

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00911/RM
FULL APPLICATION DESCRIPTION:	Reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space. Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT.
NAME OF APPLICANT:	Bett Homes Limited
ADDRESS:	Land to the north of Willowtree Avenue, Gilesgate Moor
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

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, and through a grant of outline planning permission. Access would be taken from the western side of Willowtree Avenue where the road links with Broomside Lane.

The Proposal

2. This application seeks agreement of the reserved matters - appearance, landscaping, layout and scale relating to a previous outline approval (ref CE/13/01651/OUT). Information is also submitted in respect of other conditions attached to the outline approval which are not reserved matters, although it should be noted that discharge of such conditions is a delegated matter. Equally, any variation to the existing S106 Obligation for the site is not a matter for the Committee and is delegated to the Head of Planning.

3. This application is being referred to the planning committee at the request of Cllr Conway.

PLANNING HISTORY

4. 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 Inquiry 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.
5. An outline planning application for a maximum of 54 no. dwellings was refused by the planning committee in October 2013. An appeal against this refusal was dismissed by the planning inspectorate. An outline application for up to 49 dwellings was approved by the planning committee in March 2014. A discharge of conditions application was approved in 2014 relating to Archaeology. A reserved matters application was refused by the planning committee in January 2015, and this application is a resubmission of that refused application. The reserved matters application was refused for the following reason:

The development would not be appropriate in scale and form to the character of its surroundings, would fail to respond to local character and would detrimentally affect the residential amenities of nearby and adjacent properties through the proximity and overbearing impact of the new dwellings, contrary to Policy Q8 of the City of Durham Local Plan and Part 7 of the NPPF.

PLANNING POLICY

NATIONAL POLICY:

6. 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.
7. 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'.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
10. *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.

11. *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 application 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.
12. *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..
13. *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.
14. *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.
15. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its 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

16. *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.
17. *Policy E10 (Areas of Landscape Value)* outlines that the Council will protect the landscape value of the area.

18. *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.
19. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
20. *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.
21. *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.
22. *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.
23. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
24. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
25. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
26. *Policy T21 (Safeguarding the Needs of Walkers)* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
27. *Policy 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.

28. *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.
29. 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.
30. 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.
31. 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.
32. 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
33. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
34. *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.
35. 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.
36. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
37. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

38. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

- 39. *County Highways Authority* has not raised any objections to the proposed development.
- 40. *Northumbrian Water* has not raised any objections to the proposed development.
- 41. *The Coal Authority* has not raised any objections to the proposed development.
- 42. *The Environment Agency* has not raised any objections to the proposed development.
- 43. *Belmont Parish Council* has commented on the application indicating that they remain disappointed that the proposed affordable housing element of the scheme being apartments and the opportunity to provide bungalows for elderly people should be taken. There are also concerns with parking provision being insufficient for the apartments and the positioning of the apartment bin store.

INTERNAL CONSULTEE RESPONSES:

- 44. *Archaeology* has not raised any objections to the scheme.
- 45. *Environmental Management (Contamination)* has not raised any objections to the scheme.
- 46. *Environmental Management (Noise/light/smoke/dust/odour)* has not raised any objections.
- 47. *Ecologist* has not raised any objections.
- 48. *Design and Conservation* has not raised any objections.
- 49. *Landscape Team* has not raised any objections in principle but has advised that some alterations are made to the landscape scheme.
- 50. *Tree Officer* has not raised any objections to the scheme.
- 51. *Drainage Officer* has not raised any objections to the scheme.

52. *Education Team* has confirmed that there are sufficient primary and secondary school places to accommodate the additional pupils likely to be produced from this development.

53. *Public Rights of Way* have not raised any objections to the scheme.

PUBLIC RESPONSES:

54. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. 10 letters of representation have been received from local residents. The majority of the letters are objecting or raising concerns with the proposed development.

55. Objections are raised in relation to the layout and style of dwellings not being in keeping with the character of the area, development being too tightly packed together, gardens too small, three storey development not appropriate and overlooking and loss of privacy to existing properties on Willowtree Avenue. The proposals are therefore considered to be contrary to local plan policies.

56. Highway concerns are raised, in particular in relation to parking during construction stage, as well as additional traffic the development would bring and lack of parking on site.

57. Concerns have also been raised in terms of flooding issues and over capacity of the sewer network. There are concerns that the site is contaminated, that there are power lines that cross the site and also that there are mining issues. Objections are also raised to the loss of trees on the boundary of the site. Local residents have also indicated that rental flats are not appropriate to the area and would detract from local property value.

APPLICANTS STATEMENT:

58. This revised reserved matters application for 42 new dwellings has been changed to reflect the comments of members at planning committee in January 2015 and a subsequent public consultation event and individual meetings with local residents. Further pre-application discussions with the Council have also taken place in seeking to address the previous reason for refusal.

59. The applicant has listened to the observations and advice of members, the general public, local residents and officers of the Council to create a scheme that will maintain the privacy and amenity of existing residents whilst creating both well designed new family housing and much needed local affordable housing.

60. It must be remembered that the site has outline planning consent for 49 dwellings which, whilst granted by the Council and not an Inspector, has established the principle of development of housing on the site including the position of the new access onto Willowtree Avenue. Those matters are not being considered in this reserved matters application which seeks only to consider the design, layout, scale and landscaping of the scheme.

61. What raised concerns for members previously, was the design and layout of the development, particularly the relationship of new housing with existing housing along the southern boundary with Willowtree Avenue. The revised scheme has ensured

that all new housing on that common boundary is now two storeys with at least the minimum separation of 21m between the rear of existing and proposed new housing.

62. Whilst the scheme retains the affordable units in 2.5 storey apartments, they are set back from existing properties and separated from them by new housing. Given the topography of the land, the apartments will not impact on any existing dwellings and are designed to integrate with the new housing in terms of design and location, scale and massing.
63. The applicants consider that they have worked with the Council, members and local residents to create an improved and acceptable scheme and would welcome further dialog should planning be granted regarding construction in order to minimise any disruption on the local population.

PLANNING CONSIDERATIONS AND ASSESSMENT

64. 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 appearance, landscaping, layout and scale of the development, residual highways issues and other issues. The principle of the development of this site is not for consideration as part of this application as the principle for residential development for this site was established through outline approval CE/13/01651/OUT.

Appearance, landscaping, layout and scale of development

65. This application is a resubmission of a previous reserved matters application which was refused by the planning committee for the following reason:

The development would not be appropriate in scale and form to the character of its surroundings, would fail to respond to local character and would detrimentally affect the residential amenities of nearby and adjacent properties through the proximity and overbearing impact of the new dwellings, contrary to Policy Q8 of the City of Durham Local Plan and Part 7 of the NPPF.

66. The developer has amended the scheme in line with the comments raised at the previous committee with the intention to overcome the reason for refusal. The developer has also undertaken a public consultation event with local residents. The changes to the scheme include the following:

- Relocated 2.5 storey homes away from the common boundary with Willowtree Avenue;
- Ensure a minimum of 21 metre separation distance;
- Alterations made to the design of some of the properties;
- Clarified topography of the site to demonstrate that the finished floor levels of the proposed homes at the highest part of the site will be below those of existing houses on Willowtree Avenue.

67. 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. 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.

68. Officers note that the application has been scaled down from the outline stage with 42 dwellings now proposed as opposed to the maximum number of 49 that the outline application allowed. This has allowed a higher quality scheme with reduced density to be brought forward.
69. It is considered that the scheme which has been put forward, offers a mixed street scene, the majority of dwellings being provided as detached dwellings of two storey construction. Officers acknowledge that the existing residential area adjacent to the site currently comprises of a large degree of semi-detached dwellings, although the closely spaced proposed detached dwellings are not considered significantly at odds with the urban grain of the area.
70. Five house types are proposed. 6no. 4 bedroom semi-detached properties would be provided of two and a half storey design which would be scattered amongst the site but would not be located along the boundary with the properties on Willowtree Avenue. 19 no. 4 bed detached properties are proposed, along with 8 no. 3 bedroom detached properties. In addition within an apartment block towards the eastern side of the site 6no. 1 bed and 3 no. two bedroom apartments would be provided. All properties are of pitched roof design with a variety of materials and design features. The proposed materials for the properties are to consist of a mix of brick and render, with tiled roofs, reflective of materials within the existing residential area.
71. Officers acknowledge concerns that have been raised surrounding the three storey development proposed at the site. Care has been taken to locate the three storey flats on one of the less sensitive parts of the site where their impact would be lessened. There is some very limited 3 storey development within the area, most notably in the form of flats a Belgravia House to the south east. The level of provision of two and a half storey accommodation was negotiated downwards significantly by Officers through the pre application process. The remaining provision of this type of accommodation in the form of 6 units is considered limited in the context of the site with no significantly harmful impacts noted from the scale of these dwelling types.
72. Policy Q8 outlines guideline separation distances between dwellings. This policy seeks a window to window separation distance of 21mtrs and a window to blank two storey separation distance of 13mtrs.
73. Officers consider that the most direct relationship that dwellings on the application site would have to existing development would be the relationship of plots 1-9 with the rear of properties on Willowtree Avenue. The required 21mtr distance would be met or exceeded on this part of the site, although Officers acknowledge that these properties would suffer reduced outlook and privacy as opposed to looking across the undeveloped land. The relationship of properties within the site would be acceptable when considering properties at The Paddocks, situated across Willowtree Avenue to the east.
74. Within the site these guidelines on the whole would be met. The separation distance between the rear of the flat block and the side of plot 32 would be approximately 12.5mtrs, this slight reduction from 13mtrs not being considered significantly harmful.
75. Footpath links would be maintained on the site and the applicant is engaged in other legal processes outside of the scope of the reserved matters application to resolve matters relating to public rights of way. Part of the north of the site has been left vacant due to the electricity lines that pass above it. Officers understand that the

responsibility for this area of the site will be passed to a management company. Clearly while access to this part of the site will not be encouraged it would be difficult to close off completely as access will be required by Northern Powergrid and for the footpath which passes through the north of the site. Officers understand that the site has for a long time been used for recreational activity and are not aware that there have been any previous issues relating to the power lines.

76. A general landscaping scheme has been provided which would allow for the provision of tree and hedge planting within the site. Grass and driveway areas will be provided along with patios within the gardens of dwellings. This scheme has been arrived at through detailed discussion between Officers and the applicants landscape team and the latest scheme is considered the best possible at the site, of a higher standard than would be achieved at many similarly sized developments.
77. Tree Officers have concerns that more tree removal will be required to the western side of Willowtree Avenue as it passes to the east of the site than has been suggested within the tree report, due to the need to provide a pavement in this location which would likely sever roots and cause die back of the trees. Officers have had to take a pragmatic approach to this as clearly an adoptable footpath is required in order to deliver the development. As such the reinforcement of existing hedging along this site boundary is secured through the latest landscape plan along with some replacement tree planting. This landscaping would be situated on the public side of fencing that would bound the site.
78. The application proposes no plans to remove landscaping features such as trees and hedging which are situated outside of the application site adjacent to Broomside Lane and the A690 slip road which are predominantly on highways land. These features will assist in screening the site from north west and north east.

Highway issues

79. 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.
80. A significant level of concern has been raised by adjoining occupiers relating to Highways issues at the site, however the principle of development at the site and the access was agreed under the previous outline approval and discussion in this regard is limited to the greater highways detailing that accompanies this application and any residual matters such as parking provision.
81. Highways Development Management Officers have given consideration to the proposed scheme and have offered no objections to the proposals. An acceptable level of parking internal to the site has been provided both at the dwellings and in terms of visitor spaces. A condition was attached to the outline application requiring engineering details, these have been submitted and are considered acceptable.
82. Concern over the management of contractors parking has been noted. With this in mind Officers have worked with the applicant to ensure that a contractors parking area has been provided within the site compound, this is detailed on submitted plans.

Planning obligations

83. The outline application was accompanied by a completed S106 agreement to make a financial contribution of £54,000 towards open space and recreational facilities and £29,055 as a public art contribution. An affordable housing provision of 20% was proposed within the agreement which would have equated to an on-site provision of a minimum of 10 units relating to the proposed 49 units.
84. Given the reduction in units down to 42, the applicant has sought to vary this agreement through a deed of variation. The deed of variation seeks approval to reduce the number of affordable units to 8 for affordable renting purposes. Affordable housing officers consider this acceptable. In response to concerns about the developer finding an organisation to take on the affordable units, the applicant has supplied a letter of interest from one provider and is confident the affordable units would be able to be placed with an appropriate organisation.
85. 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. Officers note that the proposed financial contributions relating to public art and open space are above levels that would be required for 42 dwellings, relating instead to levels required in association with the original plans for 54 dwellings and therefore consider on balance the revised section 106 offerings acceptable.
86. However, it should be noted that as any variation to the existing Section 106 Agreement is a matter which is delegated to the Head of Planning, this is not something upon which Members are asked to make a decision. The detail of the proposed Deed of Variation is contained in this report for Members information, for the sake of completeness.

Other issues

87. The outline approval was issued with conditions requiring details to be submitted in relation to the disposal of foul and surface water, energy minimization scheme, gas monitoring relating to coal mining legacy issues, tree protection plans and archaeological investigation.
88. Again, the discharge of conditions other than reserved matters conditions is not a matter for Members to reach a decision upon as this is delegated to the Head of Planning. However, this information is reported to Members for the sake of completeness.
89. Plans for the disposal of foul and surface water have been submitted and accepted by Northumbrian Water and the Councils Drainage and Coastal Protection team. The Environment Agency has also raised no objections. Monitoring relating to mining legacy issues has been undertaken and the Coal Authority is satisfied that the site can be safely developed. A fabric first approach to energy minimization has been adopted and accepted by the sustainability team. Conditions relating to these matters therefore have not been carried across to this application. Officers acknowledge points of public concern relating to drainage and flooding issues but have consulted with the relevant bodies who are satisfied that arrangements are acceptable. Significant weight cannot be afforded to concerns about loss of property value, and Officers do not consider the provision of the flats inappropriate to the area. They would help to achieve one of the aims of the NPPF in creating inclusive and mixed communities.

90. The appropriate archaeological investigations have been undertaken and these conditions discharged under a previous discharge of conditions application, therefore these conditions are no longer applicable.
91. Officers are aware that a totem style sign and flag advertisement have been erected at the site and it can be confirmed that this signage now has the relevant consent from the local planning authority.
92. 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.
93. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010. 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.
94. The application is accompanied by a protected species report. The survey notes 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. 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.
95. The Councils Ecology section has raised no objections to the proposal, the mitigation measures within the submitted habitat surveys have been conditioned on the outline approval.
96. 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.

CONCLUSION

97. Significant alterations have been made in this application from the previous scheme which was refused by Members. The 2.5 storey houses have been relocated away from the existing properties on Willowtree Avenue and a minimum of 21 metre separation distance has been achieved. This would therefore ensure that the residential amenities of neighbouring occupiers would not be adversely affected. Alterations have been made to the design of the proposed properties and material samples have been provided which indicates that the proposed scheme would be of high quality which would be appropriate to the scale and character of the area.
98. Overall, it is considered that a scheme of acceptable appearance, landscaping, layout and scale has been brought forward through this reserved matters application which would comply with local plan policies and national planning guidance.

RECOMMENDATION

That the application be **APPROVED** subject to the signing of a Section 106 legal agreement to secure an affordable housing provision of 8 affordable rented flats; and the payment of commuted sums of £54,000 towards open space, recreational facilities; and £29,055 for public art in the locality; and subject to the following conditions;

1. The development to which this permission relates shall be begun not later than two years from the date of this permission or five years from the date of the grant of outline planning permission, whichever is the later.

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

Plan Ref No.	Description	Date Received
WT/PL/01 B	Proposed Layout	20/04/2015
ACP.Willowtree.1	Arboricultural Constraints Assessment	24/03/2015
WT/PL/02 B	Boundary Treatment & EHL	24/03/2015
WT/CP/02 B	Construction Plan Detailed	24/03/2015
MOY AS	Floor Plans and Elevations (Mowbury)	24/03/2015
NEN AS	Floor Plans and Elevations (Newton)	24/03/2015
NOY AS	Floor Plans and Elevations (Norbury)	24/03/2015
PEY AS	Floor Plans and Elevations (Pendlebury)	24/03/2015
ROY AS	Floor Plans and Elevations (Rosebury)	24/03/2015
APT/A10 1	Floor Plans and Elevations (RSL Apartments)	24/03/2015
D122.L001 D	Landscape layout	24/03/2015
D122.P002 G	Planting Plan	24/03/2015
SEC001 B	Section Thro' Plots 1-4 & 33-42	24/03/2015
WT/PL/03	Site Location Plan	24/03/2015
??	Tree Protection Plan	??

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

3. The extended Phase 1 report (Sirius Ref C5992 07-2014) has outlined remediation options for the removal off site of materials posing unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

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 risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11 and Policy U11 of the City of Durham Local Plan.

4. 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, land north of Willowtree Avenue, Durham City dated August 2014.

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

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and to comply with Policy E14 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance
County Durham Plan (Submission Draft)




Planning Services

**Reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space.
Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT at Land to the north of Willowtree Avenue, Gilesgate Moor**

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Date 12 th May 2015	
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