

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	4/13/00209/FPA
FULL APPLICATION DESCRIPTION:	Erection of 14 no. dwellings, formation of access and associated works
NAME OF APPLICANT:	Keepmoat Homes
ADDRESS:	Land At Finchale Primary School Canterbury Road Newton Hall Durham
ELECTORAL DIVISION:	Framwellgate and Newton Hall
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site:

1. The application relates to land to within the grounds of Finchale Primary School located off Canterbury Road, Newton Hall. The application site is located to the front (south-west) of the school building and is bordered by Canterbury Road to the west, the rear gardens of Winchester Road to the south and to the north the access road that serves the school.
2. The application site comprises predominantly of grassed land but also contains a hardsurfaced area upon which a building was formerly sited, some parking spaces and trees.

Proposal:

3. The application seeks planning permission for the erection of 14 no. dwellings, formation of access and associated works.
4. The proposed access for the development would be taken from Canterbury Road and would be located 17m south of the existing access for the school. Eleven of the dwellings proposed would gain their access via this proposed access road with three remaining properties gaining access direct from Canterbury Road.
5. Four housetypes are proposed across the development and these comprise of three variants of a detached two storey dwelling of which two housetypes would contain four beds and the other three beds. In addition a 2 ½ storey semi-detached three bed housetype is proposed. Six of the 2 ½ storey housetypes are proposed the remaining eight dwellings being the detached properties.

6. Three detached properties are proposed to front onto Canterbury Road with a row of five detached properties closest to the boundary with Winchester Road. The six 2 ½ storey dwellings are located on the eastern and northern boundary with the school. Trees and a section of hedgerow would require removal on the frontage with Canterbury Road to facilitate the development. A line of trees on the border with the gardens of Winchester Road are shown for retention.
7. The application is before planning committee as the development constitutes a major development.

PLANNING HISTORY

8. Within the wider school site planning permission for a covered walkway was approved in 1996 and a fence and gates in 1997. Demolition of a section of the school within the bounds of the application site has also previously occurred.

PLANNING POLICY

NATIONAL POLICY

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
11. The following elements are considered relevant to this proposal;
12. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
13. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of

broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.

15. *NPPF Part 7 – Requiring Good Design*. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 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.
17. *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.
18. *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>

LOCAL PLAN POLICY:

19. *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.
20. *Policy E15 Provision of New Trees and Hedgerows* states that the Council will encourage tree and hedgerow planting.
21. *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.
22. *Policy H2 New Housing within Durham City* states that new residential development comprising windfall development of previously developed land will be permitted

within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.

23. *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.
24. *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.
25. *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.
26. *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.
27. *Policy R1 Provision of Open Space – Overall Standards* seeks to ensure that a minimum level of 2.4 ha of outdoor sports and play space per 1,000 population is maintained.
28. *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.
29. *Policy R3 Protection of Outdoor Recreation Facilities* seeks to protect areas of open space currently used for recreation and leisure. The loss of such spaces will only be permitted where equivalent facilities will be provided locally and where the overall level of provision will not be prejudiced in accordance with the levels set out at Policy R1.
30. *Policy R4 Land Surplus to Educational Requirements* states that development on land within the grounds of educational facilities will be permitted when it has been demonstrated to the satisfaction of the Council that it will not be needed in the future, that it will not reduce the overall standard of open space in the area and in the case of land of sport and recreational value to the community, its development is in accordance with Policy R3.
31. *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.

32. *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.
33. *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.
34. *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
35. *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.
36. *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.
37. *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:

38. The Highway Authority have raised no objections to the development considering that a relatively small number of additional vehicles would be utilising Canterbury Road. Advice on the requirement for a traffic regulation order to be amended and street lighting column relocated at the developer's expense is also provided.
39. Natural England have raised no objections to the proposal, advice is provided on measures of biodiversity enhancement.
40. Sport England have raised no objections.
41. Northumbrian Water originally raised some objection to the proposal on the basis of evidence of sewer flooding downstream from the development. However, following further consideration and investigation, this objection has been withdrawn.

INTERNAL CONSULTEE RESPONSES:

42. Landscape have raised no objections to the development or landscape scheme in general, some detailed queries raised on the planting proposals.
43. Environmental Health have commented with regards to the submitted site investigation and have recommended that a further "phase 2" submission and thereafter validation report will be required. Environmental Health have also advised with regards to working hours and working practices.
44. The Council's Senior Tree Officer has raised no objections to the proposal though have requested a re-planting scheme.
45. Ecology have raised no objections to the proposal although the mitigation measures within the submitted report should be conditioned on any approval.
46. The Spatial Planning Team have raised no objections.

PUBLIC RESPONSES:

47. A total of 15 no. letters of objection have been received with regards to the application and 1 no. letter raising some comments of support.
48. Objections are raised to the proposed design of the dwellings sought, the number of trees to be lost to the development and the lack of clarity within the submission on the tree works. Concerns are also raised that the proposed removal of trees could cause land stability issues and affect drainage. Reference is made to a bird box in one of the trees understood to be removed and reference to the legal protection afforded to nesting birds. Further queries and requests for clarity are made with regards to the extent of works on the boundary with Winchester Drive and final boundary treatment.
49. Much objection relates to highways matters, the location of the access on a bend and the parking and congestion problems that arise at the school drop-off and pick up times. Vehicle speeds on Canterbury Road are highlighted as being routinely high. Requests for traffic calming measures are made and queries are raised over what safety precautions will be undertaken for children's safety and queries are raised over the location of the lollipop lady. Concerns are raised that the metal barrier to protect pedestrians would be lost. A point is raised that the recommended hours of construction include the school drop-off and pick-up times, a further concern is raised that the proposed working hours are too early. The number of parking spaces proposed is considered to be insufficient and the access road is not thought to be wide enough for bin collection vehicles. A point is raised that the access road lacks a pedestrian footpath to both sides.
50. The responses include reference to the considered lack of facilities within Newton Hall which the development is considered to compound. Queries and concerns are raised on the separation distances between existing and proposed properties and the impacts upon the amenity of residents in terms of privacy and outlook. Concerns are also raised with regards to the overlooking of the school building.
51. Queries are raised over the accuracy of the application site plans and the ownership of land. Concerns are raised over whether adequate drainage measures are incorporated into the development.

52. A point is raised that a better use of the land would be the provision of a nursery building. Queries are raised over the accuracy of the siting of the proposed dwellings on Canterbury Road which it is considered appear to incorporate part of the footpath.
53. Queries are raised over the need for the housing and types of housing sought.
54. Concerns are raised over the potential impact of hazardous substances due to the submission of a geo-environmental appraisal. Queries are raised over how long the construction period is proposed to take.
55. The letter in support of the development compliments the design and layout and states that the parking and highways issues occur due to the inconsiderate parking of visitors to the school who could park more appropriately.

APPLICANTS STATEMENT:

56. The application has been supported by an accompanying Design and Access and supporting statement which states that the applicant has undertaken an analysis of housing needs in the area to provide an appropriate form of development to meet local need and integrate into the area.
57. Key constraints are identified including the proximity of existing residential development and the sloping nature of the site and these have been considered in the design and layout of the development.
58. The development is considered to accord with the principles of the National Planning Policy Framework.

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=4/13/00209/FP>
A

PLANNING CONSIDERATIONS AND ASSESSMENT

59. 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, flood risk and ecology.

The Principle of the Development

60. The proposed development site consisting in part of hardsurfaced land and wholly within the curtilage of the school, comprises previously developed land. The application site being within Newton Hall is also located within the Durham City settlement boundary as defined by the Local Plan. Policy H2 of the Local Plan accepts the principle of new housing development comprising of windfall development of previously developed land within Durham City.
61. Policy R4 of the Local Plan accepts the principle of development on land within the grounds of educational facilities provided it has been demonstrated to the satisfaction of the Council that it will not be needed in the future. With the application

site identified specifically for disposal officers consider that the demonstration of the lack of need for retention for educational purposes has been met.

62. The NPPF emphasises that planning applications that accord with an up-to-date Local Plan should be approved unless other material considerations indicate otherwise. The principle of the development is considered to accord with the principles of sustainable development within the NPPF namely representing an efficient use of brownfield land and providing a wide choice of housing within a suitable location.
63. Sport England have been consulted on the application as the application proposes the use of land within the grounds of a school and no objections have been raised to the loss of the parcel of land for redevelopment.
64. Some public objection to the proposal relates to a considered lack of need for housing and that the local area lack services and facilities. However, the location of housing at such a site and in such a location accords with the policies contained within the Development Plan, the key starting point for decision making and officers do not consider that objection should be raised on the grounds of a considered lack of need whilst the site is considered to be adequately catered for in terms of facilities and alternative transport options. Further comments have been received considering that a more suitable use of the land would be for the provision of a nursery. However, ultimately the Local Planning Authority must consider the merits of the application as submitted and as officers do not consider it would be appropriate to raise objection to the principle of housing, officers equally consider that an objection could not be raised on the grounds that an alternative use for the site may exist.
65. Overall the development proposal is considered to be acceptable in principle, wholly in accordance with the key Local Plan policies on the siting of housing in such a location.

Impacts Upon the Character and Appearance of the Area

66. Policies Q8 and H13 provide the principal Local Plan advice on the design and layout of residential development within a predominantly residential area. Policies E14 and E15 relate to tree retention and provision whilst Policy Q5 relates to landscaping. Part 7 of the NPPF advises on the importance of good design within development proposals.
67. Some public objection to the development proposal relates to the design of the proposed housetypes sought although some support has also been received.
68. Officers initially raised objection to the appearance of the proposed housetypes submitted and requested that the applicant address these, seeking to provide designs with better reference to the character and appearance of the area. As a result the standard housetypes first submitted have been revised somewhat with some use of render, cladding and revised fenestration detailing. Final material choices are recommended for agreement via condition but officers now consider that the elevations of the dwellings proposed are now adequately bespoke and are befitting to the vernacular in the area. Some public concern relates to the introduction of 2 ½ storey dwellings with dormers. Officers appreciate that this would introduce a new housetype into the immediate area, however, the houses are

considered to be well designed and the impact of their slightly greater height is reduced due to their location on the lower sections of the application site.

69. Some public concern relates to the loss of trees. It is acknowledged that some trees and sections of hedgerow would be lost to the development and most notable of these are those which front onto Canterbury Road itself. However, the amended plans submitted during the course of the application now allow for the retention of the trees on the boundary with Winchester Road which will add greater maturity to the site and also benefit those closest residents. Neither the Council's Senior Landscape Architect nor Senior Tree Officer have objected to the principle of the tree loss. A landscaping scheme would be implemented to which conditions on any planning permission can relate and this would further compensate for the losses.
70. Overall the layout and design of the dwellings is considered to be appropriate with no harm caused to the character or appearance of the area.

Residential Amenity

71. Some public opposition to the development raises concerns over the proximity at which the dwellings would be built to existing property and the loss of privacy and amenity.
72. Policy Q8 of the Local Plan provides specific guidance on residential development to ensure adequate privacy and amenity for all. Similarly Policy H13 of the Local Plan also seeks to protect the amenity of existing residents from new developments.
73. Amended plans have been received during the course of the application in part seeking to improve the relationships between the proposed development and neighbouring dwellings. Officers consider that these amendments have successfully resolved privacy and amenity concerns. The 2 ½ storey housetypes have been relocated so that they border the school curtilage not properties on Winchester Drive. Plots 09-13 have been moved farther from the shared boundary and re-orientated so as face the properties of Winchester Road on a more acute angle. The separation distance of 21m between facing windows is met as a result of the changes. The very nearest point of the proposed plot 13 dwelling would be 19m from the rear extension of No. 2 Winchester Road, however, the first floor windows closest to No. 2 Winchester Road are not to a habitable room but rather a landing and bathroom reducing concern, the window to the bedroom in this rear elevation would be located 21m away from the extension at No. 2. The revisions to the layout made during the course of the application now permit the retention of trees along the boundary with the Winchester Road properties which will also provide greater screening.
74. Concerns with regards to matters of residential amenity have also been raised by the occupiers of No. 69 Canterbury Road. No. 69 Canterbury Road has a ground floor window to dining space and a rear conservatory extension that would flank the proposed plot 14 dwelling. The revised plans have again sought to ease impact upon the occupiers of this property. The proposed plot 14 dwelling has been moved farther forward and farther away from the gable end of No. 69 Canterbury Road resulting in greater outlook for both the dining room space and conservatory extension at No. 69. It should be noted that Policy Q8 of the Local Plan recommends that 13m should remain between a window and a two storey gable end

to ensure adequate outlook. The plot 14 dwelling would be sited 9m from the adjacent dining room window at No. 69. However, in this particular instance officers consider that the relationship is acceptable. The dining space within No. 69 is open plan with the conservatory space to the immediate rear and its large glazed nature providing further outlook and light for the dining space. Despite the conflict with the distance requirements of Policy Q8, officers believe that there are mitigating factors and that the impact upon the amenity of the occupiers of No. 69 is reduced to the point where significant objection is not raised by officers.

75. Separation distances from the properties to front onto Canterbury Road to those opposite exceed the requirements of Policy Q8 of the Local Plan. Separation distances within the proposed estate itself also meet the requirements of Policy Q8 and each property is considered to be provided with acceptable levels of privacy and amenity.
76. With regards to the concerns raised over the overlooking of the school classrooms the nearest of the proposed properties are again located 21m from the existing school building. Although a school is not a residential property and as a result Policy Q8 of the Local Plan does not strictly apply it still provides a guide on what is considered appropriate separation between property. Officers would also mention that the school playing fields are located adjacent to existing residential properties so the proximity of dwellings to the children is already somewhat established in the area. With these factors in mind, officers do not consider that objections should be raised with regards to an overlooking of the school grounds or the children.
77. Overall officers consider that the development is acceptable in terms of its impacts upon residential amenity for both existing and prospective occupiers.

Highways Issues

78. Matters regarding congestion and highway safety have been a key concern within the public responses to the application with points raised on matters of congestion, vehicle speeds, pedestrian safety (particularly children), inadequate parking and footpath provision.
79. 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 seeks to promote sustainable transport choices. With regards to plans and decisions paragraph 32 of the NPPF advises that safe and suitable access to a site should be achieved for all people but that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
80. The Highway Authority have been consulted on the application and provided written responses, officers have also held a meeting with the Highway Authority in the light of the public concern and site specific issues with particular regards to the school. No objections have been raised by the Highway Authority, however. It is considered that a relatively small number of additional vehicles would be utilising Canterbury Road as a result of the development. The view of the Highway Authority is that the number of movements as a result of the development of 14 no. dwellings and indeed access arrangements would not be such that it would add or compound to any

highway congestion or safety problems that would warrant objection to the application.

81. No objections have been raised from the Highway Authority to the final layout, parking or footpath arrangements albeit a query on material choices is raised which can be resolved under a condition. The Highway Authority acknowledge that a keep clear traffic regulation order and pedestrian barrier will have to be amended in consultation with the Highway Area Engineer but again no objections are raised to the requirements of this having regards to highway safety.
82. In terms of sustainable transport access, officers again raise no objections. The application site is within an established residential area with acceptable access to public transport. Parking provision is considered appropriate for the site and its location.
83. On balance the proposed development is considered to be acceptable from a highway perspective both in terms of safety and having regards to sustainable transport access.

Flood Risk and Drainage

84. Part 10 of the NPPF in part advises on flood risk information requirements on applications and the criteria when determining applications. Policy U8A of the Local Plan advises on surface and foul water disposal.
85. Some public objection to the application relates to drainage and also the implications of tree removal and drainage.
86. The application site itself is located within Flood Risk Zone 1 essentially the area at least risk of flood events. The location of the development within this flood risk zone, the size and scale of the site and development are such that there is no requirement for a site specific flood risk assessment to accompany the application nor are the Environment Agency a statutory consultee.
87. It is proposed that the development would connect to the main sewers system. Northumbrian Water have been consulted with regards to drainage matters and at first did raise an objection to the development scheme on the grounds that there has been a history of sewer flooding downstream of the application site and that there is a need to undertake a feasibility study to investigate a solution. Northumbrian Water have now undertaken a study and concluded that this development would not increase the risk of flooding downstream and have withdrawn the objection.
88. With regards to the concerns raised over tree removal and impacts on drainage and the water table, firstly the latest proposed layout substantially increases the number of trees to be retained than originally proposed with the line of trees to the rear of Winchester Road to now be retained. This will reduce the potential for impact. Other trees are still proposed to be lost to facilitate the development including those that flank Canterbury Road. However, officers do not consider that there is clear demonstrable evidence that the loss of the remaining trees sought would pose harm to the drainage in the area and as a result officers do not raise an objection to the development proposal as a result.
89. Overall officers do not raise objections to the development proposal on the grounds of matters of flood risk or drainage.

Ecology

90. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through Part 11 of the NPPF most notably at paragraphs 118 and 119.
91. 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.
92. 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.
93. The application has been accompanied by an extended phase 1 habitat survey and this assesses the site and development with regards to the range of potential protected species namely otters, water voles, great crested newts, badgers, red squirrels, bats, reptiles and nesting birds. The report concludes that the development proposals are highly unlikely to affect these species. The exception to this is that the trees, shrubs and hedgerows do have the potential to offer nesting opportunities. Within the public responses reference is made to a bird box in one of the trees and the legal protection afforded to nesting birds. Due to the revisions to the layout the particular tree on the boundary with the Winchester Road properties understood to contain the bird box is now no longer proposed for removal so this particular concern has been removed. For all other trees, hedgerow and shrub removals then works can be undertaken outwith of the bird breeding season or alternatively inspection will be needed by an ecologist prior to commencement and this is detailed within the mitigation section to the submitted ecological report. With regards to ecological enhancements the report also advises within the mitigation measures that a bat box is incorporated into a property on the eastern side of the site.
94. Natural England have raised no objections to the proposal but state that consideration should be had to biodiversity enhancements, however, and the submitted ecology survey does consider this within a mitigation strategy. The Council's ecology team have raised no objections to the proposal although the mitigation measures within the submitted report should be conditioned on any approval.
95. It is not considered that a European Protected Species License is required and therefore a detailed assessment against the "derogation tests" is not necessary.
96. Having regards to the above officers raise no objection with regards to the impact of the development upon protected species and nature conservation assets. As a

result no objections are raised having regards to Part 11 of the NPPF and Policy E16 of the Local Plan.

Other Issues

97. One public respondent has noticed the submission of a geo-environmental appraisal and as a result has expressed some concern over hazardous substances and land contamination. The submission of an initial geo-environmental appraisal is standard practice on many planning applications. Policy U11 of the Local Plan relates to development and contaminated land and officers have consulted Environmental Health to provide expert advice in relation to the matter. Environmental Health have commented on the submitted geo-environmental appraisal and application and have recommended that a further detailed “phase 2” submission and thereafter validation report will be required. Such a submission and assessment can be resolved via the attachment of a condition on any application.
98. Some public objection to the application has related to the accuracy of the submitted drawings and matters of land ownership. A public response submitted on the originally submitted plans considered that the boundary was incorrectly drawn and included land within the ownership of the objector. Officers raised this issue with the applicant who has acknowledged that they were at fault with the drawing of this boundary. Replacement plans clarifying the application site boundary were subsequently submitted seeking to correct the application site and exclude land within the ownership of the neighbouring resident. Officers now understand that the application site and declarations made under Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 are correct although would add that ultimately land ownership is a separate legal matter beyond the remit of the Local Planning Authority.
99. Concerns have also been raised within the public responses that there is a lack of clarity on the submitted plans as to what is happening with the boundary between the proposed dwellings and Winchester Road and that new fencing would appear to encroach onto neighbouring land. Officers have raised this issue with the applicant and again it is acknowledged that some incorrect plotting of boundaries have been made on plan incorrectly incorporating neighbouring land. The applicant has suggested that the intention would be to leave the existing boundary to the rear of Winchester Road in place although officers consider that this matter should be ultimately resolved through the attachment of a condition on any approval to precisely resolve all enclosures proposed within the site. A further concern has been raised that land to the frontage of proposed plot 14 is inaccurate and incorporates sections of the public footpath. Officers have raised this with the applicant who has confirmed that this is not the case. The applicant is aware that the footpath to the site frontage must remain and it would not be acceptable to develop on the public highway.
100. A query is raised within the public responses as to how long the construction period for the development would take. Ultimately, the duration of the construction works is largely in the hands of the developer once planning permission has been granted and officers cannot prescribe when the development should be completed. However, from discussions with the applicant, officers understand that should planning permission be forthcoming the applicant would be seeking to develop the site as soon as possible and that for a development of 14 no. houses build out times should not be particularly lengthy.
101. Some public concern has been raised at the proposed working hours and that these are too early. The working hours proposed by Environmental Health are

standard and no earlier than are generally applied to most developments. With regards to the periods of time when school drop off and collection is occurring, officers have discussed these matters with the applicant who has confirmed that they have been in discussions with the headteacher of the school planning the most appropriate and safe means of approaching the construction works should planning permission be forthcoming.

102. As the planning application proposes 14 no. dwellings only the scale of the development is below that of the threshold at which affordable housing is required as set out within the latest evidence base the Strategic Housing Market Assessment (SHMA) where affordable housing is only requested on developments of 15 or more dwellings. However, a section 106 agreement is proposed offering financial contributions of £14,000 towards recreational space and playspace facilities and £12,000 towards public art installations having regards to Policies R2 and Q15 of the Local Plan respectively.

CONCLUSION

103. The proposed development seeks the redevelopment of previously developed land within a settlement boundary with a small residential estate and such a development is in principle considered to wholly accord with the provisions of the Local Plan and having regards to the aims of sustainable development running through the NPPF.
104. Revisions to the layout and appearance of the proposed dwellings have been made during the course of the application and these have reduced officers concerns with regards to both the impacts of the development upon visual amenity and the amenity of local residents to the point that officers do not raise objection to the scheme on these grounds.
105. A further key consideration and point of concern from public responses relates to highway safety with particular reference to the proximity of the development to the school and impacts at school opening and closure. However, the Highway Authority have raised no objections having regards to highways issues.
106. Officers raise no objections having regards to other key material planning considerations such as impacts on nature consideration assets and matters of flood risk and drainage.
107. As a result approval of the application is 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) A financial contribution of £14,000 towards recreational and playspace improvements
 - ii) A financial contribution of £12, 000 for public art installations
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 and details:

Location Plan QD718-LP-10 Rev A received 24th April 2013

Planning Layout QD718-01-01 Rev D received 20th May 2013

Unit Type 1011 Contemporary 3b5p QD718-1011-02 received 20th May 2013

Unit Type 1176 Contemporary 4b7p QD718-1176-02 received 20th May 2013

Unit Type 999 Contemporary 3b5p QD718-999-02 received 20th May 2013

Unit Type 1203 Contemporary 4b7p QD718-1203-01 received 20th May 2013

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to relevant Policies E14, E15, E16, H2, H13, T1, T10, T21, R1, R2, R3, R4, Q1, Q2, Q5, Q8, Q15, U8A, U11 and U14 of the City of Durham Local Plan 2004

3. Notwithstanding any details of materials submitted within the application no development shall commence until full details of the make, colour and texture of all walling, roofing and hardsurfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area having regards to Policies Q8 and H13 of the City of Durham Local Plan.

4. Notwithstanding any details submitted within the application no development shall commence until precise details of the materials and colour treatment of all windows, doors, canopies and rainwater goods to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area having regards to Policies Q8 and H13 of the City of Durham Local Plan.

5. Tree removals as part of the redevelopment shall be limited to those as shown on planning layout QD718-LP-10 Rev A received 24th April 2013. The remaining trees to be retained shall be protected by the erection of fencing comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Said protection shall be erected prior to development commencing and retained until the completion of the development.

Reason: To define the consent and in the interests of the preservation of trees having regards to Policies E14 and Q8 of the City of Durham Local Plan 2004.

6. No development shall commence until detailed scaled drawings including sections showing the existing and proposed site levels and the finished floor levels of the proposed new dwellings and those of existing neighbouring buildings have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development must be implemented in accordance with the agreed details.

Reason: To define the consent and ensure the development is acceptable having regards to both visual amenity and residential amenity having regards to Policies H13 and Q8 of the City of Durham Local Plan 2004.

7. No development shall commence until full details of the means of enclosures to be utilised within and on the boundary of the application site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details prior to the occupation of the dwelling to which they relate.

Reason: To define the consent and ensure the development is acceptable having regards to both visual amenity and residential amenity having regards to Policies H13 and Q8 of the City of Durham Local Plan.

8. The development 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. Said landscaping scheme may provide for the planting of trees and/or shrubs (including species, sizes, numbers and densities), the movement of earth, seeding of land with grass, or other works for improving the appearance of the development. Details of species, sizes, numbers and densities shall be provided. 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 visual amenity having regards to Policies Q5 and Q8 of the City of Durham Local Plan.

9. No development shall take place unless in accordance with the mitigation and enhancements detailed within section 5.0 of the ecology report job reference "KHL_Finchale_Eco1.1" received 12th March 2013.

Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004 and Part 11 of the NPPF.

10. No development shall commence until:
 - a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and said report has been submitted to and approved by the Local Planning Authority;
 - 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 Local Planning Authority;

For each part of the development proposal, the "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 and completed prior to the occupation of any dwelling.

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

After remediation measures are implemented, a final validation statement shall be submitted in accordance with the "contamination proposals" and agreed in writing by the Local Planning Authority prior to the occupation of any dwelling.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised having regards to Policy U11 of the City of Durham Local Plan.

11. No development shall take place until 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 and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policy U14 of the City of Durham Local Plan 2004.

12. No development works shall be undertaken outside the hours of 7.30am and 6pm Monday to Friday and 8am to 1pm 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.

REASONS FOR THE RECOMMENDATION

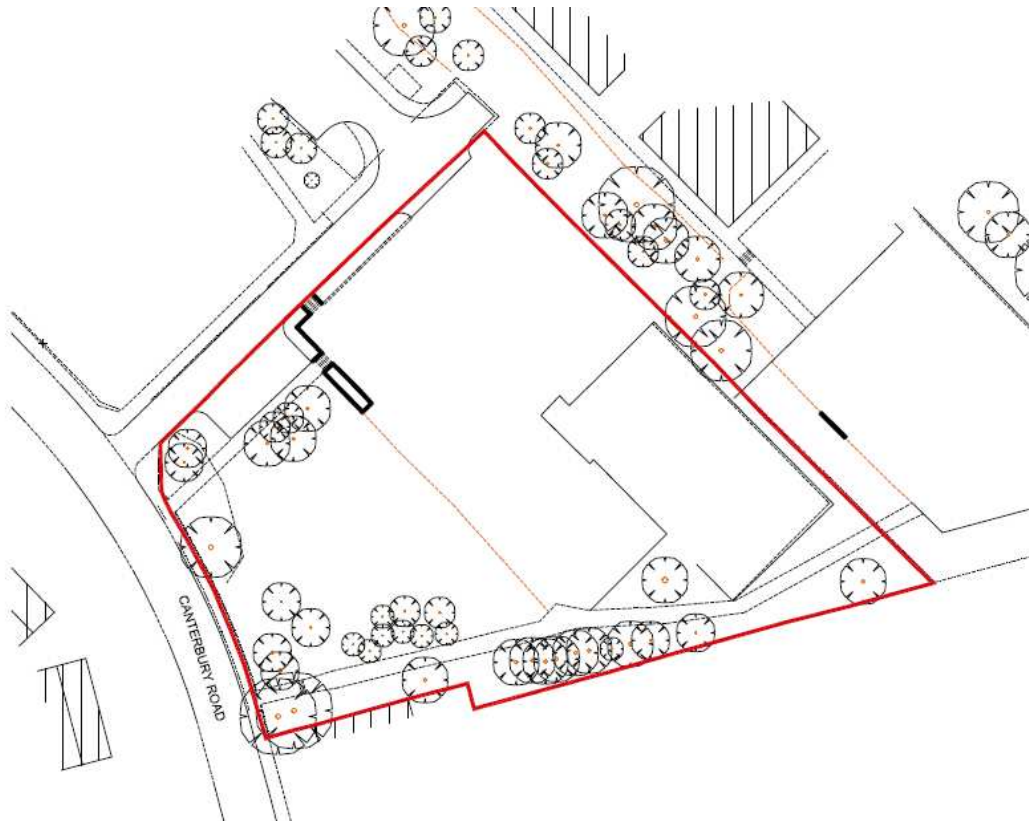
108. The development is considered to represent an appropriate re-use of previously developed land within a settlement boundary and the development is considered to constitute sustainable development. No significant objections are raised with regards to key issues of highway safety, visual amenity, residential amenity, flood risk or ecology. The development is considered in general accordance with Policies E14, E15, E16, H2, H13, T1, T10, T21, R1, R2, R3, R4, Q1, Q2, Q5, Q8, Q15, U8A, U11 and U14 of the City of Durham Local Plan 2004.
109. This decision has been taken having regard to the policies and proposals of the City of Durham Local Plan 2004 and the provisions of the National Planning Policy Framework. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010.
110. A total of 15 no. letters of objection were received with regards to the proposal raising objection on a variety of grounds including highway safety and residential amenity. These objections have been considered in detail within the report but the objections/concerns raised are not considered to justify the refusal of the application having regards to all material planning considerations.

STATEMENT OF PROACTIVE ENGAGEMENT

111. Officers have held meetings with the applicant and kept them continually updated with progress on the planning application. Equally officers have held meetings with members of the public concerned with the development proposal and sought to answer their queries in regards to the proposal.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
Planning Circular 11/95
Strategic Housing Market Assessment
County Durham Local Plan (Preferred Options)



Planning Services

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

Erection of 14 no. dwellings, formation of access and associated works

Date 11th June 2013