

COMMITTEE REPORT

APPLICATION DETAILS

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

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application relates to a parcel of land covering approximately 2 hectares located on the western edge of Esh Winning. The application site formally comprised of a residential estate of some 61 plots, however, the vast majority of the estate has now been demolished. The remains of the site comprise of a mixture of grassland with remains of areas of hard surfacing, roads and footpaths. An electricity substation, to be retained with the proposed redevelopment, is also situated within the application site. A number of trees are located within the bounds of the site both on the site perimeter and also within some more central areas.
2. The application site lies within a predominantly residential area and one which is undergoing a significant redevelopment programme on the back of the Esh Winning Masterplan. New residential properties are being built on the opposite side of Ridding Road and at nearby College View. A new school has also been recently built also off College View.
3. Though on the very edge of the settlement the application site lies wholly within the bounds of the settlement boundary of Esh Winning, the centre of the village lies approximately 500m to the east of the application site.

The Proposal

4. The application seeks the redevelopment of the site with erection of 78 no. new dwellings comprising of a mixture of 2 and 3 bed 2 and 2 ½ storey properties. A total of 8 no. house types are proposed and these are the same or similar house types to those

also being constructed by Keepmoat Homes at the adjacent Ridding Road and nearby College View sites. Each property is served by a mixture of private parking spaces and/or garages with visitor parking spaces interspersed across the site.

5. Two vehicular accesses into the proposed development are sought one at the far western end of Ridding Road and the second, also off Ridding Road, just to the east of the existing access to Hamilton Close. A large area of public open space is proposed roughly in the centre of the site with a footpath and cyclepath link on a north – south axis through the site.
6. This application is being referred to Committee as it constitutes a major residential development.

PLANNING HISTORY

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

PLANNING POLICY

NATIONAL POLICY

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/hppf>

LOCAL PLAN POLICY: (City of Durham Local Plan 2004)

19. *Policy E5a - Open Spaces within Settlement Boundaries* does not permit proposals which would detract from the functional, visual and environmental attributes they possess.
20. *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.
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 H3 - New Housing Development within the Villages* allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.
23. *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.
24. *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.
25. *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.
26. *Policy H14 - Improving & Creating More Attractive Residential Areas* seeks to improve the environment of existing residential areas and their housing stock.
27. *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.
28. *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.
29. *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.
30. *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.
31. *Policy R11 - Public Rights of Way* states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.

32. *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.
33. *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.
34. *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.
35. *Policy Q6 – Structural Landscaping* requires new development on the edge of settlements to incorporate peripheral structural landscaping
36. *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.
37. *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
38. *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.
39. *Policy U9 - Watercourses* states that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.
40. *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.
41. *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.
42. *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.
43. *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:

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

INTERNAL CONSULTEE RESPONSES:

49. The Council's Senior Sustainability Officer has welcomed the proposed use of solar panels to meet the standard 10% energy reduction requirements; however, further clarity is sought on the specifics of the scheme.
50. Ecology have raised no objections to the proposal but do recommend that the mitigation measures contained within the submitted protected species reports are conditioned on any approval.
51. Landscape have raised some objection to degree of tree loss, failure for the layout to take into account the trees on site and a request is made for an amenity space to be created at the western end of the site. Clarity is sought on some boundary treatments and potential impacts on a watercourse at the western edge of the site.
52. Senior Tree Officer requests that the layout is revised so as to allow for the greater retention of trees, some trees are considered to merit a tree preservation order.
53. The Council's Estates Officer has assessed the submitted development appraisal details supplied by the applicant and has stated that these figures demonstrate the development to be unviable with or without the S106 requirements of affordable housing, recreational/play space and public art contributions.

PUBLIC RESPONSES:

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

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

APPLICANTS STATEMENT:

56. The applicant has submitted a design and access statement and planning statement in support of the development proposal.
57. The supporting statements consider that the development has been designed to include a strong street frontage with vehicular accesses to properties being gained from the rear. The proposed development is considered appropriate in terms of scale, design and massing in relation to the character of the surrounding area.
58. The development is considered to be well served by public transport with easy access to bus services.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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, affordable housing and planning obligation issues and ecology.

The Principle of the Development

60. The application site is located within the settlement boundary of Esh Winning. The site itself comprises the remains of land associated with the residential estate of The Oaks and Rowan Court. Although the majority of properties have now been demolished, three blocks across the site remain as do the remnants of some areas of hard surfacing, the estate roads, footpaths and an electricity sub station. Areas of the site also comprise of grassed areas which will have formally been areas of public open space adjacent to properties and also overgrown grassed areas formally built upon and containing private gardens. The majority of the site is certainly previously developed.
61. Policy H3 of the Local Plan accepts the principle of windfall development of previously developed land for residential development. In addition the limited development of small Greenfield sites is acceptable within the former coalfield villages such as Esh Winning provided no more than 10 dwellings are proposed and there exists clear regeneration benefits which could not be achieved through the development of previously developed land.
62. As the site that can be considered previously developed land it is considered wholly to be in accordance with the provisions of Policy H3. Rowan Court and The Oaks formally contained a significant number of vacant and boarded up properties and officers consider that the redevelopment of the land with a new build estate would have clear regeneration benefits sought by Policy H3.

63. Planning proposals must also be considered against the provisions of the National Planning Policy Framework (NPPF). The City of Durham Local Plan is not a plan adopted in accordance with the Planning and Compulsory Purchase Act 2004 but rather pre-dates it though policies were “saved”. As a result the NPPF advises that due weight should be given to relevant policies in the Local Plan according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
64. The key theme running throughout the NPPF is that of sustainable development and this is reinforced within Part 6 of the NPPF specifically regarding housing. Although some parts of the application site can be considered as Greenfield land the application would in effect locate a residential estate on land where an estate has stood, the site is within the bounds of an established settlement with appropriate access to facilities and public transport. The development proposal is considered to represent sustainable development in principle. The NPPF establishes a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. As a result the principle of the development can be accepted.

Impact Upon the Character and Appearance of the Area

65. 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.
66. Revised plans have been submitted during the course of the application in part to overcome some officer concerns on the adequacy of the layout and lack of open and amenity space within the development.
67. The result is that a total of 78 dwellings rather than the originally sought 84 dwellings are now proposed. In the approximate centre of the site an area of open/amenity space is now proposed which will provide both an area of informal recreational space to serve the development but also provides a needed landscaped area to break up the development.
68. The dwellings proposed are a mixture of 2 and 2 ½ storey properties. The proposed house types themselves include those which have previously been considered acceptable and are in the process of being developed at the nearby sites off Ridding Road and at College View whilst the differing house types are very much variations on the same design themes. Officers consider that the house types proposed and their layout across the site is acceptable and would suitably integrate into the locality. The application site does lie on sloping ground and though final levels information was supplied with the originally submitted application documents, replacement levels information has not been supplied since the layout has been revised. However, the levels on the revised layout will reflect those previously submitted on the original layout to which officers did not object in principle. A condition can be attached on any approval to agree final levels and finished floor heights.
69. The Council's Senior Tree Officer and Senior Landscape Architect requested significant alterations to the proposed layout to seek greater tree retention than that originally proposed.

70. The revised layout received does propose some additional tree retention including two significant oak trees which are now to be retained within the centrally located area of open space. There would still remain some loss of trees to facilitate the build and on the latest layout submitted this includes 3 no. trees adjacent to Ridding Road with the applicant stating that the reason for this is due to future drainage works necessary for the development.
71. Officers consider that the revised layout is a marked improvement on that originally submitted with greater tree retention possible, though officers acknowledge that the Landscape Section have requested greater retention still. Officers consider that ultimately a condition can be placed on any approval to agree precise tree retention and protection and loss and officers can seek to negotiate that as much tree retention occurs as possible. However, as the retention of several key specimens will be possible and a suitable compensatory landscaping scheme can be resolved by condition, tree retention is not a ground for refusal.
72. Conditions are also recommended for attachment on any approval with regards to final material choices for the dwellings, means of enclosures, colour treatment of doors (to ensure a variety) and hard surface finishes.
73. Overall officers consider that the impacts of the development upon the character and appearance of the area is acceptable, consistent with the NPPF and the Local Plan.

Impacts upon Residential Amenity

74. 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.
75. All relationships between the proposed dwellings and the nearest neighbouring properties off Ridding Road, Hamilton Close, Redwood, Merlin Court and The Larches exceed the recommended separation distances as prescribed by Policy Q8 of the Local Plan.
76. The revised layout has addressed officers concerns with regards to relationships within the development itself with the vast majority of all relationships now meeting the requirements of the Local Plan. Officers consider that only a minority of exceptions exist with plots 84 and 19 having a window to window separation of 20.5m (as oppose to the guideline 21m) and the rear elevations of plots 42 and 41 being 11.5m from the gable of plot 45 as oppose to the guideline 13m). In addition, plot 36 contains a narrow secondary window to a lounge that would be flanked by windows within the rear elevation of plot 39 at a distance of 17m rather than 21m. However, officers do not consider that these relationships are so significantly below separation guidelines to be considered unacceptable and warrant objection to the overall development proposal. Furthermore, limited weight can be given to the fact that purchasers can take a view for themselves.
77. No objections have been received from neighbouring occupiers with regards to matters of residential amenity. Officers do consider that a condition should be attached to any approval regarding hours of construction so as to ensure that the construction does not cause unacceptable noise or disturbance at unsociable times of the day.
78. The single letter of response received from a resident who still resides on one of the remaining properties within the application site has raised concerns and requested

assurances that during the build they will retain access to and from their property at all times during the development.

79. The proposed layout of the development does not make provision for the concerned residents' property remaining on site but rather a redevelopment of the estate in its entirety. Officers understand from the latest discussions with the Council's Housing Regeneration Team that the resident residing in this property has been found alternative accommodation and therefore the prospect of them residing on site whilst works are ongoing around them should not occur.
80. Overall officers do not raise objection to the development proposal on the grounds of harm to residential amenity.

Highway Safety

81. 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.
82. The Highway Authority have commented on the submitted application and no objections have been raised in principle to the development with no objections to the proposed access arrangements which includes two accesses onto Ridding Road nor the parking provision within the latest proposed layout.
83. Officers concur with these views and would add that ultimately this development would effectively replace one residential estate and its associated comings and goings with another.
84. The Highway Authority have requested some modifications to the specific design of areas annotated as shared surfaces on the submitted layout.
85. The application site is also considered to be adequately served by public transport with a bus stop located within approximately 100m of the application site.
86. Officers therefore raise no objections to the development on the grounds of highway safety, officers do recommend that a condition be attached to any approval to agree final hard surface layout and materials so as to ensure the legibility of the layout and appropriate appearance of the hard surface areas.

Affordable Housing and Planning Obligations

87. This application was originally reported to planning committee in January 2013 with a recommendation that a S106 agreement apply to ensure the provision of 16 no. affordable homes on site together with a financial contribution of £78,000 towards recreational/play space and a financial contribution the equivalent of 1% of development costs.
88. Since this time the applicant has been in contact to state that they do not consider that on viability grounds the affordable housing or financial contributions can be made. The applicant has therefore sought to supply details within a development appraisal to demonstrate that the affordable housing and financial contributions cannot be delivered.
89. The provision of affordable housing is a key consideration for the Local Planning Authority and the NPPF does at part 6 require Local Planning Authorities to establish

and meet the affordable housing need in their district. The latest evidence base contained within the Strategic Housing Market Assessment (SHMA) considers that within this delivery area 20% affordable homes should be provided within any development of 15 or more homes. Similarly, Policies R2 and Q15 respectively, seek the provision of play/recreational space and public art or financial contributions in lieu of this.

90. Paragraph 173 of the NPPF stresses the importance of viability as a material planning consideration; “sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”.
91. Paragraph 160 also advises that Local Planning Authorities must consider the needs of businesses and any changes in circumstances “work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability”.
92. Officers have consulted the Council’s Estates Officer who has assessed the development appraisal data supplied by the applicant. The information supplied by the applicant includes that on the revenues and costs of the scheme and details of original forecasts and actual sales relating to the adjacent “Oak Green” development on the opposite side of Ridding Road. The Council’s Estates Officer does not dispute the figures submitted and considers that this does demonstrate a lack of viability of the development.
93. The Masterplan sites across Esh Winning which have either been developed or are in the process of being developed under the Durham Villages Regeneration Programme also includes sites at College View/Woodland Terrace, Ridding Road/Oak Green, Ridding Court/Newhouse Road and Ridding Road/Pinetree. At these sites a total of 70 no. dwellings have either been delivered or are in the process of delivery. Of these 41 no. dwellings being provided are affordable homes. This equate to an affordable housing delivery of 56%. If we then include the delivery of these 78 no. homes as now without any affordable housing provision it would result in 148 homes with 41 affordable units. This would have delivered 28% affordable housing through the Esh Winning Masterplan.
94. The grounds for removal of the affordable housing is principally based on the lack of viability and each development site is ordinarily expected to deliver 20% affordable housing as aggregated developments could easily undermine the policy objectives. However, in this instance given there is one Masterplan with one developer delivering all the housing the wider affordable housing achievements as aforementioned can be acknowledged if not afforded any significant weight.
95. With regards to policy R2 of the Local Plan and the financial contribution towards play/recreational space it should be noted that the proposed layout does include some informal recreational space which policy R2 also seeks to ensure is delivered. The development proposal is therefore not without some provision and contribution towards recreational space, the residents of the proposed estate would be served by an area of open space of approximately 1,000m². Although this is short of the 300m² per 10 dwellings which Policy R2 effectively requires (and why a further financial contribution in lieu of this was originally sought) it does nevertheless provide a reasonable contribution

within the site and mitigate to a degree the absence of the financial contribution as now proposed.

96. On balance, the development appraisal, revenues and cost data supplied by the applicant has been considered as being accurate and demonstrates the lack of viability of the site and proposal. The NPPF encourages Local Planning Authority's to give weight to viability matters when considering development proposals and planning obligation requests. In light of the financial evidence it is considered that the application should proceed without any financial contributions.

Ecology

97. 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 the Part 11 of the NPPF most notably at paragraphs 118 and 119.
98. 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.
99. 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.
100. The application has been accompanied by an extended phase 1 habitat survey and bat survey report. The survey work undertaken recorded bat roosts within 2 no. buildings. The roosts identified were considered to be non-breeding roosts used by small numbers of Common Pipistrelle bats. The development proposal would result in the complete loss of the roosts and disturbance to the small numbers of bats. The survey confirms that a European Protected Species License from Natural England would be required due to the loss of the roosts.
101. Natural England have been consulted on the application who have considered the development against their standing advice procedure and conclude with no objections, broadly satisfied that the mitigation proposals would avoid adverse impacts on the local population of bats and avoid affecting their favourable conservation status.
102. The Council's Ecology team have also commented on the application and have raised no objections but advice that the mitigation measures proposed within the submitted ecological reports and surveys are conditioned on any approval.
103. With regards to the consideration of the three derogation tests officers consider the following with regards to each. On the test that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest, officers consider that there are significant socio-economic benefits and

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

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

Other Issues

109. Former Cllr Wilkinson has offered his support to the proposed development though has requested that it be made sure that the residents of The Larches are issued with consultation letters. These consultation letters were previously issued.
110. With regards to matters of drainage and having regards to Policy U8A of the Local Plan Northumbrian Water have been consulted on the application and have raised no objections to the application but request conditions requiring agreement on the diversion of apparatus and with regards to the disposal of surface water for the development. Such conditions can be attached on any approval.
111. With regards to contaminated land to which Policy U11 of the Local Plan relates, the application has been accompanied by a preliminary geo-environmental appraisal and

this recommends that a further intrusive investigation should be implemented. A suitably worded condition can be attached to any approval to adequately investigate the site and where necessary implement remediation.

112. The application has been accompanied by a sustainability document seeking to demonstrate how a 10% reduction in carbon emissions can be achieved as Policy U14 of the Local Plan supports energy conservation and reduction in new development. Though the Council's Senior Sustainability Officer has in principle welcomed the proposed use of solar panels to meet the standard 10% energy reduction requirements, it has not been considered that the submitted technical data thus far prove its attainment. However, a condition can be attached to any approval to agree such a scheme.
113. The application site lies within flood zone 1, the least probable to suffer from flooding. However, as the site is over a hectare in size the submission of a flood risk assessment has been necessary and Policy U10 of the Local Plan relate supported by Part 10 of the NPPF.
114. The submitted flood risk assessment makes reference to a drainage ditch at the western end of the site and recommends that this should be unaffected by the development. Policy U9 of the Local Plan specifically relates to development and watercourses. The proposed layout does not indicate any build upon or impact upon this drainage ditch inline with the recommendations of the flood risk assessment. The Environment Agency have been consulted on the application, assessed the development and submitted flood risk assessment and no objections have been raised and the only request made is that the sewerage undertaker (Northumbrian Water) be consulted on the application which has been undertaken. No objections with regards to the development flood risk are therefore raised.
115. The Coal Authority have been consulted on the application and consider that the applicant has gained appropriate and up to date information with regards to the development and coal mining information. No objections are therefore raised though a condition should be attached to any approval requiring a site investigation to be implemented prior to the commencement of the development works. Such a condition can be attached to any approval.
116. The application site does not include any designated public rights of way that could be affected by the development. The submitted layout proposes a footway and cycleway link to a pathway to the north of the site. Within the site a number of hardsurfaced paths which have served The Oaks and Rowan Court still remain and the applicant will separately be required to apply for a stopping up order and an informative can be attached to any approval to ensure the applicant is aware of this.

CONCLUSION

117. The application seeks the redevelopment of a previous housing estate now predominantly demolished and unoccupied. The development proposal is considered to represent sustainable development in principle, for which there is a presumption in favour within the NPPF.
118. The proposed layout, revised during the course of the application is now considered to be acceptable with the house types proposed either the same or similar to other developments ongoing within Esh Winning. The development would suitably integrate into the locality.

119. Remaining buildings on site do include bat roosts identified by the ecological surveys undertaken on the site. As these roosts would be lost through the development an EPS license would be required from Natural England and the LPA must satisfy itself that the three derogation tests of the Habitats Directive can be met and a license potentially granted. The tests have been considered and officers conclude that there is a reasonable likelihood of an EPS license being granted and that due consideration to Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 has been given by the Local Planning Authority.
120. No objections are raised with regards to matters of highway safety.
121. With regards to matters of affordable housing and planning obligations the applicant has provided development appraisal data that is considered to demonstrate the lack of viability in the development. This coupled with the proportion of affordable housing provision across the portfolio of sites at Esh Winning being delivered through the Durham Villages Regeneration Company and the benefits of aiding the redevelopment of the site are considered to constitute a strong argument to negate the need for further affordable housing provision and financial contributions relevant to this site.
122. Approval of the application is therefore recommended.

RECOMMENDATION

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

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

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

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

Plan nos.

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

QD637-763B-01 received 2nd November 2012

QD637-1011-01

QD637-RSL869-01

QD637-951-01

QD637-828-01

QD637-836-01

QD637-665-01

QD637-GD-01

QD637-858FE-01 received 29th October 2012

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

3. Notwithstanding any details of materials submitted with the application no development shall take place until details of the external walling and roofing

materials, details of the colour treatment of entrance doors to the dwellings and details of hard-surfaces to be provided within the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

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

4. No development shall take place until details of all means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) the glass to be used in any first floor window to bathroom or en-suite shall be obscured glazed and non-opening unless the parts that can open are at least 1.7m above floor level.

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

6. No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

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

7. No development shall take place until precise details, including a plan, has been submitted to and approved in writing by the Local Planning Authority clearly identifying which trees and hedges are to be removed and which are to be retained and protected during the course of construction works. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising of a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS 5837:2012. Said protection shall remain in situ until the development has been completed.

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

8. No development shall take place until detailed drawings including sections showing the proposed site levels and the finished floor levels of the proposed new dwellings shall be submitted to and approved in writing by the local planning authority. Thereafter the works shall be implemented in accordance with the approved details.

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

9. No development approved by this permission shall take place 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 LPA;
 - b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
 - c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
 - d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
 - e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

Reason: To remove the potential harm of contamination in accordance with Policy U11 of the City of Durham Local Plan 2004.

10. No development shall take place until details of the diversion of existing water mains running across the site and the means of disposal of all foul and surface water resulting from the development have been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and thereafter implemented in accordance with the approved scheme.

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

11. No development works (including demolition) shall be undertaken outside the hours of 8am and 6.30pm Monday to Friday and 8.30am 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.

12. No development shall take place until a scheme to minimise energy consumption has been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to the first occupation of the dwellings.

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

13. No development shall take place until the intrusive investigative works recommended with Section 7 of the preliminary geo-environmental appraisal report by Sirius received 29th October 2012 has been undertaken. The results of said investigation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Should the results of the investigative works confirm the need for remedial works to treat any areas of shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the development, the proposed scheme of remedial/mitigation works must be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Thereafter the development shall be implemented in accordance with the agreed remedial/mitigation scheme.

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

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

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

STATEMENT OF PROACTIVE ENGAGEMENT

115. Officers have held meetings with the applicant to keep them updated with progress on the planning application and discuss and seek to resolve any issues as and when they have arisen.

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)
Open Space Needs Assessment





Planning Services

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

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Date 9th July 2013