarification that the land subject to the application has some designation and protection. Reference is made to the history of refused planning applications at the site and an understanding that an ombudsman stated that development could not come forward on the land for at least 30 years. Some respondents state that the properties would be too close to the railway line to the rear.
80. Concerns are raised over the potential for flooding due to the development of greenfield land and the capacity of sewers and reference is made to the flood damage caused at Newburn, Tyne and Wear.
81. It is understood that a further residential development is also being sought on a neighbouring parcel of land.
82. Objections are raised to the layout/design of the development with properties considered to be “squeezed” onto the site.
83. It is considered that the land subject to the application is a wildlife habitat. Objections are raised over the impacts of the development upon property values. Questions are also raised over the boundary line of the development site not matching that of the land registry title.

APPLICANTS STATEMENT:

84. The applicant has submitted a statement in support of the application considering that the development has been designed to provide an attractive place to live which will have a direct and positive effect on the surrounding community. A choice of high quality homes is proposed with a 20% affordable housing provision giving wider opportunities for home ownership, supporting a sustainable, inclusive and mixed community.
85. The design will offer greater security by infill of the open land to the rear of existing housing.
86. A recent report summarises the site as having very limited ecological value due to the site being too small and too subject to human disturbance to pose value. The adjacent railway embankment provides a linear area of habitat that can be used as a local wildlife corridor which can be improved by some additional planting incorporated within the proposed design.
87. The surrounding community will benefit from the financial contributions towards recreational space and public art.
88. The applicant has also within a submitted planning statement sought to support the principle of the development within the Green Belt making reference to the identification of the site as being “green” in the Strategic Housing Land Availability Assessment, identifying the railway line as the more appropriate marker for the Green Belt to commence and supporting this with documentation from the Planning Inspectorate.

PLANNING CONSIDERATIONS AND ASSESSMENT

89. 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 and ecology.

The Principle of the Development

90. The principle of the development is a key consideration regarding the determination of this application. The application site lies beyond the settlement boundary which defines the built up areas of Langley Moor, Meadowfield and Brandon from the countryside beyond and the site is located within the designated Green Belt.
91. Some public objection to the proposal relates to the status of the land subject to the application as being Green Belt and also refers to the quite extensive history of refused planning applications to develop the site.
92. The applicant, fully aware of the designation of the land, has supplied supporting documentation to justify the development. The applicant considers that it would be acceptable for the removal of the site from the Green Belt to occur, the railway line bordering the site to the east would mark a more appropriate commencement of the Green Belt rather than the present designation. Some support for this view, from a Planning Inspector is included in the applicant's enclosures and is annotated by the applicant as being "an extract from a recent Inspectors report prepared for the City of Durham Council". The Planning Inspector essentially does state that the railway line is a more defensible boundary of the Green Belt and recommends exclusion of the application site from the Green Belt.
93. These comments from the Inspectorate were contained within the Planning Inspectors Report on the draft City of Durham Local Plan prior to its adoption in 2004. The comments are therefore of some age and the then City Council, as was their right, rejected this particular response of the Inspector and choose to include the land subject to the application within the Green Belt. This Green Belt boundary and the Local Plan were subsequently adopted.
94. The applicant makes reference to the "green" status of the application site within the Strategic Housing Land Availability Assessment (SHLAA). The applicant also makes reference to the considered sustainability of the site and its reasonably close proximity to local facilities, employment and public transport links.
95. The NPPF reaffirms that the starting point for decision making on development proposals is that applications should be determined in accordance with the Development Plan (the existing Local Plan and RSS) unless material planning considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
96. Policy E1 of the Local Plan relates to the designated Green Belt and this development proposal of an essentially standard residential development of 34 no. dwellings does not

meet any of the development types considered acceptable in principle in the Green Belt through that policy. Similarly the development is also in conflict with those forms of development that Part 9 of the NPPF establishes as acceptable in principle in the Green Belt. The proposal is therefore inappropriate development, which by definition is harmful to the Green Belt significantly affecting the openness of the Green Belt and such developments should only be approved in very special circumstances.

97. Planning Policy have been consulted on the application and it is stated that the County Durham Plan Preferred Options Paper recommends that the 2004 Green Belt boundary is realigned to exclude the site. However, this recommendation has yet to be tested at an examination in public and at present the application site remains within the Green Belt which is a designation affording national importance and the conclusion of Planning Policy is that the application should be refused as the site remains within the Green Belt and the development constitutes inappropriate development.
98. In May 2012 a report was agreed by Cabinet entitled "Assessing Development Proposals in a Changing National Planning System" and seeks to provide advice on the Council's approach to decision making on planning applications in the context of a changing planning system, the NPPF, any conflict with existing Local Plans and the weight to be attributed to the emerging County Durham Local Plan.
99. The report states with regards to development proposals in the currently designated Green Belt that "it is highly unlikely that proposals that involve the development of green belt land will be viewed favourably". The report highlights that the SHLAA to which the applicant makes reference to is not an allocations document and acceptance of "green" sites now could prejudice the opportunity for others to promote their sites through plan preparation. The report also provides some advice on how to consider the principle of development proposals where said development does not accord with the Development Plan but does strike some accord with the emerging County Durham Plan and in regards to this states that the benefits of the development and sustainability issues should be considered but that Green Belt sites are highly unlikely to be acceptable for inappropriate development.
100. Local Authorities should not refuse planning applications solely on the basis of prematurity alone, however, it is appropriate to refuse applications which it is considered prejudice decisions about the pattern of development in the area which should properly be considered as part of the development plan preparation process.
101. Officers consider that this development proposal is one such case. The emerging County Durham Plan identifies the site for Green Belt deletion. However, this recommendation has yet to be tested at an examination in public and the proposed Green Belt deletions have been subject to public opposition. The Governments' Localism agenda should be considered and for this to have real meaning, these concerns should be debated through the Plan preparation process to establish the merits of arguments before a decision on the final approach is taken.
102. Officers acknowledge the points raised by the developer in support of the application and do acknowledge that the site is relatively close to the high street running through Langley Moor, its services and facilities. Furthermore, 20% affordable housing is proposed and this is a further benefit. However, officers do not consider that these factors constitute reason to depart from the Local Plan or constitute the very special circumstances to accept the inappropriate development.
103. On balance, officers do object to the principle of the development. The application site lies within the designated Green Belt and the residential development proposed is

considered to constitute inappropriate development without the existence of very special circumstances that would outweigh the harm to the Green Belt.

104. With reference to the planning history of the site and points raised in regards to this by local residents, there exists an extensive history of refusals for development proposals on the site. All these decisions pre-date the adoption of the Local Plan and it is considered that full consideration of this application on its own merits and set against the current Development Plan and material considerations should be undertaken. Reference is made within the public objections received to a Local Government Ombudsman stating that development could not come forward on the land for at least 30 years. Officers could not from their history search find this statement and the role of the Ombudsman is to consider whether maladministration may have occurred in the determination of an application rather than comment on planning merits. The objector may be referring to one of the several appeal decisions on the application site but again officers would reiterate each application should be determined on its own merits and in the context of the Development Plan and material considerations at that time.

Impact Upon the Character and Appearance of the Area

105. 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.
106. Due to the objections raised with regards to the principle of the development and the harm caused to the openness of the Green Belt officers must also object to the impact of the development upon the character and appearance of the site and area.
107. Setting aside the Green Belt land designation officers do not raise any particular objections to the proposed house types which would relate acceptably to the nearby dwellings which comprise of traditional terraced properties on Onslow Terrace itself and recently developed properties at Wesley Court.
108. Planning Policy have commented on the house types and layout and consider that the development is quite high density and question the adequacy of the size of the house types and some external curtilages. Design and Conservation have also been consulted on the application, the application is not within a Conservation Area but advice was sought purely on urban design grounds. Some modifications to the layout are recommended to better relate to the layout and building line of the surrounds. Officers concerns, are however, less strong on this.
109. Some public objections make reference to the layout and density of the development, considering that the properties appear “squeezed” onto the site.
110. Officers do have some objections to some separations distances between properties generated through the layout and this is discussed in more detail within the discussion on residential amenity in the next section to this report. In order to provide adequate separation between and amenity for all residents some reduction in housing numbers and density would be beneficial.
111. However, the impact of the development upon the Green Belt and its openness remains a fundamental issue notwithstanding the detailed discussions on the layout and housetypes.

112. As the development constitutes inappropriate development in the Green Belt, by definition harmful to the Green Belt officers must object to the impact of the development upon the character and appearance of the area having regard to Policy E1 of the Local Plan.

Impacts upon Residential Amenity

113. 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.
114. Concerns over the impacts of the development upon residential amenity namely loss of privacy, loss of views, noise and disturbance through the build are raised within the public objections to the development. In addition some concern over a potential increase in crime due to a rise in population is also raised.
115. Policy Q8 provides recommended separation distances to provide adequate privacy and amenity. Between main facing windows 21m should remain between properties, from a window to a blank two storey gable 13m should remain and from a window to a blank single storey gable 6m should remain.
116. The proposed layout includes some relationships which do not adhere to the guidance within Policy Q8 and in some instances officers consider that the relationships are unacceptable. With regards to relationships with the existing terraced properties the shortest separation distances would exist between the proposed detached properties and the dwellings directly opposite namely numbers 17-22 Onslow Terrace. Separation distances vary from between 19.4m to 20m between flanking habitable room windows. This separation is between 1 to 1.6m below that sought by Policy Q8 but officers would consider that this is only a relatively modest reduction in separation from that which guidance considers appropriate. Furthermore it must also be considered that the established building line between existing terraces in the immediate area establish far less separation between properties. Separation between the existing terraces is around 15m far less than that which this development would propose. One objection raised within the design advice from Design and Conservation is that the detached properties proposed to front onto the street are set too far back into the site in comparison to the established building line. To recess the detached properties farther into the site in order to provide 21m from the terraces opposite would worsen this impact raised by design colleagues. Having regards to this design point, the relatively modest reduction in separation from the guidelines of Policy Q8 and also taking into consideration the established building line on the street frontage officers do not raise objection on to the impact upon the residential amenity of the occupiers of 17-22 Onslow Terrace which the development frontage would flank.
117. However, officers do object to some relationships within the development itself which are considered to fall so significantly short of separation recommendations to be deemed unacceptable. The gable end of plot 9 is 10.6m from the rear of plot 7, the gable of plot 14 is 10.4m from the front of plots 12 and 13. Such separation is considered to be too significantly short of the 13m separation recommendation within Policy Q8. The rear and front elevations of the properties affected would have two storey builds so close as to block outlook and appear overbearing to which officers raise objection. A similar relationship also exists between the rear of plot 1 and the gable of plot 3, however, separation is greater and not so below the recommendations of Policy Q8 to raise objection.

118. All other relationships between properties within and outside of the development site are considered to accord with the requirements of Policy Q8 and as a result adequate privacy and amenity are considered to remain for these properties.
119. With regards to the public objections raised with regards to noise and disturbance caused by the development with the existing plot containing a green space any development of any nature is bound to create an increase in activity at the site. Some noise during the construction phase of any development will again be expected. However, the development of a relatively small number of properties as proposed will not pose any exceptionally disturbing activities above or beyond what can be expected for any new development adjacent to existing property and the construction phase would be temporary. If the site were to be development then the impact of noise from commuting vehicles, passing pedestrians, children playing etc will be an increase from the present situation but it would remain commensurate with any residential development adjacent to existing residential property.
120. Officers do not consider that the potential for noise or disturbance is such that it would warrant refusal of the application on such grounds alone. The proposed working hours condition requested by Environmental Health is standard on such developments and is considered suitable at the site. It must be taken into consideration that if working hours are heavily restricted this would result in a more protracted build time.
121. Some public objection relates to the loss of a view caused by the development. However, the loss of a private view is not a matter to be attributed material weight.
122. With regards to the issue of a potential for an increase in crime as a result of the increase in population emerging from the public consultation exercise, crime and a fear of crime is a material planning consideration. However, officers do not consider that significant weight could be added to the concern that a sheer increase in population would in turn cause an increase in crime. Within any new development should the use itself or specific design or layout of the development raise potentially raise crime levels or fear of crime then those are occasions where significant weight can be attributed. However, officers consider that to raise objection to a scheme due to a sheer increase in population and increase in crime in turn would be unreasonable and without a clear basis for demonstrable harm.
123. A further key issue with regards to the development is a consideration of the impacts of the proximity of the east coast mainline to the proposed dwellings which abuts the site to the east. The proximity of the development to the railway line is raised by public respondents.
124. Paragraph 123 of the NPPF advises on noise issues and development and includes the statement that impacts of noise should be mitigated and reduced including through the use of conditions. Reference is also made within the NPPF to the DEFRA publication Noise Policy Statement for England, the detail within PPG24 having been cancelled by the NPPF.
125. The application has been accompanied by a noise and vibration assessment and this has been assessed in detail by Environmental Health. Essentially Environmental Health consider that without some mitigation measures decibel levels within the development could be considered unacceptable. However, an adequate acoustic fence could be utilised to bring noise levels down to an acceptable level and full details would be needed. With regards to vibration through comparing the assessment and relevant British Standards relatively low levels of vibration should occur falling within the bracket of "Low Probability of Adverse Comment". Therefore though some impact may occur, Environmental Health are suggesting it would unlikely be significant.

126. With the above in mind officers consider that a condition to agree adequate acoustic screening/fencing would bring the impacts of noise from the railway within acceptable levels and as a result officers do not raise significant objection to the development on these grounds.
127. The Environment Agency raise the point of the proximity of the development to an industrial estate and that some industrial units will be regulated under Environmental Permitting Regulations. Potentially new occupiers of properties could be exposed to noise from industrial units though only in very limited instances would the Environment Agency revoke an operators license. Officers acknowledge the points raised by the Environment Agency but the Environment Agency have not as such raised an objection to the development on these grounds. Officers consider that it should be noted that the proposed residential properties would be no nearer to the industrial estate than existing dwellings on Onslow Terrace and Littleburn Lane. Furthermore the very nearest industrial units comprise of an MOT service garage and a furniture store therefore more of a light industrial and storage nature as oppose to the most significantly noisy or disruptive forms of industry.
128. The NPPF states at paragraph 123 that “development will often create some noise and businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established”. Officers consider therefore that the NPPF is, wherever possible, seeking to establish that new and existing developments can develop alongside one another, ultimately the Environmental Protection Act governs the acceptability of noise and disturbance to which the NPPF also makes reference. With all these factors in mind officers do not raise objection to the location of the residential development within close proximity to the Littleburn Industrial Estate.

Highway Safety

129. 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.
130. Matters of highway safety, increases in traffic, parking issues and dangers to children playing in the street are concerns raised within several public responses and the response of the Parish Council. Queries are also raised within the public responses as to whether infrastructure improvements would be needed for the development. It is also noted that previous planning applications have been refused in part on the grounds of highway safety and the inappropriate combination of residential and industrial traffic.
131. Officers certainly acknowledge the main routes within Langley Moor are very busy. The Parish Council specifically mention the A690 and Mill Road as a particular congestion concern. With the route north to access the A690 off Littleburn Lane blocked off by bollards all vehicular traffic from the development would have travel south onto Mill Road. Furthermore officers also note that an extant planning permission to erect 12 no. dwellings on land adjacent to a sub-station to the north east of the site which if ever implemented would utilise the same route.
132. However, the Highway Authority have been consulted on the application to provide their consideration of highways matters. No objections in principle have been raised during the course of the application regarding the levels of traffic to be generated, parking provision or acceptability of access arrangements. Some more detailed modifications were received from the Highway Authority with regards to matters of footpath location,

service strip formation within the layout but these have all since been resolved through the submission of a revised plan from the applicant.

133. The degree of concern from local residents and the Parish Council alike is acknowledged. However, the Highway Authority do not consider that either the scale, layout or access arrangements do pose a highway safety issue to residents to warrant objection. Officers concur with the views of the Highway Authority and do not raise objections to the scheme on matters regarding highways issues. Without reason to object to the scheme or require alterations to the local infrastructure (through junction improvements and the like) to make the development acceptable from a highways perspective officers do not consider that demands for infrastructure improvements as queried in the public responses can be made.

Ecology

134. 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.
135. 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.
136. The impacts of the development upon wildlife is a concern that has emerged from the public responses to the development with a resident considering that the application site is a wildlife habitat.
137. The application has been accompanied by a Phase 1 habitat survey to identify any areas of ecological interest on the site and if necessary outline the means by which that interest can be maintained or enhanced. With regards to protected species the submitted survey found no evidence of protected species on site with no suitable trees or buildings for bat roosts, no suitable habitat for badgers, nesting birds or amphibians. It is stated that the hedge adjacent to the rail track may provide limited bat feeding habitat though not suitable roosting habitat.
138. Ecology have been consulted on the application and no objections to the findings of the submitted ecology report are raised. However, it is not considered that the proposed planting of a cotoneaster to increase food supply for birds is suitable as cotoneaster is an invasive species. Officers consider that an appropriate landscaping scheme could be handled via a condition should planning permission be granted.
139. 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. It is not considered that a license from Natural England would be required to implement the development and as a result it is not considered that the Local Planning Authority must consider a detailed assessment against the 3 no. "derogation tests" of the Habitats Directive.
140. As a result no objections to the development are raised with regards to the impact of the development upon nature conservation interests having regards to Policy E16 of the Local Plan, Policy 33 of the RSS, Part 11 of the NPPF or having regards to the provisions of Conservation of Habitats and Species Regulations 2010.

Other Issues

141. The application is accompanied by a S106 agreement that proposes 20% affordable housing provision on site and financial contributions of £26,000 and £34,000 towards public art installations and play/recreational space respectively. No objections are therefore raised to the development having regards to matters of affordable housing provision, public art and play and recreational facilities having regards to relevant Policies H12, R2 and Q15 of the Local Plan.
142. Some public respondents question the need for the development and reference is made to nearby newbuild properties that have struggled to sell, remained empty or have been rented privately (including to poorly behaved tenants).
143. Officers consider that objection to the need for the development as such could not be raised if the proposal was considered to accord with the provisions of the Development Plan and material planning considerations did not indicate otherwise. Officers have raised objection to the principle of the proposal on the grounds of constituting inappropriate development and therefore officers do not consider that there is a need for the development as such on the application site that would represent the very special circumstances needed to outweigh the harm caused to the Green Belt. Officers would not however, object purely on the grounds that housing as such is not needed at all. The emerging County Durham Plan supported by the Strategic Housing Market Assessment (SHMA) does identify housing delivery need. Although full weight cannot be provided to the content of the emerging County Durham Plan at this stage the cabinet report "Assessing Development Proposals in a changing National Planning System" emphasises that the direction set out in the emerging documents is unlikely to change, and this can be considered in decision making, with the emphasis on certain key settlements and Durham City as an economic driver. The emerging County Durham Local Plan allocates 550 dwellings to the Langley Moor, Brandon and Meadowfield area over the plan period. Officers therefore consider that objection to new housing as such on a basis of no need should not be raised but this does not override the objections raised to the principle of the development at this particular site.
144. Some public objection relates to the potential for flooding due to the development of a greenfield site, the capacity of the sewers and reference is made to the flood damage caused at Newburn, Tyne and Wear. The application site lies in Flood Zone 1, the least probable to flood and due to the size of the site no flood risk assessment is required to accompany the application. Regardless of this the applicant has submitted a flood risk assessment and officers have consulted the Environment Agency and Northumbrian Water as a matter of course. The Environment Agency have raised no objections to the submitted flood risk assessment or to the development having regards to flood risk. Northumbrian Water have also raised no objections to the proposed development with no concerns raised regarding sewer capacity. As a result and having regards to Policies U8A and U10 of the Local Plan, Policy 35 of the RSS and Part 10 of the NPPF, no objections with regards to matters of drainage or flood risk are raised by officers.
145. With regards to matters of potential contamination affecting the application site, the application has been accompanied by a geo-environmental appraisal. Environmental Health have not raised any objections to the content of this report. On any approval a suitably worded condition can be attached to adequately investigate the site and where necessary implement remediation having regards to Policies U11 and U12 of the Local Plan.
146. 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. The Councils Senior Low Carbon Officer has objected to the proposal as it stands with no adequate

demonstration of a 10% reduction in carbon emissions or compliance with the relevant building regulations pertaining to energy reduction. The views of the Senior Low Carbon Officer are noted and the current submission with regards to energy reduction considered inadequate. Ultimately, however, a condition could be attached to any planning permission requiring an acceptable scheme to be devised and agreed.

147. The application site lies within the Coal Authority's coal mining referral area and the applicant has submitted a coal mining risk assessment. The Coal Authority have been consulted on the application and no objections have been raised though they do request that a condition be placed on any approval requiring an intrusive investigation and where necessary remedial works undertaken prior to the commencement of the development. Should planning permission be granted such a condition could be attached.
148. A heritage statement undertaken by the University of Durham Archaeological Services has been submitted with the application and has been assessed by the Councils Senior Archaeologist. No objections to the submitted reports are raised by the Senior Archaeologist though should planning permission be granted conditions should be attached to any approval regarding archaeological evaluation and mitigation having regards to Policy E24 of the Local Plan and Part 12 of the NPPF.
149. Within the public responses to the application a query is raised that it is understood that further residential development is also being sought on a neighbouring parcel of land. From officers planning history search the most relevant proposal that the query could relate to is the extant planning permission originally dating from 2009 for a mixed use development (including the Lidl store) which included the erection of 17 no. dwellings 12 of which are located to the north east of the application site adjacent to the sub station which have not been developed.
150. Some public responses raises concerns over the impact of the development upon property values. However, the impact of a development upon property values is not a material planning consideration.
151. A query has also been raised that the boundary of the development does not match that of the land registry title. The applicant has certified within the application form that they do own all of the land enclosed by the red line of the application site. Ultimately, matters of land ownership are separate legal matters beyond the remit of the Local Planning Authority.

CONCLUSION

1. The application seeks a residential development on land designated within the Local Plan as being Green Belt land. Development on Green Belt land is inappropriate and by definition harmful to the Green Belt, unless it falls under a specific category of development as defined within Policy E1 of the Local Plan and Part 9 of the NPPF or unless very special circumstances have been demonstrated that clearly outweigh the harm to the Green Belt.
2. The applicant has sought to support the principle of the development within the Green Belt including through making reference to the SHLAA, identifying the railway line as the more suitable marker to delineate the Green Belt as well as emphasising the considered sustainable nature of the development.

3. Officers do not consider that the arguments put forward constitute the very special circumstances to permit the departure from the Development Plan and approve the development. It is considered premature to accept the development on Green Belt land in the context of the emerging County Durham Plan and would harm future objectives and choices in the plan-making process.
4. Furthermore officers raise objections to the layout of the residential development with some specific relationships between properties considered unacceptable, failing to preserve adequate amenity for prospective residents.

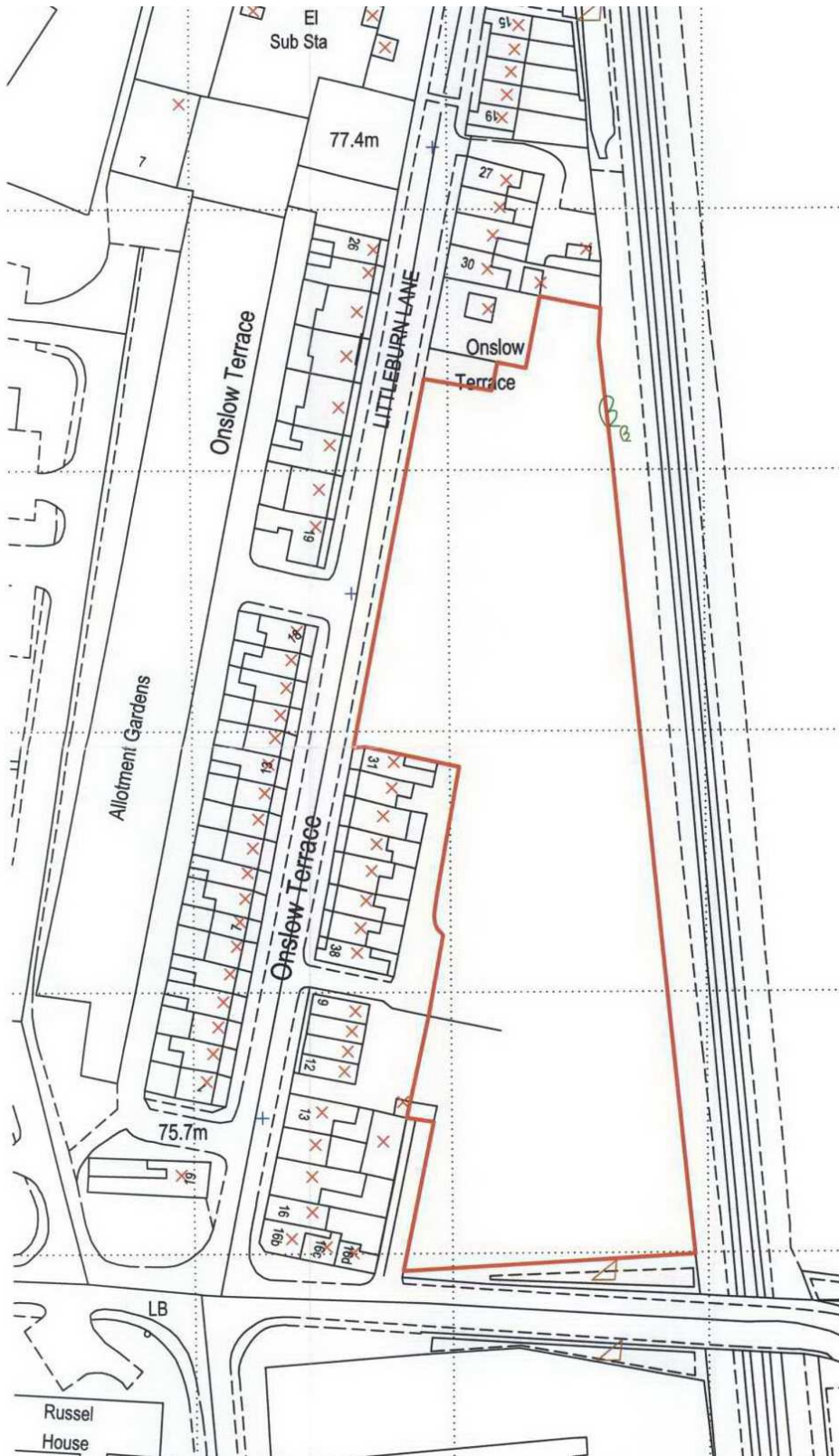
RECOMMENDATION

That the application be **refused** for the following reasons:

1. The application proposes a residential development on land forming part of the designated Durham City Green Belt. The proposed development constitutes inappropriate development, by definition harmful to the Green Belt and the development would significantly affect and harm the openness of the Green Belt. It is not considered that very special circumstances have been demonstrated within the application that would warrant departure from the Development Plan or that outweigh the harm to the Green Belt. The development is considered contrary to the provisions of Policy E1 of the City of Durham Local Plan 2004 and Part 9 of the National Planning Policy Framework.
2. The separation distances between dwellings at plots 9 to 7 and plot 14 to plots 12 and 13 are considered to be significantly below the guidance recommended within Policy Q8 of the City of Durham Local Plan 2004. As a result, the occupiers of the plots 7, 12 and 13 would be detrimentally affected through a significant loss of outlook and through the creation of an overbearing impact upon them. As a result the development is considered to fail to preserve adequate amenity for all occupiers contrary to the provisions of Policy Q8 of the City of Durham Local Plan 2004.

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, The Coal Authority and Parish Council
Planning Circular 11/95
Strategic Housing Market Assessment
County Durham Local Plan (Preferred Options)
Cabinet Report "Assessing Development Proposals in a changing National Planning System"



Planning Services

Residential development of 34 no. dwellings

This map is based upon Ordnance Survey material with the permission of

Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown
copyright.
Unauthorised reproduction infringes Crown copyright and may lead to
prosecution or civil proceeding.
Durham County Council Licence No. 100022202 2005

**Date 15th January
2012**

