

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION No:</b>	CE/13/01651/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline application for residential development of maximum of 49 units with all detailed matters reserved except access (revised and resubmitted)
<b>NAME OF APPLICANT:</b>	Mr D Hutchinson
<b>ADDRESS:</b>	Land To The North Of Willowtree Avenue Gilesgate Moor
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

This application is a resubmission of a previous application at the same site. The previous application was referenced 4/13/00422/OUT 'Outline application for residential development of maximum of 54 units with all detailed matters reserved except access' and was refused by the Planning Committee in October 2013. The body of the previous committee report has been used in this instance as the situation at the site essentially remains the same, other than a reduction in the maximum number of units proposed from 54 to 49. Any significant changes or additions to the previous report are highlighted in bold.

#### The Site

1. The application site relates to a previously un developed green field site which sits to the north of Willowtree Avenue, Gilesgate, Durham. The site measures approximately 1.49 hectares in size and is situated within the City of Durham settlement boundary. Residential properties on Willowtree Avenue sit to the south of the site, while residential properties at the Paddocks sit to the east. The A690 and associated slip road sits to the north of the site while business and industrial uses sit separated from the site to the north east beyond Broomside Lane. The site has no particular designation within the City of Durham Local Plan and the principle of development of the site for housing has been accepted as part of the emerging County Durham Plan.

2. Access would be taken from the western side of Willowtree Avenue where the road links with Broomside Lane.

#### The Proposal

3. This application seeks outline planning permission for a residential development. Approval of details is not currently being sought, but the indicative layout and

information supplied with the application suggests 49 no. dwellings could be accommodated at the site.

4. The only detailed matter requested for consideration under this application relates to the access. Matters of the appearance, layout, landscaping and scale of the development are reserved.

5. This application is being referred to the planning committee as it constitutes a major development.

---

## **PLANNING HISTORY**

---

6. Planning permission was refused for residential development at the site in 1973. Outline planning approval for residential properties was refused in 1980. Outline Planning permission was refused for residential development at the site in 1985. An appeal against this decision was dismissed following a local enquiry in 1986. Planning permission was refused for residential development at the site in 2003. An appeal against the refusal was dismissed. Planning approval for 1 residential dwelling was refused at the site in 2004. An application was granted approval in 2009 for the change of use of land for the keeping of horses. A planning application for the erection of stable block was approved in 2010. **An outline planning application for a maximum of 54 no. dwellings was refused by the planning committee in October 2013, and an appeal is currently progressing.**

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

7. 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.

8. 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’

9. The following elements are considered relevant to this proposal;

10. *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 21<sup>st</sup> century.

11. *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.

12. *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.

13. *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.

14. *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.

15. *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.

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

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>*

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

17. *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.

18. *Policy E5a – Open Spaces within settlement boundaries* states that development proposals within settlement boundaries that detract from open spaces which possess important functional, visual or environmental attributes, which contribute to the settlements character or to the small scale character of an area will not be permitted.

19. *Policy E10 Areas of Landscape Value* Outlines that the Council will protect the landscape value of the area.

20. *Policy E14 Protection of Existing Trees and Hedgerows* This Policy states that the Council will require development proposals 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.

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 Development within Durham City* sets out criteria outlining the limited circumstances, in which new housing within Durham City will be permitted, this being primarily appropriate on previously developed land and through conversions.

23. *Policy H12 - Affordable Housing: Ensuring a range of house types*. This Policy states that on larger sites proposed for housing the council will negotiate a fair and reasonable level of affordable housing provision.

24. *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.

25. *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.

26. *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.

27. *Policy T21 Walking* – This Policy states that the Council will seek to safeguard the needs of walkers.

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 R11 – Public Rights of Way and other paths* 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 route could be provided.

30. *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.

31. *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.

32. *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.

33. *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.

34. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.

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>*

#### **EMERGING POLICY:**

38. 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.

**39. Policy 30 which relates to housing allocations is relevant. The application site is included as part of the housing allocation within this policy.**

*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.cartoplus.co.uk/durham/text/00cont.htm> in relation to the City of Durham Local Plan and <http://durhamcc-consult.limehouse.co.uk/portal/planning/ps/> in relation to the County Durham Plan.*

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

#### **CONSULTEE RESPONSES:**

40. Highways Development Management has no objections to the application.

41. Northumbrian Water has stated that they will require a detailed scheme showing disposal of surface and foul water at the site. They have raised awareness that a public sewer crosses the site.

42. The Coal Authority have offered no objection to the application subject to the inclusion of a condition requiring gas monitoring for shallow coal mine gases.

43. The Environment Agency has offered no objection to the application.

**44. The NHS has made no comment in relation to the application, along with the Ramblers Association.**

45. Belmont Parish Council has objected to the application on the basis that planning permission has previously been refused on this Green Field site. The Parish has expressed concerns of their residents that no more housing is wanted. Concerns are put forward over the increase in traffic the development would bring to already busy junctions. Concerns are put forward as to children's play provision at the site, while the parish suggests safety fencing around the site to prevent children from straying onto busy roads surrounding the site. Concerns are put forward relating to drainage, old mine workings and mine gas. Concerns are expressed over the preservation of hedging and trees at the site.

#### **INTERNAL CONSULTEE RESPONSES:**

46. The Councils Landscape section has been consulted on the application and have raised no objection to the principle of developing the site for residential properties. They do have concerns that the provision of 54 dwellings could represent over development and will require details of buffer and screening planting.

47. Environmental Health has raised no objections though recommendations with regards to working hours, dust and noise suppression are made.

48. The Councils Archaeology section have noted that there could be archaeological interest in the site and have suggested conditions requiring investigation.

49. Planning Policy consider that the principle of the proposal is acceptable. They consider that while the proposal conflicts with the City of Durham Local Plan, the National Planning Policy Framework is more relevant in assessing this proposal and the site represents a sustainable location for housing.

50. The Councils senior tree officer has raised no objections to the development and seeks assurance that an arboricultural impact assessment and tree constraints plan will be submitted with any future reserved matters application.

51. The Councils drainage engineer has requested that a detailed surface and foul drainage design should be submitted in relation to the site.

52. Ecology Officers have raised no objections to the proposal, subject to the compliance with and the delivery of ecological enhancements at the site.

53. The Councils Contaminated land Officer has offered no objection to the application and suggested that in the first instance a phase 1 desk top study should be submitted in relation to the site.

54. The Councils Schools organisation manager has raised no objection to the application.

55. Neighbourhood services have offered comments about detailed matters at the site.

56. The sustainable travel section have offered no objections in relation to the development of this site, although have outlined their desire to see a safe crossing across the A690 to enable greater access for residents to the Wear valley.

57. Design and Conservation have reservations over the indicative layout and density of the development but have offered no objections.

58. The Housing development and delivery team have offered their support for the proposed 20% affordable housing provision.

59. The sustainability section has raised no objections to the proposal and have suggested a condition relating to renewable energy at the site.

60. Public rights of way have noted that there are unregistered paths across the development site and have stated that an application under section 257 should be made to extinguish unregistered paths.

**61. The Economic Development section has made recommendations in relation to Targeted recruitment and training. However these requirements were not raised with Officers in relation to the original application and have been introduced late in the determination period of the current application. Consequently Officers do not see it as appropriate to introduce Targeted recruitment and training requirements at this stage. The Council's travel plans section have made no response to the application.**

#### **PUBLIC RESPONSES:**

**62. Letters of objection from 10 addresses have been received in relation to this resubmitted application. The grounds of objection have remained on the whole the same as previously, as summarised below, with further concern put forward relating to the revised road arrangement near the site and concern over the potential provision of additional 2 storey units on the site.**

63. Councillor Moir has objected to the development on the basis of the access to the development which could be detrimental to Highway Safety. Councillor Moir considers that additional traffic movement from the development will cause disruption to traffic flow from the High Grange Estate at peak times.

**64. Letters of objection from 14 addresses were received in relation to the original application and these are summarised below.**

65. Concern is put forward that additional dwellings would cause increased amounts of traffic with congestion likely in the local area especially at peak traffic times of day. It has been suggested that visibility at various junctions in the area is poor and that increased amounts of traffic could infringe highway safety in the local area. Concern is put forward that not enough consideration has been given to sustainable transport options.

66. Concern is put forward that the application would be contrary to Policies H2 and E5a of the City of Durham Local Plan. It is suggested that the application should be refused as it would be contrary to these Policies.

67. Objectors have noted that planning approval has previously been refused at the site for residential development.

68. The green field nature of the site is also noted. Concerns are expressed that development of the site would diminish the green approach towards Durham City. Objectors have suggested that the site should be designated as a village green.
69. Concerns are put forward in relation to wildlife at the site. Objectors are concerned over the potential loss of species from the site that are not mentioned in the submitted ecological report. It is stated that the proposed housing density would not allow for space for wildlife species to remain on site.
70. Concern is expressed over the potential loss of the hawthorn hedgerow, with concern expressed that ecological mitigation offered is being at a bare minimum level.
71. There is concern over loss of views that could result from the development of the site, both from within the site and from existing properties that are situated within the area.
72. Many objectors have expressed concerns over drainage at the site and have stated that the site has drainage problems particularly in very wet weather and during snow melt. Objectors have reported issues with flash flooding in and around the area.
73. Many objectors feel that the level of development would be disproportionate to the site. Concern is expressed over the potential for three storey development. Objectors have suggested that only a small number of houses would be suitable.
74. Concerns are expressed over the availability of school places for prospective future residents of the development.
75. Residents of the Paddock, situated to the east of the proposed development site have expressed concerns that the development would mean an increase in overlooking and a loss of privacy.
76. Concerns are expressed that good agricultural land would be lost were the site allowed to be developed.
77. The loss and change in nature of public rights of way at the site are a cause for concern.
78. Concern is expressed at the lack of community involvement in relation to the application.
79. Concern is expressed in relation to statements made within the application which objectors consider to be misleading.
80. Concern is expressed over former coal mining activities that have taken place on the site and it has been suggested that there is a degree of subsidence in the local area.
81. It is suggested that there is no need for more housing in the area as there are already a number of properties for sale in the local area.

#### **APPLICANTS STATEMENT:**

**82. Planning Policy - *National Planning Policy Framework (NPPF)* is a material consideration to be taken into account when determining planning applications and contains up to date Government guidance on planning issues. Guidance in the Plan must be given weight in decision making. The proposal accords with the NPPF objective of locating housing in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure.**



The development will assist the Council in achieving a 5 year supply of housing and will help meet the needs of different groups in the community such as families with children and people wishing to live within Durham City. The provision of 20% affordable housing will deliver clear benefits to the local area and align with sustainability objectives.

83. *City of Durham Local Plan (2004)(CDLP)* - The site is located within the defined settlement limit for Durham City but is not allocated for any use. The previous application was refused on the grounds that the scheme was contrary to CDLP Policy H2 and Policy H5A.

Saved Policy H2 in the CDLP says :-

*“New housing development comprising windfall development of previously developed land and conversions will be permitted within the settlement boundary of Durham City”* (subject to certain provisions).

The site is a Greenfield site and therefore not covered by this policy.

H2 is inconsistent with current NPPF policy which does not exclude Greenfield sites or specify previously developed land.

Policy H5A refers to open spaces which possess important functional, visual or environmental attributes which contribute to the settlement’s character. This is a privately owned piece of farmland with no public access. The site’s main contribution to the character and appearance is from its peripheral hedges and trees which are to be retained.

The proposal accords with Local Plan Policies H14, E14, E15 and Q8. *County Durham Plan “Pre-Submission Draft” Local Plan (October 2013) (CDP)* When this plan is adopted it will replace the saved Local Plan Policies. The proposal accords with Policies 1,2,3,4,5,16,18,20,30 31,34,40,41 and 48 of the Draft Plan.

84. Applicant’s response to objections to the previous application - The revised application addresses the objections made in representations and at the last Committee meeting to the previous application by replacing the illustrative layout with a new layout which hopefully overcomes local people’s concerns.

This is still an outline application as the applicants are private individuals and not housebuilders. Should this application be approved, the details of the site layout, landscaping and housing type and mix would be the subject of a future detailed planning application which would be considered by this Committee.

*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://fred:8080/IDOXSoftware/IG\\_search?app\\_id=1002&menu=1&FormParameter1=CE1301578FPA&FormParameter2=100110741166&code=QVGKPHUGJX](http://fred:8080/IDOXSoftware/IG_search?app_id=1002&menu=1&FormParameter1=CE1301578FPA&FormParameter2=100110741166&code=QVGKPHUGJX)*

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

85. 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, highway

safety, impact upon the character and appearance of the area and residential amenity, and Trees and Ecology interests.

## **The Principle of the Development**

86. The site is located within the Durham City settlement boundary on land which has not previously been developed. The site appears to have previously been used by members of the public for informal recreation but this public use seems to have decreased given the current state of the site which is heavily rutted and overgrown.

87. Policy H2 of the City of Durham Local Plan 2004 states new housing development comprising windfall development of previously developed land and conversions will be permitted within the settlement boundary of Durham City.

88. The proposal relates to a greenfield site which has not previously been developed. The proposal therefore does not fall to be considered under Policy H2 of the City of Durham Local Plan 2004 which relates to previously developed land. The National Planning Policy Framework seeks to boost significantly the supply of housing to create sustainable, inclusive and mixed communities at Paragraphs 47 to 55. To accord with the NPPF new housing development should be located to provide improved access for all to jobs, health, education, shops, leisure and community facilities, open space and recreation, by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car. Development in this location will contribute to this objective, and therefore these factors represent the material considerations to justify developing on land which has not been previously developed. Indeed the sequential approach to development which existed previously in the RSS and was mirrored in the City of Durham Local Plan has not been carried forward into the NPPF and the key criteria is one of sustainability. The introduction of the NPPF also provides a shift change in policy to recommend favourably on the site following a history of planning refusals in this location. The dwellings proposed would contribute towards housing supply.

89. In terms of the emerging County Durham Plan the development site forms part of an area of land that has been identified as an infill housing site, well related to Durham City's shops, employment opportunities, services and facilities. The site was supported at the recent cabinet meeting on the County Durham pre plan submission draft on 18<sup>th</sup> September 2013. **It is awaiting further approval by the Council in April 2014.** Taking these points into consideration, the development of this site would accord with the emerging County Durham Plan. However, Officers do not yet feel that this emerging policy is at an advanced stage where it can be attributed any significant weight in appraising this application, but feel it appropriate to make members aware of this designation.

90. Policy E5a of the City of Durham Local Plan states that development proposals within settlement boundaries that detract from open spaces which possess important functional, visual or environmental attributes which contribute to the settlements character or to the small scale character of an area will not be permitted.

91. Officers acknowledge that the land in question does form a notable area of open space which does offer a contribution to the small scale character of the area. Officers acknowledge that its loss for development would alter the character of the area at a local level. However, to a large extent, development of the site could be read as a relatively logical extension of the existing developed area which could be considered to round off the settled area which is hemmed in by Broomside Lane and the A690 and its slip roads.

92. It is appropriate to consider the degree to which the site to which the application relates currently exhibits important functional, visual or environmental attributes.

93. The site as it stands seems to perform a limited recreational function and bears little evidence of use. Officers understand that public rights of way have accrued across the site, however the indicative layout allows for through flow at the site to maintain public rights of way through the site. It must also be stated that the land is private and does not form an overt function as public open space. Other public open space is available in the immediate area, while the Wear Valley and wider countryside which is situated close by is available to the north west beyond the A690.

94. The site does provide visual relief and a buffer to established residential development at Gilesgate Moor when approaching from the direction of Broomside Lane, however in a wider sense, the visual importance of the site would appear relatively limited. The site is to a degree screened on approach to the City from the A690 which sits in a lowered position. In wider views from the north west and north east, the development would be read against the existing built up area of the City and structural landscaping could limit its impact on the Area of High Landscape Value to the west. The Councils landscape section have considered the application and have noted that there would be limited landscape impact from developing the site due to a good degree of boundary screening that currently exists at the site. Indeed this boundary screening currently present is likely to have developed significantly since previous planning refusals at the site.

95. The site would appear to have limited environmental attributes. The site has been identified as being generally poor in terms of habitat structure and wildlife value. Ecology Officers have offered no objection to the proposals subject to adherence to proposed mitigation measures.

96. The site identified within the emerging local plan is slightly larger than the site proposed for this development. The area that is not included within this application is arguably of greater visual importance, being located on the edge of the site next to the A690 with moderate tree cover.

## **Highways Issues**

97. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety or have a significant effect on the amenity of occupiers of neighbouring property. The NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

98. The site would be accessed from the link road that joins Broomside Lane and Willowtree Avenue. This access would be placed to the north of the access which serves The Paddocks, a low density development of three residential properties. A footpath would be included to the south to provide pedestrian access to Willowtree Avenue, while a pavement to the north would allow pedestrians to cross the road and access areas to the north and east of the site.

99. Highways Development Management Officers have given detailed consideration to the proposed scheme and have offered no objections to the proposals.

100. A significant level of concern has been raised by adjoining occupiers relating to Highways issues at the site and it is suggested that the application would be contrary to Policies T1 of the City of Durham Local Plan. Officers acknowledge that such a housing development would inevitably increase activity in the area to a greater level than currently exists. Residents within the immediate area would notice additional comings and goings. Officers however do not anticipate that the development would introduce a level of traffic into the area that would be harmful to highways safety. A safe and satisfactory access could be provided to the site. Officers do not consider that in Highways terms, the residual

cumulative impacts of the development would be severe and consider that the application would accord with the National Planning Policy Framework in this respect.

### **Impacts upon Character and appearance of the Area and residential amenity**

101. Policies H13 and Q8 seek to ensure that new developments preserve the amenities of residents. Policy Q8 provides detailed guidance on separation distances between properties to ensure adequate amenity.

102. With the application being in outline with all detailed matters reserved except for access the precise final layout of the development, proximity of properties and siting of windows is at this stage unknown.

103. Officers do acknowledge the concern of residents of properties in the immediate surrounding area. Properties on Willowtree Avenue could suffer a reduced outlook to the rear and could suffer a sense of overlooking from properties that would be situated on the development site. 1 The Paddock would also potentially suffer a slight loss in privacy, particularly to the rear garden area, although Officers did note significant boundary planting between this property and the development site which would mitigate the impact of this somewhat.

104. However, the indicative layout suggests that separation distances recommended within Policy Q8 can be achieved both within the proposed estate and with regards to existing nearby property. Acceptable separation distances are shown on the indicative plan between properties proposed on the development, while acceptable separation distances would appear to be able to be achieved to properties on Willowtree Avenue and at The Paddocks. The reserved matters stage would allow for full details of the siting, size and orientation of dwellings to be finalised and officers consider that adequate privacy and amenity for all existing and proposed occupiers can be maintained in accordance with the guidance contained within Policy Q8. Officers note concerns from the Landscape and Design section relating to housing design and density at the site and these issues will need to be given careful consideration at the reserved matters stage. The housing density proposed is relatively standard for modern housing development within an urban area.

105. Policy H13 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.

106. Officers again acknowledge that increased activity may be noted by residents around the site. However, Officers do not consider that there would be a significant adverse effect on the character or appearance of the area or the residents within it sufficient to justify refusal of planning permission.

107. Overall, officers do not raise objection to the development on the grounds of harm to residential amenity. In terms of prospective residents of the site, the development would be close to the A690 and mitigation to reduce noise impacts of the nearby road would be expected as part of any reserved matters application. A condition is suggested to ensure that sufficient details are provided.

### **Ecology**

108. 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 NPPF most notably at paragraphs 118 and 119.

109. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation (Natural Habitats etc) Regulations 1994 (since amended). These regulations established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations, it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.

110. The application has been accompanied by a protected species risk assessment which was undertaken in June 2013. The survey noted the existence of seven types of habitat, and states that in general terms, the site is poor in terms of habitat structure and wildlife value. A risk to nesting birds was identified at the site, with appropriately timed works recommended to reduce risks to bird species. No evidence of other mammals was found at the site. Ecological enhancements have been proposed to the site which would involve the creation of a grassed area under an ecological management routine in order to increase its species richness. This is proposed to the area in and around power cables which occupy the northern part of the site. It is also recommended that a small pond/scrape be created to increase species richness at the site.

111. The Councils Ecology section have raised no objections to the proposal, the mitigation measures within the submitted habitat surveys should be conditioned on any approval, however.

112. As a result no objections are raised with regards to the impact of the development upon protected species in accordance with Policy E16 of the Local Plan and the provisions of the NPPF.

### **Planning Obligations**

113. The application has been accompanied by the Heads of terms of a S106 agreement to make a financial contribution of £54,000 towards open space and recreational facilities and £29,055 as a public art contribution, based on the number of properties indicated in the application. An affordable housing provision of 20% is proposed within the agreement.

114. The public art and recreational space contributions are considered to adhere to the requirements of Policies Q15 and R2 of the Local Plan and the affordable housing provision is also considered appropriate.

### **Other Issues**

115. Concern has been raised by residents with regard to drainage at the site. Land levels slope away from existing residential property in the area. A flood risk assessment and drainage strategy has been submitted alongside the application which concludes that the site can be designed in a safe manner and in accordance with contemporary guidance for flood risk and surface water management. A Utilities assessment has also been submitted which concludes that the development can be adequately serviced and drained without adverse impact on the local infrastructure network or downstream areas. Assessment has been made by both the Councils own drainage engineer, Northumbrian Water and the Environment Agency. Northumbrian water has not raised concerns with regards to the ability of their network to accommodate anticipated flows arising from the development. The Councils Drainage Engineer and Northumbrian water have requested that a detailed drainage scheme for foul and surface water is submitted in relation to the scheme.

116. Coal mining activity has been noted at the site in the past, and a coal mining risk assessment has been submitted alongside the application. The Coal Authority has considered this information and has noted that the site is within the Coal Mining High Risk

Area. The Coal Authority consider that the submitted information is sufficient for the purposes of the planning system and meet the requirements of the National Planning Policy Framework in demonstrating that the application site is, or can be made safe and stable for the proposed development. The Coal Authority have offered no objection to the application subject to the imposition of a planning condition requiring gas monitoring for shallow mine gases.

117. Policy Q15 states due regard will be made in determining planning applications to the contribution they make to the appearance of the proposal and the amenities of the area. Policy R2 relates to recreational and amenity space in new major residential developments. A contribution towards public art is detailed within the application to provide visual interest within the area. Given the reasonably compact nature of the application site, the provision of onsite play facilities would not appear feasible. To satisfy Policy R2 a contribution towards off site play provision has been sought which could be spent on the improvement or provision of play facilities within the local area.

118. The application proposes an affordable housing provision of 20%. Although details of the delivery of this and the form that this will take will be reserved for future consideration, the Councils Housing Development and Delivery Team has offered its support for the affordable housing provision outlined.

119. In relation to trees and hedges at the site, a reserved matters application would need to be accompanied by full tree surveys and landscape proposals.

120. Public Footpath 5 abuts the north and west of the site boundary and would be retained. Un registered paths also cross the site and these would need to be dealt with under a section 257 notice. Footpath links are shown on the indicative layout to maintain pedestrian links through the site.

121. In relation to issues of school places for potential residents at the site, the Councils School organisation manager has offered no objections to the application and it is considered that there are sufficient school places in the area to accommodate the additional pupils likely to be generated by the development.

---

## **CONCLUSION**

---

122. The application site is classed as a green field site and as a result the development would not fall to be considered under Policy H2 of the City of Durham Local Plan. However, with the emergence of the National Planning Policy Framework and the emergence of the new County Durham Plan, development proposals are required to be assessed in the light of a changing and evolving planning system.

123. A key consideration is whether the development can be considered sustainable. With the proximity to Durham City, access to a range of facilities and services, availability of public transport links and the road network officers consider that the development is sustainable and represents a logical addition to this corner of the settlement.

124. Much public objection relates to highways implications. Officers have sought to discuss these matters within the report, and the conclusion of the Councils highways officer is that the development is acceptable from a highways viewpoint.

**125. It is acknowledged that a previous planning committee refused planning permission for the earlier proposals at this site, and that the current application is broadly similar in content. Officers' consideration of the relevant planning issues remains the same, however, and it is not considered that the previous decision of the**

**committee to overturn the officer recommendation should influence the recommendation on the current proposals.**

126. On balance, officers consider that the proposed development would constitute an appropriate and sustainable development at the location with no significantly harmful effects noted by Officers which would warrant refusal of the application. Approval is therefore recommended.

---

## **RECOMMENDATION**

---

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

- i. A contribution of £54,000 for recreational and play space
- ii. A contribution of £29,055 for public art
- iii. An affordable housing provision of 20% of total development

1. Approval of the details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters shall be made to the Local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

Site Layout (excluding detailed housing arrangement) and location plan received 17<sup>th</sup> December 2013.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E5a, E10, E14, E16, H2, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q5, Q8, Q15, U5, U8a, U11 and U14 of the City of Durham Local Plan 2004.

4. No development shall commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any source in accordance with the National Planning Policy Framework and Policy U8A of the City of Durham Local Plan 2004.

5. No development shall commence until plans showing full engineering details of the proposed access road have been submitted to and approved in writing by the Local Planning Authority. The access road shall be completed in accordance with the approved details before any of the dwellings hereby approved is first occupied.

Reason: In the interests of Highway Safety and to comply with Policy T1 of the City of Durham Local Plan 2004.

6. Prior to the commencement of development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in complete accordance with the approved scheme 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

7. Prior to commencement of development the applicant should undertake the programme of gas monitoring, as recommended in Section 6 of the Coal Mining Risk Assessment. The results of the monitoring, and details of any necessary mitigation measures, shall be submitted to, and approved in writing by, the Local Planning Authority before the commencement of development.

Reason: To ensure that the risks from mine gas to the future uses of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and the general public in accordance with the NPPF and Policy U11 of the City of Durham Local Plan 2004

8. No development shall commence until a Tree Constraints Plan and Arboricultural Implications assessment has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of protecting existing trees and hedgerows at the site in accordance with Policy E14 of the City of Durham Local Plan 2014.

9. Prior to submission of the reserved matters the developer must undertake an agreed programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. The strategy shall include details of the following: i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area,

ii) an assessment of the impact of the proposed development on any archaeological remains identified.

iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;

iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and

(iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and

v) notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.



Reason: To comply with Policy E24 of the former Durham City Local Plan, as the site has archaeological potential.

10. A copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy shall be deposited at the County Durham Historic Environment Record within one year of the date of completion of the archaeological phase of work associated with this development.

Reason: To comply with paragraph 141 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

11. No development shall take place until a site investigation and desk top study has been carried out in accordance with Part IIA of the Environmental Protection Act 1990. The results of the site investigation shall be submitted and approved in writing by the local planning authority. As a minimum requirement, the desk top study should include the following information in relation to the study site:

- Historical land use
- Former contaminative site uses
- Typical contaminants from former industrial uses
- Watercourses, major underground aquifers, water source protection zones, at or close to the site
- Ground water, perched ground water
- Adjacent land uses and their historical land use, and potential to affect the
- study site

All former holes in the ground on or close to the study site If the desk top study determines there is no historical land use which may cause contamination of the site, no further action is required in relation to the contaminated land risk assessment.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy U11 of the City of Durham Local Plan 2004.

12. If any historical land use which may cause contamination of the site is found from the desk top study site investigation, no development shall take place until an intrusive site investigation (Phase 2) has been carried out. The site investigation methodology shall be agreed in writing with the local planning authority prior to commencement of the site investigation. The results of the site investigation shall be submitted as a report and approved in writing by the local planning authority. The site investigation report shall take into consideration; the relevant aspects of the desk top study and discuss remediation measures in accordance with appropriate legislative guidance notes. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination, shall be submitted and approved in writing by the local planning authority. After remediation measures are implemented at the site, a final validation statement shall be submitted in accordance with the remediation recommendations of the above 'Phase 2' report.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy U11 of the City of Durham Local Plan 2004.

13. No development shall take place unless in accordance with the mitigation detailed within part 4.3 the Extended Phase 1 Survey by Durham Wildlife Services, Belmont Road, Durham City received 13<sup>th</sup> June 2013.

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

14. No development shall take place until a scheme for protecting the future occupiers of the development hereby permitted from noise from the A690 has been submitted to and approved in writing by the Local planning authority. All works which form part of the scheme shall be completed before any part of the development is occupied.

Reason: In order to prevent noise disturbance in accordance with Policy H13 of the City of Durham Local Plan 2004.

## **STATEMENT OF PROACTIVE ENGAGEMENT**

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 applicant has entered into a Planning Performance agreement with the Council in relation to this scheme and the application is being presented to committee in accordance with the timescales agreed within the agreement and within the designated time period for major applications.

---

## **BACKGROUND PAPERS**

---

Submitted Application Forms, Plans and supporting documentation

City of Durham Local Plan 2004

National Planning Policy Framework

Internal consultee responses

Response from Belmont Parish Council

Public responses

Response of the Highway Authority

Response from Northumbrian Water

Response from The Coal Authority

Response from Environment Agency

County Durham Local Plan (Preferred Options)



**Planning Services**

Outline application for residential development of maximum of 49 units with all detailed matters reserved except access (revised and resubmitted)

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.  
 Durham County Council Licence No. 100022202 2005

**Date 11<sup>th</sup> March 2014**