

# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:	CE/13/01569/FPA
FULL APPLICATION DESCRIPTION	PROVISION OF NEW AND IMPROVED GREEN INFRASTRUCTURE INCLUDING HEDGE AND HEDGE BANK CREATION
NAME OF APPLICANT SITE ADDRESS	PARTNER CONSTRUCTION LTD LAND TO THE SOUTH OF WELLFIELD ROAD, WINGATE
ELECTORAL DIVISION CASE OFFICER	WINGATE Barry Gavillet 03000261958 dmcentraleast@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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Site:

1. This application site is located to the east of the settlement of Wingate and to the south of the proposal for residential development which is subject to a separate planning application on this agenda. The site extends to 2.3 hectares and comprises agricultural land currently in use for arable farming with a recorded public right of way running through the site. The Hart to Haswell Walkway runs north to south and is east of the application site.

Proposal:

2. Full planning permission is sought for an area of Green Infrastructure (GI) which includes the formation of hedge banks and new hedgerows, upgrading of existing footpaths and provision of new footpaths at the site to provide improved public access and a recreational facility.
3. This application is intrinsically linked to the planned residential development to the south of Wellfield Road and is intended to provide recreational open space that will serve both the proposed residential development and the wider area.

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### PLANNING HISTORY

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4. None relevant to this application site, however the application is linked with the residential development of 161 dwellings on land to the south of Wellfield Road (CE/13/01569/FPA).

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

5. 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.
6. 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'

The following elements are considered relevant to this proposal:

7. 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.
8. 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.
9. 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 those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### **LOCAL PLAN POLICY:**

District of Easington Local Plan

10. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
11. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the

countryside. Such development will therefore not be approved unless allowed by other policies.

12. Policy 16 - Development which adversely affects a designated Site of Nature Conservation Importance/Local Nature Reserve/ancient woodland will only be approved where there is no alternative solution and it is in the national interest.
13. Policy 19 - Areas of nature conservation interest, particularly those of national importance will be protected and enhanced.
14. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
15. Policy 74 - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.

*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=7534>*

#### **EMERGING POLICY:**

16. The emerging County Durham Plan is now in Pre-Submission Draft form, having been the subject of a recent 8 week public consultation, and is due for submission in Spring 2014, ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. To this end, the following policies contained in the Pre-Submission Draft are considered relevant to the determination of the application:
17. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
18. *Policy 20 (Green Infrastructure)* – Development will be expected to conserve, and where required improve and extend, the County's Green Infrastructure network.
19. *Policy 30 (Housing Land Allocations)* – In order to meet the housing requirement a number of sites have been allocated for housing. Planning applications for housing submitted on these sites that are in accordance with site specific and phasing requirements will be approved. Applications submitted in advance of its phasing will be approved where they do not prejudice delivery of other allocated sites phased in an earlier time period, where they are required to maintain a five year supply of deliverable sites and where infrastructure requirements can be satisfactorily addressed.
20. *Policy 39 (Landscape Character)* – States that proposals for new development will only be permitted where they would not cause significant harm to the character,

quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh its impacts.

21. *Policy 41 (Biodiversity and Geodiversity)* – States that proposals for new development will not be permitted if significant harm to biodiversity and geodiversity, resulting from the development, cannot be avoided, or adequately mitigated, or as a last resort, compensated for.
22. *Policy 42 (Internationally Designated Sites)* – Developments which have the potential to have an adverse effect on an internationally designated site/sites will need to be screened in the first instance to determine the likely effects and will be subject to an Appropriate Assessment where necessary.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. Natural England have no objections to these proposals and have responded more fully to the proposals for residential development linked to this planning application.
24. The Environment Agency raise no objections to the proposals.
25. Northumbrian Water have no objections to the proposals.
26. The Ramblers Association have raised no objections to the proposals and agree with the comments from the Councils Public Right of Way Officer.

### **INTERNAL CONSULTEE RESPONSES:**

27. Design and Conservation Officers raise no objections to the proposals.
28. The Public Rights of Way Officer welcomes the enhancement and provision of new footpaths but requests conditions relating to detail, maintenance and management.
29. The Landscape Section have no objections and recommend conditions relating to surface materials.
30. The Ecology Officer states that the proposed Green Infrastructure is welcomed and no objections are raised.

### **PUBLIC RESPONSES:**

31. Letters of notification were sent to neighbouring properties within the area and the application was advertised by means of Press and Site Notice. 5 letters of representation have been received stating concerns for loss of hedgerows, loss of wildlife, that a Public Right of Way will be affected and that the proposal would not relieve pressure on the nearby habitat designations and is not sufficient to avoid an Appropriate Assessment under the Habitats Regulations.

### **APPLICANTS STATEMENT:**

32. This application relates to the outline application for the development of up to 161 residential dwellings on the adjoining site.
33. It is a standalone application which will deliver significant improvements to the Green Infrastructure within the area to the benefit of both local residents and local wildlife habitats. It has been designed in close consultation with ecology officers at the Council and is consistent with the Habitat Regulations Assessment of the emerging Local Plan and the expectations of Natural England for residential developments in this area of the County.

*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://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=122385>*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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34. 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 and links to the proposed residential development, landscape impact ecology and responses from the public.

### **Principle of Development and links to the proposed residential development**

35. The application does not propose a change of use of the land but facilitates improvement and enhancement of access opportunities intended to help meet the recreational needs of the new development and provide an enhanced and managed facility for the wider area.
36. The proposed residential development site which is linked to these proposals is in close proximity to Durham Coast and Castle Eden Dene Sites of Special Scientific Interest, the Durham Coast Special Area of Conservation and the Northumberland Coast Special Protection Area, all of which are designations of significant importance.
37. In order to take pressure from additional visitors away from the coastal designations of significant importance, the applicant proposes to provide additional Green Infrastructure (GI) which is an existing open space. It is proposed to carry out enhancements to this open space designed to attract more visitors by providing an enjoyable natural environment for recreation as an alternative to the designated sites on the coast and at Castle Eden Dene. This is the basis of the current application.
38. Proposals for the GI consist of hedge bank creation, improved footpaths, and landscape and access enhancements. A series of new footpaths would provide circular walking routes within the site and provide links onto the Hart to Haswell Walkway to the east. Good walking routes within the site would reduce the number of people who travel to the coast and Castle Eden Dene and reduce disturbances within these important wildlife habitat areas.
39. An appropriate maintenance and management plan has been submitted to ensure future sustainability of the proposals.

40. The principle of informal recreational uses is in accordance with the aims of Saved Policies 6 and 66 of the Easington District Local Plan 2001 and in conformity with paragraphs 73-75 of the NPPF.

## **Landscape Impact**

41. The remodelling works proposed within the site are minimal and will not generally have any impact on the wider landscape character in terms of its openness. Indeed, the addition of new hedgerows would serve to improve the character and appearance of this area of countryside. Therefore the proposals are considered to be in accordance with policies 1 and 35 of the District of Easington Local Plan.

## **Ecology**

42. 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.
43. 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. However, as there are no European Protected Species identified on this site, there is unlikely to be any interference with an EPS and no requirement for the LPA to consider and apply the derogation tests set out in the Regulations
44. Part 11 of the NPPF most notably at paragraphs 118 and 119 seeks to conserve nature conservation assets and prevent harm to protected species through development. The design enhances the green infrastructure to the south of the proposed residential site by creating hedge banks and new hedgerows and providing additional and improved footpaths for existing and future residents, giving an alternative to visiting the sensitive designated sites on the coast and at Castle Eden Dene.
45. Natural England have been consulted on the proposals and advise that they welcome the commitment to provide a large area of open space associated with the proposed residential development in order to reduce the recreational pressure on the coastal European protected sites and Castle Eden Dene. They advise that the proposed Green Infrastructure is likely to mitigate any effect on the European Designations and that the proposed residential development is not likely to have a significant effect on the designated nature conservation sites. Natural England also supports the commitment to provide a maintenance and management plan in order

to ensure the green infrastructure measures are in place in perpetuity. They also note that an Appropriate Assessment under the Habitat Regulations has already been carried out as part of the housing site allocation process of the County Durham Plan.

46. Having regards to the above officers raise no objection with regards to the impact of the development upon protected species. As a result no objections are raised having regards to Part 11 of the NPPF and Policy 6 of the Easington Local Plan.

### **Public responses**

47. Concerns have been raised regarding the loss of hedgerows, wildlife and a public right of way. Both internal and external consultees raise no objections to the proposals and indeed welcome the creation of new footpaths, hedge banks and hedgerows and an improved wildlife and recreational facility. One objector states that the proposals would not relieve pressure on the nearby habitat designations and that the proposal will not be sufficient to avoid an Appropriate Assessment under the Habitats Regulations. Both Natural England and Ecology Officers have confirmed that the proposals are acceptable and not that an Appropriate Assessment under the Habitats Regulations has already been carried out as part of the site allocation process in the County Durham Plan. Overall it is considered that the issues raised are not considered sufficient to warrant refusal of the application.

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## **CONCLUSION**

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48. The application represents a socially, economically and environmentally sustainable development proposal which is in accordance with both National and saved Local Planning Policy. The proposals would serve as an important green recreation space for existing and future residents and would create an enhanced habitat for wildlife. It is therefore not considered that the proposals would have a detrimental impact upon the amenities of the surrounding area or the wider setting more generally that would justify refusal of this application.

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## **RECOMMENDATION**

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

Delivery of the Green Infrastructure in advance of the occupation of the 30<sup>th</sup> dwelling of the residential development on land to the south of Wellfield Road, Wingate (ref. no. CE/13/01568/OUT).

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 – Green Infrastructure Boundary Plans 246-PAR 400, Hedge Bank Creation SD/W/33, Green Infrastructure Planting Details R/1521/1A.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies 1 & 35 of the District of Easington Local Plan.

3. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of each phase of development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of each phase of development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

*Reason: In the interests of the visual amenity of the area and to comply with saved Policies 1 and 35 of the District of Easington Local Plan.*

4. No development shall commence until a detailed scheme showing proposed footpath construction details has been provided and agreed in writing with the Local Planning Authority. The scheme shall include details of surface materials, signage, access controls, fencing and provision for waste disposal. The agreed scheme shall be implemented thereafter in accordance with the approved details.

*Reason: In order to protect and enhance public access and to promote healthy communities in accordance with part 8 of the NPPF.*

5. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Wildlife and Habitat Management and Maintenance Programme prepared by E3 Ecology Ltd (November 2013).

*Reason: To conserve protected species and their habitat in accordance with the objectives of saved Policy 18 of the Easington District Local Plan and part 11 of the NPPF.*

6. No development shall be commenced until a scheme that sets out arrangements for ongoing maintenance of the site have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and thereafter maintained in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with saved Policies 1, 35 and 66 of the District of Easington Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within the week target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.



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## BACKGROUND PAPERS

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- Submitted Application Forms and Plans
- District of Easington Local Plan
- National Planning Policy Framework
- County Durham Plan Pre-Submission Draft
- Consultation Responses



**Planning Services**

**PROVISION OF NEW AND IMPROVED  
GREEN INFRASTRUCTURE INCLUDING  
HEDGE AND HEDGE BANK CREATION  
CE/13/01569/FPA**

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**Date March 2014**

**Scale**