

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/14/01540/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline application for erection of 13 dwellings with all matters reserved
<b>NAME OF APPLICANT:</b>	Ms Hazel Kellett
<b>ADDRESS:</b>	Land to south of Etherley Road, Low Etherley, Bishop Auckland, County Durham
<b>ELECTORAL DIVISION:</b>	Evenwood
<b>CASE OFFICER:</b>	Adrian Caines Principal Planning Officer 03000 263943 adrian.caines@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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The site

1. The application site is an agricultural field which lies on the southern side of the B6282 on the eastern approach into Low Etherley. The field is located immediately to the east of a row of terraced houses and to the west of a farm access and the dormer bungalow, no. 3 Low Etherley. A hedgerow defines the boundaries of the field on all sides. There is an existing field access onto the B6282 in its north western corner. The site is located outside of the settlement boundary for Etherley and Toft Hill and is thus within the countryside.

The proposal

2. The application seeks outline planning permission with all matters reserved for the erection of 13 dwellings. The applicant has supplied an indicative layout which suggests how the development could be accommodated on the site and accessed from the B6282, but these details would not form part of any outline approval as all matters are reserved.
3. The application is brought to Committee under the Scheme of Delegation because it is classed a major development by reason of the scale of the proposal.

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## PLANNING HISTORY

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4. An outline application on the same site for 12-15 dwellings (6/1991/0160/DM) was refused in 1991. The subsequent appeal was dismissed with the Inspector concluding that "It would result in the loss of an area of open countryside and would limit southward views by pedestrians across a relatively attractive agricultural landscape. To my mind the scheme would not help to reinforce the existing framework of the village, but would appear as an inappropriate extension

of development into open countryside damaging to both the character and appearance of the area.” The Inspector also suggested that “the creation of an additional access serving up to 15 dwellings in this section of the B6282 would increase the likelihood of accidents and is a further disadvantage of the scheme”.

5. Earlier in 2014, the applicant submitted an outline application for 21 dwellings, but the application was withdrawn prior to determination.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

6. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). This supersedes all previous PPS and PPG documents. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The following elements of the NPPF are considered most relevant to this proposal:
7. *Part 4 – Promoting sustainable transport.* On highway safety, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
8. *NPPF Part 6 - Delivering a wide choice of high quality homes* states to boost significantly the supply of housing applications should be considered in the context of the presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
9. *Part 10 – Climate change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure.
10. *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, minimising impacts on biodiversity and providing net gains in biodiversity where possible; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
11. *NPPF Part 12 - Conserving and Enhancing the Historic Environment* states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation; and significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

## **LOCAL PLAN POLICY:**

12. The current development plan is the Teesdale Local Plan 2002 as amended by Saved and Expired Policies September 2007:
13. *Policy GD1 (General Development Criteria):*  
All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area. The policy contains a number of general development criteria in respect of design, landscape, heritage, amenity, drainage, energy efficiency, crime prevention, ecology, pollution, access and highway safety.
14. *Policy ENV1 (Protection of the Countryside):*  
Within the countryside development will be permitted for the purposes of agriculture, rural diversification projects, forestry, nature conservation, tourism, recreation, local infrastructure needs and an existing countryside use where there is a need on the particular site involved and where a proposal conforms with other policies of the plan. To be acceptable proposals will need to show that they do not unreasonably harm the landscape and wildlife resources of the area.
15. *Policy H1A (Open Spaces Within Developments):*  
In new residential development of 10 or more dwellings, open space will be required to be provided within or adjacent to the development.
16. *Policy H14 (Provision of Affordable Housing Within New Developments)*  
The local planning authority will, in appropriate circumstances as identified by a needs assessment of the district, seek to negotiate with developers for an element of affordable housing to be included housing developments.
17. *Policy BENV11 (Archaeological Interest Sites)*  
Development which would unacceptably harm the setting or physical remains of sites of national importance, will not be approved. Developments which affect sites of regional or local importance will only be approved where the applicant has secured a scheme of works which will in the first instance preserve archaeological remains in situ or where this is not possible by excavation and record.

## **EMERGING POLICY:**

18. The emerging County Durham Plan was Submitted in April 2014 and is currently undergoing 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. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies are considered relevant to the determination of the application and can be given some weight given the advanced status of the Plan and consistency with the NPPF:

19. *Policy 2 (Spatial Approach)* sets out how development will be delivered across the County and notes that smaller settlements will deliver development commensurate with their size.
20. *Policy 4 (Distribution of Development)* sets out the locational distribution of housing requirements for the County to meet the Spatial Approach of the Plan. It identifies a need for 1240 dwellings in the west of the County distributed among the main service centres and rest of the housing market area. However, the requirements are not ceilings and the development of appropriate sites will be encouraged.
21. *Policy 15 (Development on Unallocated Sites in Built up Areas)* is permissive of development on sites in built up areas that are not allocated provided it is appropriate in scale, design and function of the settlement; does not result in the loss of the last community facility in a settlement; and is compatible with adjacent land uses.
22. *Policy 31 (Addressing Housing Need)* sets out thresholds and requirements for affordable housing in new developments. The relevant threshold in this case is 15% on sites of 5 units or more, or 0.2ha site area.

*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.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for the Teesdale Local Plan.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. *Etherley Parish Council* commented initially that it had no objections to linear development in this location but considered it important to highlight the history of flooding in the area as a result of inadequate drainage system, sewerage problems and road safety issues. Further comments reinforced road safety concerns in respect of the development being located directly adjacent to the B6282, which currently experiences a number of significant road safety issues from the number and mix of vehicle types using the road, as well as car parking on pavements either side of the carriageway restricting visibility.
24. *The Highway Authority* has no objection to the principle of the development on highway safety grounds, although the sustainability of the site in transport terms is questionable. In respect of highway safety the previous appeal decision is noted however the B6282 traffic flow and carriageway width are in fact not atypical, being, in objective terms, neither subject to a substantial traffic volume or of substandard width. It is duly noted that parking takes place on-street outside properties to the north of the site however this situation is not unique nor sufficiently detrimental to highway safety such that there is realistic scope for a highways refusal to be sustained, particularly in view of recent planning guidance. The detailed scheme would need amendments to the layout and would also need to be subject to a 1.8m continuous footway along the front of the site.

25. *The Environment Agency* has no objections and notes that the flooding that neighbouring properties have referred to is not related to a watercourse and hence they have had no involvement and are not able to comment on this issue.
26. *Northumbrian Water* do not consider that sufficient detail is provided with regard to the management of the surface and foul water arising from the development although this is predominantly due to the outline nature of the application. A condition requiring the submission of a scheme for the disposal of surface and foul water is recommended to be imposed in the event of an approval.
27. *The Coal Authority* has no objections to the proposed development subject to the imposition of a condition requiring further detailed site investigations.

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

28. *Planning Policy* has no objections and the development is considered to be acceptable in terms of the NPPF. It is noted that the proposal is contrary to policies of the adopted Teesdale Local Plan so to be considered acceptable other material considerations would need to apply. The proposal accords with the emerging Local Plan but the stage of preparation means that only limited weight can be given to the Plan. The NPPF introduces a less restrictive approach to rural housing and it is considered that this scheme accords with the guidance and that of the National Planning Policy Guidance (NPPG). The site has also been assessed against the Council Paper on dealing with such sites in this period prior to adoption of the County Durham Plan. The site does bring some benefits and on this basis it is supported by the Policy section.
29. *Drainage and Coastal Protection* note that notwithstanding the incidents of flooding of the road and properties opposite, the site is not considered to be a high risk area for flooding. It is noted that the application forms state that surface water from the development would discharge into the main sewer which would be contrary to the Council's Surface Water Management Plan. This places a preference on water being discharged to a soakaway or infiltration system. Any subsequent reserved matters application would therefore need to accord with this.
30. *Environmental Health* has raised no objections and agrees with the noise and odour assessments submitted. Recommends conditions in relation to noise and construction working practices.
31. *Archaeology* has raised no objections following the submission of an archaeological report including a geophysical survey and the carrying out of further trial trenches which did not find any features of significance. No further survey work is required.
32. *Ecology* has no objection and is satisfied that the likely risk of impact on protected and priority species is low. It is recommended that an informative relating to breeding birds is imposed on any approval.
33. *Landscape* has no objections in principle to the proposal on landscape grounds and welcomes the retention of the existing trees and hedges. If any hedgerows are proposed to be removed this would need to be supported by sufficient justification.

34. *Sustainability* notes that the site performs poorly in sustainability terms as a result of the lack of bus service and accessibility to employment and other services.

**PUBLIC RESPONSES:**

35. The application was advertised by site notice, press notice and letters were sent to neighbouring properties. At the time of writing, 45 letters of objection have been received along with a petition with 53 signatories, the key issues of which are summarised below:
- a) Flooding. The application site and area immediately outside have been subject to serious flooding and drainage problems for some time which has led to the road outside of the site being underwater as well as the flooding of a number of the neighbouring houses and gardens. Photographs of flooding incidences have been provided. There is significant concern from the majority of the respondents that the proposed development would exacerbate this existing situation as a result of the amount of hardsurfacing within the development.
  - b) Highway Safety. The B6282 is considered to be a busy road that is becoming more congested with motorists using the village as an alternative route to Bishop Auckland. The majority of the properties in this part of the village have no off street parking leading to a number of parked cars on the road. This narrows the road meaning vehicles have to give way and has led number of accidents over the last few years, some involving vehicles hitting parked cars or pulling into the path of oncoming traffic. A recent speedwatch survey recorded that out of the 190 vehicles passing in the 50 minute period 23 were speeding in excess of 34 mph. More houses would lead to more vehicles using the road, especially at peak times, leading to a higher likelihood or an accident and more parked cars on the road.
  - c) Parking. The proposal does not show sufficient parking to achieve the stated 2 spaces per dwelling, which would lead to a higher demand for parking on the roadside.
  - d) Access. Visibility from the proposed access which is sited close to a bend in the road would be poor and is blocked by telegraph poles in the verge, which combined with the increased traffic would be detrimental to highway safety.
  - e) Character of the Area. The site is too large to be considered an infill and the proposal would lead to a loss of open countryside which would be detrimental to the rural character of Low Etherley, as the Inspector found in dismissing the appeal in 1992.
  - f) Sustainability. There is no bus service, no pub, no post office and no shop all of which have been withdrawn or closed in the last few years. There are also no employment opportunities. There are services in Toft Hill and High Etherley but this is a substantial walk which includes a steep incline. The site is therefore not considered to be sustainable location that would be suitable for new housing development and a number of respondents refer to the conclusions in the 2013 DCC SHLAA which defines the site as unsuitable for development.
  - g) Coal Mining. There is concern that there is a coal mine beneath the site and this could create problems for the new development.
  - h) Impact on infrastructure. The local water, electricity, gas and sewerage infrastructure would be adversely affected by additional dwellings.
  - i) Need for Dwellings. There are 16 houses for sale in Etherley at present, whilst there are 2 properties to rent immediately opposite the site which suggests that there is no need or demand for the proposed dwellings.

- j) Loss of View. The properties to the north of the B6282 currently have an open southerly aspect across the application site. This would be lost if the houses were developed which would impact on property value.
- k) Previous Refusal. An application for residential development of the same site was submitted in 1991 and was refused by Teesdale District Council. The subsequent appeal was dismissed by the Inspector on the grounds of the impact on the character of the area and highway safety. These issues remain just as relevant.
- l) Wildlife. The ecological value of the site has not been fully assessed and the proposal would have an adverse impact on biodiversity within and around the site.
- m) Construction Impact. There will be noise, dust, disturbance and inconvenience to neighbouring residents during construction.

In addition to the letters of objection, there have also been 11 letters in support of the application.

*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 Spennymoor Council Offices.*

#### **APPLICANTS STATEMENT:**

- 36. My family farmed in Etherley for decades from the early nineteen hundreds. They employed lots of local people throughout that time, and have always maintained strong links with this beautiful village, taking part in different events and sharing local community life. I subsequently brought my children up in Etherley where they thrived and have gone on to have great careers. During my years in the village I have gained a strong affinity and love for the village taking part in the community and activities. Myself and my children were baptised and I was confirmed in Etherley church, attended the local school from being 4 years old and lots of my friends still live in the village. I do not farm myself but my house is in the village and I spend a huge amount of time in Etherley and really care strongly for the future of this village and its people. This is the reason I would like to see it developed to its potential that will sustain it for future generations who can share the happiness we have experienced.
- 37. The proposed site is an infill one with houses either side and opposite it and I feel the plans drawn up by Terry Greenwell will truly enhance the village and meet future sustainability criteria. Terry has many important masterplans in County Durham to his credit. Tony Armstrong has also been invaluable to this plan with his many years of experience in planning. I have commissioned reports on Wildlife, Mining, Archaeology, Noise and Odours so I feel we have responded to every possible reasonable concern that could be considered detrimental to the village. In addition I am aware that the Council's own specialist officers in traffic, landscape, ecology, archaeology and planning policy have confirmed that they have no objections to the proposal. The application has been amended in line with the suggestions of the Council's planning officer. Finally, in response to queries from the planning department about the surface water drainage provisions, I confirm that in accordance with the original application, the intention is to utilise a sustainable urban drainage system within the site. This matter has already been addressed by my architects under the current application. I would therefore

request that the Committee supports the planning officer's recommendation and approves the application.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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38. 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 as this is an outline application with all matters reserved the main planning issues in this instance relate to the principle of the development, highway safety and flooding, with consideration also given to ecology and land stability.

### **Principle of the development**

39. The application site is located outside of any development limit boundary as defined in the Teesdale Local Plan and as such is within the open countryside. The proposal therefore represents a departure to policy ENV1 of the Teesdale Local Plan. It is also noted that the planning history on the site includes an outline application for 12-15 dwellings which was dismissed at appeal in 1992. Accordingly, regard has to be given to whether there are any special circumstances and other material considerations to justify development of housing on the site.
40. Those material considerations include having regard to the most up to date planning policy framework. In this respect the Teesdale Local Plan 2002, pre-dates the publication of the NPPF. The NPPF is a significant material consideration and the amount of weight which can be given to the Local Plan policies is dependent on their level of consistency with the NPPF. Another material consideration is the emerging County Durham Plan, which is currently undergoing examination in public and is therefore at an advanced stage and carries some weight.
41. The NPPF does not change the longstanding aims to prevent isolated dwellings and protect the character of the countryside, however, it does take a more permissive approach to new development and it is notable that the emerging County Durham Plan does not propose to retain defined settlement boundaries. Sustainability, settlement form and scale are now considered to be the key judgments for new housing proposals on the edge of settlements, rather than sticking to strictly defined development limits.
42. A number of objections have questioned the need for housing, but the NPPF seeks to "boost significantly the supply of housing". This requires local planning authorities to approve housing applications without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the guidance in the NPPF and other material considerations. Paragraph 55 of the NPPF also requires new housing to be located where it will enhance or maintain the vitality of rural communities and it is recognised that in rural areas development in one village can help to support the facilities in other nearby villages. This is the direction of travel of the emerging



County Durham Plan as reflected in the spatial approach to development set out in Policy 2.

43. Looking first at the sustainability credentials of the site, it is noted that the Council's Planning Policy Section have been supportive in their comments on the proposal. However, The Highway Authority and the Council's Sustainability Section have noted the lack of bus service through Low Etherley and the need to access employment and other facilities primarily by car.
44. Low Etherley is classed as a Tier 4 settlement in the Council's Settlement Study as a reflection of its limited range of local services. The location of the site is therefore not the most sustainable, however, at the same time, it could not be said to be a remote rural settlement. Low Etherley is grouped with Toft Hill and High Etherley as one settlement for the purposes of the Teesdale Local Plan. The settlements merge into one another and share services as well as being unified under one Parish Council. The edge of Bishop Auckland, a major centre in respect of services, employment and education, lies just 1900m to the east along the B6282.
45. It is therefore considered that Low Etherley could accommodate a small scale of development commensurate with its Tier 4 status to help support and sustain local services. The proposal for up to 13 dwellings is considered to be an appropriate small scale of development in this respect and would not place undue pressure on local utility infrastructure. This would be consistent with the aims of NPPF paragraph 55 and would not compromise the spatial approach of the emerging County Durham Plan; however this should be reflective of the existing form of the settlement.
46. While the site was classed as amber in the Strategic Housing Land Availability Assessment (SHLAA), this was primarily due to deeper incursion of development south into the countryside beyond the established settlement form. The conclusions on the site still however acknowledged that frontage development may be acceptable.
47. Policy 15 (Development on Unallocated Sites in Built up Areas) of the emerging County Durham Plan is permissive of development on sites in built up areas that are not allocated provided it is appropriate in scale, design and function of the settlement; does not result in the loss of the last community facility in a settlement; and is compatible with adjacent land uses. This proposal does not result in loss of the last community facility and the scale of development proposed would be appropriate for the function of the settlement as discussed above. Subject to detailed design consideration there is no reason to believe the proposed housing would not be compatible with adjacent existing housing and the Council's Environmental Health Section are satisfied that the submitted noise and odour assessments have adequately demonstrated that the development could be compatible with the agricultural activities at Greencroft Farm.
48. The definition of a "built up area" for the purposes of Policy 15 includes land on the edge of a settlement where it is physically very well contained by existing built development and its development would not result in coalescence with neighbouring settlements or encroachment into the countryside such that it would cause significant adverse landscape or townscape impact. In the case of smaller

linear settlements it could also include small gaps in a built up frontage that have no recreational, historical or amenity value.

49. Low Etherley is a linear settlement. There is a ribbon of housing development to the north, opposite the site, comprising of terraced housing graduating to detached and semi-detached houses, which extend considerably past the application site to the east. On the south side of the road, the application site forms a gap between the end of a terrace at its western side and no. 3 Low Etherley, a detached property at its eastern side. The large complex of agricultural buildings at Greencroft Farm lies almost directly south of no. 3 Low Etherley.
50. It is noted that the Inspector in the 1992 appeal considered that the site could not be classed as infill development because of its size, but that was based on definitions in outdated national guidance and the context of local policies which pre dated both the Teesdale Local Plan and the NPPF and are therefore no longer relevant. It also appears that his overall conclusions were strongly influenced by the fact the site fell outside the development limits and that there were already two major housing allocations already within the village envelope.
51. There are now no remaining housing allocations to be built out in either Low Etherley, High Etherley or Toft Hill; the emerging County Durham Plan does not propose any new housing allocations in these villages; and under the current policy context there is less reliance on enforcing strict development limits. Notwithstanding the views reached by the Inspector in 1992, it is considered that the combination of no.3 Low Etherley, Greencroft Farm and the housing further east on the north side of the B6282, which extends further east past the application site, represents a defined built framework within which the application site sits. With a proposal which limits development only along the site frontage, it is considered that this would not represent an encroachment into the countryside. Development of the site would not result in coalescence of settlements and the site has no public recreational access. Detailed archaeological evaluation and site investigations have confirmed the site has no archaeological significance. In addition, the landscape has no special landscape designation and the Council's Landscape Section have not raised any objection on landscape impact grounds. Accordingly, the site can be considered as falling within a built up area as defined by Policy 15 of the emerging County Durham Plan and the proposal complies in principle with Teesdale Local Plan Policy GD1 requirements in respect of landscape, heritage and amenity.
52. In accordance with Teesdale Local Plan Policies H14 and H1A, as well as Policy 31 of the emerging County Durham Plan, the proposal would fully comply with the local requirement of 15% affordable housing and offers a contribution of £13,000 towards the provision or maintenance of open space and recreation facilities in the local area, to be secured by Section 106 legal agreement. These added public benefits, particularly the affordable housing, are further material considerations which carry favourable weight in the planning balance.
53. The application includes an indicative layout suggesting how the development could be accommodated on the site, however, as all matters are reserved the indicative details are not for consideration at this outline stage and there is no implied acceptance of the form and layout of development shown in the indicative details. A number of objections have commented on detailed layout issues

including privacy and the level of parking provision, but for the above reason these are not matters for consideration in this application and can be addressed at the detailed application stage. While views over the site would be notably changed, that cannot be a reason to prevent development on the land being brought forward and does not necessarily mean the impact on those neighbours' living conditions would be unacceptable. Assuming the new houses were sited sufficiently far away to safeguard privacy, there is nothing unreasonable about looking onto other dwellings. It is the principle of frontage development which is considered acceptable in this case in respect of consolidating the existing settlement form and being in keeping with the linear character of the settlement. It is noted that the Parish Council have raised no objection to this form of development.

54. It is therefore considered that notwithstanding the proposal being a departure to Teesdale Local Plan Policy ENV1 and having regard to the previous appeal decision, the proposal would accord with the core principles and aims of NPPF Part 6, as well as being compliant with emerging policies 2, 4 and 15 of the emerging County Durham Plan. It would also comply in other respects with Teesdale Local Plan Policies GD1, H1A, H14 and BENV11, Policy 31 of the emerging County Durham Plan and Parts 11 and 12 of the NPPF. The proposal for housing development along the site frontage is therefore acceptable in principle.

### **Highway Safety**

55. Highway safety has been one of the main concerns raised in the objections received and the Parish Council amended their comments to reflect local concerns on the issue. It is also noted that in the 1992 appeal decision the Inspector considered that the creation of an additional access serving up to 15 dwellings in this section of the B6282 would increase the likelihood of accidents, noting the road carried a substantial volume of traffic and that cars frequently parked on the road.
56. This current proposal for up to 13 dwellings is only marginally smaller than that considered in 1992; however there have been significant planning policy and highway guidance changes since 1992. The most significant has been the introduction of the NPPF, while national highway guidance has also been issued in Manual for Streets 1 and 2. Paragraph 32 of the NPPF is clear that "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe".
57. The Highway Authority has assessed the proposal, and while acknowledging the previous appeal decision and current highway conditions, has raised no objection to the proposal in light of current policy and guidance. In reaching this conclusion the Highway Authority notes that the B6282 is part of the classified road network, intended for carrying inter-urban traffic within the County and that cars are sometimes parked on the highway near the application site. The results of recent speedcheck surveys have also been noted, but were already known. However, the B6282 in this location is not considered to be of substandard width and it does not carry an atypical traffic flow for a B road in the County. The same road 1600m further east of Four Lane Ends is subject to 90% more traffic than the section adjacent to the application site.

58. The proposal is for a very small scale of development in respect of additional traffic generation. A development of up to 13 dwellings would not have a material effect on traffic flows on this section of the B6282 and the Highway Authority considers that the minimal level of additional traffic can be easily accommodated by the existing highway network.
59. A number of comments have been made on the suitability of the position of access shown in the indicative layout, but access and layout are not matters for consideration in this outline application. The Highway Authority is nevertheless satisfied that a suitable vehicular access could be created to serve the site and that sight visibilities would be adequate for the typical speeds recorded along this section of road to ensure safe manoeuvres could be made. Any reserved matters proposal will be required to meet the Council's parking standards.
60. Therefore, despite the Inspector's comments in the 1992 appeal decision and notwithstanding the concerns of local residents, the potential impact of the proposal on the B6282 highway is not considered to be sufficiently detrimental to highway safety to be classed as severe in view of the NPPF guidelines. The principle of the proposal therefore accords with Teesdale Local Plan Policy GD1 in this respect.

### **Flooding**

61. Another of the main concerns raised in the objections from local residents is in relation to previous incidents of flooding of the highway and some adjacent existing properties, with fears expressed that development on the application site could make the situation worse.
62. It is clear from the many photographs submitted with the objections that incidents of flooding have taken place and therefore the fears expressed are entirely understandable.
63. The application site and immediate surroundings fall within Flood Zone 1, which is the area at least risk of flooding so the previous flooding incidents are most likely to have been from surface water during extreme rainfall events, which saw many drains throughout the County being unable to cope with the large volumes of water. The situation is therefore not entirely unique to this site, but is nevertheless something to take account of at the detailed application stage when the drainage scheme is designed.
64. This application is to consider only the principle of residential development on the site, not the specific drainage details. Notwithstanding the concerns of local residents, there have been no in principle objections from The Environment Agency, Northumbrian Water or the Council's Flooding and Coastal Protection Section on flooding grounds. The development proposal is under no obligation to address or improve any existing problems with highway drains. A suitable drainage scheme could however be designed on the site to ensure that no greater amount of water ran from the site than at present. As suggested by Northumbrian Water Ltd, a condition can require the submission of a scheme for the disposal of surface and foul water, which would be assessed by the relevant drainage bodies.

65. It is therefore considered that subject to a condition requiring approval of a drainage scheme, the proposal would not be likely to exacerbate any flooding or drainage matters in the area and so the effect in this regard would not be unacceptable. The proposal therefore complies with Teesdale Local Plan Policy GD1 and NPPF Part 11 in respect of flooding.

### **Other Matters**

66. The application is supported by an ecological assessment which concludes that the development of the site would not adversely impact on any statutorily designated wildlife sites or protected species. The ecological value of the surrounding hedgerows is acknowledged in the report and a detailed scheme should seek to retain these features. While some residents have questioned the adequacy of the report, the Council's Ecology Section is satisfied that the ecological impact of the proposal has been properly considered and has no objection to the proposal. It is considered that the effect on ecology would not be unacceptable and so the proposal would not conflict with NPPF paragraph 118 or the relevant requirements of Teesdale Local Plan Policy GD1.
67. The site falls within the Coal Authority Development High Risk Area, as does the whole of Low Etherley, High Etherley and Toft Hill and local concerns have been expressed in this respect. The submitted Mining Risk Assessment acknowledges a recorded mine entry within the site and potential risks from shallow mine workings. It therefore recommends further intrusive site investigations. The Coal Authority has assessed the Report and considers that the content and conclusions of the Mining Risk Assessment Report are sufficient for the purposes of the planning system and meets the requirements of the NPPF. The requirement for intrusive investigations should be conditioned and any detailed scheme will have to take account of the mine entry in the layout.
68. Other concerns from objectors about construction traffic and the associated noise and disturbance are noted, as are the recommendations in this respect from the Council's Environmental Health Section, but these impacts are a temporary consequence of any new development and not matters the planning system can reasonably prevent or control. There are controls outside of planning that deal with noise nuisance and other disturbance.

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## **CONCLUSION**

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69. Although the application site lies outside the development limits of Low Etherley and therefore represents a departure to Teesdale Local Plan Policy ENV1, the proposal for development along the site frontage would not represent a harmful intrusion into the countryside and the scale of development would be appropriate for its location. In this respect the proposal complies with the aims of the NPPF and emerging policies in respect of the location of new development. The proposal would also deliver its full quota of affordable housing and open space contributions as required by current and emerging policies. The Council's Spatial Policy Section supports the proposal and there is no objection from the Council's Landscape Section.

70. The highways impacts have been assessed and there is no objection from the Highway Authority. It is considered that the proposal would not have a material effect on traffic flows on the B6282 highway and a suitable vehicular access could be achieved onto the B6282 without having a detrimental impact on highway safety.
71. With regards to drainage and flooding there are no in principle objections from The Environment Agency, Northumbrian Water or the Council's Flooding and Coastal Protection Section. The site lies in Flood Zone 1 and a suitable drainage scheme could be designed on the site at the detailed application stage to ensure the development would not exacerbate any localised surface water flooding or drainage matters.
72. There are no objections from the Council's Archaeology or Ecology Sections and the proposal is considered acceptable in those respects.
73. The Coal Authority has confirmed that the coal mining legacy risks have been appropriately considered for this outline proposal and further intrusive investigations can be conditioned and used to inform any detailed development proposals in the future.
74. The concerns of the objectors have been considered. Whilst comments on detailed layout matters cannot be taken into account at this outline stage, the other matters highlighted above have been assessed and on balance, the issues raised are not considered to be sufficient to warrant refusal of the application. Regard has also been given to the previous appeal decision in 1992, but under the current planning policy framework and for the reasons above a different conclusion has been reached.
75. Therefore, while acknowledging the proposal as a departure to Teesdale Local Plan Policy ENV1, the proposal would nevertheless comply with Teesdale Local Plan Policies GD1, H1A, H14 and BENV11; emerging County Durham Plan policies 2, 15 and 31; as well as NPPF Sections 4, 10, 11 and 12.
76. It is therefore felt that the proposal is acceptable in planning terms, subject to the suggested conditions.

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## **RECOMMENDATION**

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77. That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the provision of 15% affordable housing and £13,000 towards the provision/maintenance of open space and recreation facilities in the locality; in addition to the following conditions and reasons:
  1. 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 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.*

2. Approval of the details of appearance, means of access, landscaping, layout and scale (herein 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 and ensure that a satisfactory form of development is obtained.*

3. The number of dwellings shall not exceed 13.

*Reason: To define the permission and ensure that the development is of an appropriate scale and character for the area. In the interests of the amenity of the area in accordance with Policy GD1 of the Teesdale District Local Plan.*

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

Plan Reference Number	Date received
Site Location Plan	30/05/2014

*Reason: To define the permission.*

5. No development shall take place until a detailed scheme for the provision and future management and maintenance of foul and surface water drainage, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented in accordance with the approved details and timetable.

*Reason: To prevent the increased risk of flooding and ensure future maintenance of the surface water drainage system in accordance with Policy GD1 of the Teesdale District Local Plan.*

6. No development shall commence 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 efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained so in perpetuity.

*Reason: In the interests of sustainable construction and energy efficiency in accordance with the aims of the NPPF Part 10.*

7. No development shall commence until the results of site investigation works to identify the depth to rockhead; thickness of coal workings; exact location and nature of the mine entry; monitoring of hazardous gases and identification of any required remedial works have been submitted to and approved in writing by the

local planning authority. Any remedial works identified shall be carried out in accordance with the agreed details prior to the commencement of development.

*Reason: To ensure that the coal mining legacy risks to the future users 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 other offsite receptors in accordance with NPPF Part 11.*

8. Prior to the commencement of the development of any individual house a scheme for the sound insulation of that house shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full in each dwelling before the first occupation of that dwelling and thereafter retained.

Reason: To ensure suitable noise levels are achieved within each property. In the interests of residential amenity. In accordance with policy GD1, of the Teesdale Local Plan and aims of the NPPF Part 11.

9. Any on site vegetation clearance shall avoid the bird breeding season (March to end of August), unless the project ecologist undertakes a checking survey immediately prior to clearance and confirms that no breeding birds are present. The survey shall be submitted to and approved in writing by the local planning authority prior to removal of vegetation during the bird breeding season.

*Reason: To prevent disturbance and loss of habitat to breeding birds in accordance with the aims of the NPPF Part 11.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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71. In arriving at the recommendation to approve the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant, and carefully weighing up the representations received to deliver an acceptable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and Statements  
National Planning Policy Framework  
Teesdale Local Plan  
Emerging County Durham Plan  
Consultee comments and public consultation responses  
Planning history and Appeal Decision



