

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/15/01622/OUT

FULL APPLICATION DESCRIPTION: Resubmission of application DM/14/01692/OUT (Outline application (all matters reserved with the exception of means of access) for the erection of up to 49 residential dwellings and 2,000 sq ft of retail floor space (Use Class A1) with associated landscape and infrastructure.)

NAME OF APPLICANT: Mr Wayne Baister, Initial Developments

ADDRESS: Land opposite High View Country House, Low Road, Kirk Merrington.

ELECTORAL DIVISION: Ferryhill

CASE OFFICER: Steven Pilkington, Senior Planning Officer,
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DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site is an undeveloped parcel of agricultural land measuring 2.26ha in area located on the north-western edge of the village of Kirk Merrington. A level change is evident across the site, with the gradient falling away in a south westerly direction from the eastern boundary which forms the existing settlement limit of Kirk Merrington. Agricultural fields and a group of isolated buildings are located to the south of the site and to the west there are open fields. The adopted highway Low Road and two isolated dwellings are located to the north, beyond which lie agricultural fields. Two Public Rights of Way cross the site in an east-west direction. Approximately 0.12ha of the site is however located within the village envelope and the Kirk Merrington Conservation Area, bordered by residential properties and a Public House fronting the highway West View.
2. This application is a resubmission of a previously refused scheme seeking outline planning permission for the erection of up to 49 dwellings, including the means of access. The application is supported by a revised Planning Statement, Landscape Visual Impact Assessment and Heritage Assessment in order to try and address the previous reasons for refusal. There have been minor amendments to the positioning of dwellings on the indicative layout, however in all other respects the application remains the same and dwellings would remain a mix of semi-detached and detached houses and bungalows arranged around a series of cul-de-sacs. An upgraded vehicle access would be provided from an existing field access on to Low Road and would involve the removal of a section of existing hedgerow and a tree to improve

site visibility. The indicative layout shows that an 8m landscaping buffer would be provided to the western and southern boundary, along with areas of open space to the entrance and heart of the site.

3. Outline permission for a retail store 2000sqft in area is also proposed, located adjacent to the existing Fox and Hound's public house. It is proposed to serve this off the existing access on to the B6287, the main highway through the village, with a parking area proposed to the rear.
4. This application is being reported to Planning Committee as it falls within the definition of a major development.

PLANNING HISTORY

5. The previous application for an outline residential development was refused in December 2014 by the South and West Planning Committee for the following reasons:-
 1. *The Local Planning Authority considers that the site is not a sustainable location for significant new residential development, and represents a significant incursion into the open countryside in conflict with policies H8 and D1 of the Sedgefield Borough Local Plan, policies 15 and 35 of the Submission Draft County Durham Plan as well as paragraphs 7 and 17 of the National Planning Policy Framework*
 2. *The Local Planning Authority considers that the proposed development, as a result of its siting and scale in open countryside would unreasonably and unacceptably alter the character and setting of the settlement of Kirk Merrington, contrary to policies E1, H8 and D1 of the Sedgefield Borough Local Plan, policies 15, 35 and 39 of the Submission Draft County Durham Plan as well as paragraphs 7 and 17 of the National Planning Policy Framework.*
6. Consideration has previously been given to the suitability of the site to meet the projected demand for housing in the County Durham Plan through the Strategic Housing Land Availability Assessment (SHLAA). Following appraisal the site has been rated Amber due to the edge of settlement location with poor access to services and facilities. The site was considered to result in significant adverse landscape and visual impact, and have a detrimental impact on the Conservation Area.
7. Planning Permission for a housing development on part of the site was refused in 1988 and subsequently in 1989 based on a similar site area.

PLANNING POLICY

NATIONAL POLICY

8. 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.

9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal.
10. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
11. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
12. *Part 6 - Delivering a wide choice of high quality homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
13. *Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *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. This is central to the economic, social and environmental dimensions of sustainable development.
16. *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 and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; 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; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
17. *Part 12 – Conserving and enhancing the historic environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation

and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

LOCAL PLAN POLICY:

18. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report, however, the following policies of the Sedgefield Borough Local Plan are considered relevant.
19. *Saved Policy E1 – Landscape Protection and Enhancement* – Sets out that the distinctiveness of landscapes is dependent upon the combination of different elements, including, trees, woodlands, the scale of fields and the nature of these boundaries, style of buildings and local features. In order to maintain the diversity of the landscape character, decisions on use and management of land should take account of these features.
20. *Saved Policy E11 – Safeguarding sites of Nature Conservation Interest* – Sets out that development detrimental to the interest of nature conservation will not be normally permitted, unless there are reasons for the development that would outweigh the need to safeguard the site, there are no alternative suitable sites for the proposed development elsewhere in the county and remedial measures have been taken to minimise any adverse effects.
21. *Saved Policy E15 – Safeguarding woodlands, trees and hedgerows* – Sets out that the council expect development to retain important groups of trees and hedgerow and replace any trees which are lost.
22. *Saved Policy E18 – Preservation and Enhancement of Conservation Areas* – Requires that development proposals preserve or enhance the character and appearance of Conservation Areas
23. *Saved Policy H8 – Residential Frameworks for larger villages* – Outlines that within the residential framework of larger villages residential development will normally be approved.
24. *Saved Policy H18 – Acceptable uses within Housing Areas* – Sets out that shops up to 100sqm will normally be granted permission within residential areas.
25. *Saved Policy H19 – Provision of a range of house types and sizes including Affordable Housing* – Sets out that the Council will encourage developers to provide a variety of house types and sizes including the provision of affordable housing where a need is demonstrated.
26. *Saved Policy L1 - Provision of sufficient open space to meet the needs of for sports facilities, outdoor sports, play space and amenity space*- Requires a standard of 2.4 ha per 1,000 population of outdoor sports and play space in order to bench mark provision.
27. *Saved Policy L2 -Open Space in New Housing Development* - sets out minimum standards for informal play space and amenity space within new housing developments of ten or more dwellings equating to 60sqm per dwelling.

28. *Saved Policy D1 – General Principles for the layout and design of new developments* – Sets out that 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.
29. *Saved Policy D2 – Design for people* – Sets out that the requirements of a development should be taken into account in its layout and design, with particular attention given to personal safety and security of people.
30. *Saved Policy D3 - Design for access* - Requires that developments should make satisfactory and safe provision for pedestrians, cyclists, cars and other vehicles.
31. *Saved Policy D5 – Layout of housing development* – Requires that the layout of new housing development should provide a safe and attractive environment, have a clearly defined road hierarchy, make provision for appropriate areas of public open space either within the development site or in its locality, make provision for adequate privacy and amenity and have well designed walls and fences.
32. *Saved Policy D8 – Planning for Community Benefit* - Sets out that developments are required to contribute towards offsetting the costs imposed by them upon the local community in terms of infrastructure and community requirements

EMERGING PLAN:

1. In considering this proposal due regard should be had to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act (2004) which requires that proposals be determined in accordance with the statutory development plan, unless other material considerations indicate otherwise. In respect to this part of County Durham the statutory development plan currently comprises the 'saved' elements of the Sedgefield Borough Local Plan that are consistent with the National Planning Policy Framework (NPPF). Due regard should also be had to relevant parts of the National Planning Policy Framework (NPPF) and national Planning Practice Guidance (PPG) as a material consideration. In conjunction with these material considerations regard should also continue to be had to the most up to date relevant evidence base.
2. 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 in the development management process.

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://content.durham.gov.uk/PDFRepository/SedgefieldLPSavedPolicies.pdf> and

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

33. *Highway Authority* – Reiterate previous advice in that although the development falls below the threshold requiring a formal Transport Statement the submitted statement has been reviewed and is deemed to be acceptable. No objections are raised regarding the proposed access on highway safety grounds. The surrounding road network is considered acceptable to accommodate additional vehicle movements associated with the development and satisfactory visibility splays could be achieved.
34. *Highways England* – Offer no objections
35. *Environment Agency* - Offers no objection, but advise that consultation is held with the local sewerage operator to ensure that sufficient capacity exists to accommodate additional flows.
36. *Northumbrian Water Limited* – Request a condition requiring the submission of a detailed scheme for the disposal of surface and foul water from the scheme before development commences.
37. *Spennymoor Town Council* – No response received.
38. *Ramblers Association* – Previously advised that any realignment of the public right of way should avoid the use of estate roads wherever possible and preference should be given to the use of paths through landscaped or open space areas away from vehicular traffic.

INTERNAL CONSULTEE RESPONSES:

39. *Spatial Policy Section* – Advise that the principle of developing the site as a residential extension to the existing settlement of Kirk Merrington would not be supported by the existing or emerging development plan, or the Council's approach to handling schemes in light of the Inspector's Interim Report. This site has not been identified as a housing allocation within the 'Submission Draft' of the CDP and the proposal therefore conflicts with the existing and emerging Local Plan (policies 15, 30 & 35) and the provisions of the NPPF (notwithstanding the limited weight to be attached to the CDP). Whilst the NPPF seeks to boost significantly the supply of housing, this land is not a key site which is critical to the delivery of the housing strategy over the plan period, and there is sufficient land within the County earmarked for development to meet housing needs over the next 5-years and beyond. The NPPF advocates a plan-led system and should additional sites be required for allocation within the CDP, there are suitable/green SHLAA sites which are more sustainable than this application site and which would be prioritised for development.
40. *Design and Historic Environment Section* – In reviewing the supporting information it is still advised that the due to the steep topography of the application site and the well defined western boundary of Kirk Merrington the development would relate poorly to the existing settlement and would appear as an urban expansion. It is considered that this would have a negative impact on the setting of the conservation area and relationship with the existing village.

41. *Landscape Section* – In reviewing the supporting information it is still advised that development in this location would not form a natural extension to the settlement of Kirk Merrington, but would be a significant visual incursion into an attractive landscape. This would have a local, but significant adverse residual impact on the surrounding countryside, especially to the south and west within about 1km distance, and affect the setting of the village on approaching Kirk Merrington from the western flank. Whilst landscape mitigation measures are welcome, this would not be sufficient to mitigate the impact on the setting of Kirk Merrington, especially in the early years following development. Overall it is advised that the proposal would have significant adverse landscape and visual effects in conflict with saved policies of the local plan.
42. *Arboricultural Officer* -Offers no objection in terms of impact on trees.
43. *Archaeology Section* - Offers no objections, subject to the development being carried out in accordance with an agreed scheme of Archaeological investigation, recording and evaluation.
44. *Access and Rights of Way Section* – Advise that two recorded Public Rights of Way would be affected by the development and would likely need diverting. The surfacing of the sections of the Public Rights of Way leading from the development to the Fox and Hounds Car Park and to the South of the Croft should be upgraded.
45. *Ecology Section* - Has no objections, subject to the proposed mitigation measures detailed in the submitted ecological survey.
46. *Environmental Health Unit* – Offer no objections to the scheme subject to conditions relating to the control of noise generated from plant and machinery associated with the retail use and details of any of external lighting. It is also advised that the proposed development is not located in an area that will give rise to ‘sensitive’ receptors being exposed to elevated levels of local air quality pollutant levels.
47. *Contaminated Land Section* -Recommends the imposition of conditions requiring further site investigation, subsequent remediation and the submission of validation information thereafter.
48. *School Organisation Manager* – Highlights that the development would likely produce an additional 11 pupils of primary school age. It is advised that Kirk Merrington Primary School will have no additional capacity after 2018, if not sooner and therefore a contribution from the developer to fund additional classroom space equating to £100,430 would be expected.
49. *Sustainability Officer* – Considers that the site is considered to be classed as average in sustainability terms, recognising the benefit of the convenience store. However concerns are raised regarding the residual environmental effect of the development in terms of its landscape/visual impact and therefore the presumption in favour of sustainable development should not be supported. Carbon reduction initiatives would be required to be embedded within the development, and controlled by condition should permission be granted. An offsite contribution for offsite sport and recreation should also be secured.
50. *NHS Trust* – No response received
51. *Housing Officer* - States that a minimum affordable requirement of 10% would be expected on this site.

52. *Drainage and Coastal Protection Team* - Advise that a surface water drainage scheme should be developed prior to the commencement of development which utilises soakaways where appropriate, limiting discharge from the development to greenfield run off rates.
53. *Petroleum Officer* – Has previously advised that the site of the proposed shop used to be a petrol filling station. Records suggest that the storage tanks have been removed from the site and made safe from fire and explosion, however an informative is recommended that caution is taken during any excavation.

PUBLIC RESPONSES:

54. The application has been publicised by way of press and site notice, and individual notification letters to neighbouring residents. 21 letters of objection have been received from 19 properties, in relation to the issues below:-
- The proposal represents a greenfield development where conflict with the existing Local Plan planning policies and those of the emerging County Durham Plan. There are other housing developments on brown field sites in close proximity of the site, while there are considered that there are better sites capable of development within the village with more sustainable links. The site is identified as Amber in the SHLAA, not suitable for development whereas several green sites were identified around Spennymoor, Chilton, Ferryhill and Coundon. Development of this site will lead to over supply issues.
 - The demand and viability of the proposed shop is questioned as previous retail units have closed down, it is suggested that the village store is an empty gesture to comply with Government Guidelines.
 - The proposal would impact on highway safety due to increased vehicular movements caused by the development and the ability of junction and road network within Kirk Merrington to accommodate increase traffic flows. The assumptions and conclusions of the submitted traffic survey are brought into question as some data is based on the 2001 census. There are significant highway pressures on the main road running through Kirk Merrington, where crossing is dangerous, provision of the proposed shop and houses would exacerbate problems on the B6287. There is limited connectivity for pedestrians and cyclists to surrounding villages.
 - Concerns are raised regarding the potential loss of residential amenity including noise generated, privacy, overbearingness and loss of outlook due separation distances.
 - There are concerns regarding the capacity of schools and other amenities to accommodate additional residents, at present the school is not big enough to take all pupils from the village
 - Concerns are raised regarding the potential ecological impact on protected species, including bats which are reported to be present on the site in hedgerows and trees that are proposed to be removed.
 - The development would have an unacceptable visual impact encroaching onto surrounding countryside altering the form of the settlement also

impacting on the conservation area. This is principally due to the attractive undeveloped nature of the site and level changes.

- Concerns are raised regarding potential land contamination issues due to proximity of a former landfill site and tipping on the site.
- The ability of a suitable foul and surface water drainage system is questioned given the level differences on site and the level of infrastructure that would need to be provided to pump water.
- Limited amenity/play space is proposed to be provided in the development which is considered unacceptable.
- The development would have an unacceptable impact on Public Rights of Way crossing the site, these provide a recreation function for neighbouring residents.
- The representation of the level and outcome of the community involvement highlighted in the application is brought into question.
- A planning application in 1988 was turned down, the objections raised then are still valid today. Planning permission for garden extensions into the application site have previously been refused.
- The proposal is virtually the same as that submitted last year, nothing has substantially changed to invalidate the reasons given for rejecting the proposal.
- Letters of support tend to originate from outside of the village.

55. 20 letters of support including a letter from a local land agent have been submitted in relation to the application as summarised:-

- The scheme would have potential benefits, including the provision of a shop which would increase the level of services in the village,
- The proposed varied mix of housing would also meet demand while providing much needed growth which may attract more facilities. The provision of 49 houses would bring much needed business to the local economy.
- There is a shortage of suitable family homes and bungalows in the Kirk Merrington area. The development would help meet this demand while providing an affordable element.
- The proposed S106 contributions would have a positive benefit, potentially helping to improve access and parking facilities in relation to the school.
- Pre application discussions have been held and the developer has responded positively to concerns raised in the consultations
- It is considered that the development is sympathetic and would have an acceptable impact on the village and surrounding area.

- Developer interest in the housing site has been expressed while advising that Spennymoor and Kirk Merrington are considered two distinct housing areas.
- Interest has been expressed from a potential retailer of the convenience store.
- The increase in traffic in the village was not caused by people living in the village, it was due to the reconfiguration of Thinford roundabout, traffic will naturally increase regardless of the proposed development.
- Sewage and drainage issues can be dealt with by technical solutions.

APPLICANTS STATEMENT:

56. This application is a re-submission of application DM/14/01692/OUT. Following pre-application discussions with Council officers, this re-submission addresses the reasons for refusal of the previous scheme.
57. Since the previous planning application was determined, the local planning policy context has changed significantly, following the Inspector's Interim Report on the County Durham Plan ("CDP") meaning very limited or no weight can be attributed to its policies.
58. The applicant undertook extensive consultation with local members and the community. The feedback from the community is set out within the Statement of Community Involvement, which demonstrates that, while there is clearly a mix of views within the local community, there is no overwhelming objection to the scheme.
59. The National Planning Policy Framework (2012) ("NPPF") is explicit that housing applications should be considered in the context of the Presumption in Favour of Sustainable Development and policies relating to the supply of housing should not be considered up-to-date where there is no 5 year housing land supply ("5YHLS"). The NPPF makes clear that where housing policies are out-of-date, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits.
60. Given the current status of the CDP and the Inspector's concern towards housing allocations in the CDP at present, there is no basis for the inclusion of draft allocation sites within the 5 year land supply, and in this context those sites without planning permission should be omitted. As such, the Council is not able to demonstrate a 5YHLS.
61. Against this background, the NPPF makes clear that a presumption in favour of sustainable development applies. The applicant has considered all three strands of sustainable development through the submissions made with the application.
62. In economic terms, the proposals will lead to a significant range of economic benefits including private sector investment into the local economy of circa £4 million; new construction employment and employment in the convenience store; and almost £400,000 in New Homes Bonus payments and around £80,000 in Council Tax revenues.
63. Detailed work has been undertaken to consider the environmental impacts of the revised scheme. A Landscape and Visual Impact Assessment concluded that the development of the site for housing would not significantly affect the character of the

wider landscape while a Heritage Impact Assessment concluded that the impact of the development upon the Conservation Area and upon listed and locally listed buildings within the Conservation Area would be negligible. More generally, the proposed layout seeks to protect residential amenity and reflects the character of Kirk Merrington.

64. The proposal will deliver a range of significant social benefits including the provision of new market and affordable homes and homes for the elderly in a sustainable location. The development proposed lies in close proximity to and will help to support a range of existing local facilities including Kirk Merrington Primary School / Pre-School and Kirk Merrington Community Centre. The proposal incorporates a small convenience store and will therefore deliver a new shopping facility (in a settlement which does not even have a local shop) to the benefit of the wider community. Given the current status of the County Durham Plan, the Council is not able to demonstrate a 5YHLS as required by the NPPF. The NPPF makes clear that in this scenario, development that is sustainable should be approved without delay, unless there are significant and demonstrable adverse impacts.
65. In the context of the applicant's consideration of the economic, social and environmental impacts of the scheme, it is clear the application proposals constitute sustainable development and, in the absence of any significant adverse impacts, the application should be approved – in line with the presumption in favour of sustainable development set out in the NPPF.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:
<http://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NORDWQGDKWI00>*

PLANNING CONSIDERATIONS AND ASSESSMENT

66. 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 principal planning issues raised relate to the principle of development, the viability of the scheme, visual amenity of surrounding area, highway safety, amenity of adjacent land uses, ecological interests and drainage issues.

The Principle of Development

67. The housing element of the scheme is located outside of the residential framework of Kirk Merrington, where saved policy H8 of the Sedgefield Borough Plan seeks to direct new housing. Sites located outside of residential frameworks are considered against countryside policies and objectives, to which there is a presumption against development for housing other than in exceptional circumstances. The development of this site for housing would therefore conflict with saved policies of the Sedgefield Borough Local Plan in this respect.
68. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. It is considered that the general approach of policies E1, H8 and D1 in terms of directing development to settlements best able to support it and protecting the open countryside is consistent with the NPPF and the promotion of sustainable development. It is however recognised that the NPPF promotes a more flexible approach to settlement growth and development.

69. When determining planning applications, all material considerations need to be taken into account; this includes the NPPF and the emerging County Durham Plan (CDP), and other potential benefits that may arise from the development.

NPPF

70. At the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 7 sets out the 3 dimensions of sustainable development defining these in terms of its economic, social and environmental roles, whilst Paragraph 17 identifies 12 core land use principles. These include identifying that planning should be planned, take account of the character of different areas, recognise the intrinsic character and beauty of the countryside and encourage the re-use of brownfield land. Paragraphs 47- 55 of the NPPF seek to boost significantly the supply of housing to create sustainable, inclusive and mixed communities. To accord with the NPPF new housing development should be located to provide improved access for all to jobs, health, education, shops, leisure and community facilities, open space and recreation, by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport. The key matter in applying the NPPF relates to directing development to sustainable locations.
71. The NPPF states that where a Local Planning Authority cannot demonstrate a 5 year housing land supply of deliverable sites, its housing policies should not be considered to be up to date. The Council's Spatial Policy Team has confirmed that the Council can demonstrate an adequate supply. This supply has been disputed by the applicant, due on the differences in the growth rates and resultant housing land requirements set out in the CDP and the interim findings of the Planning Inspector. Whilst the Inspector's findings are interim and the Council remains committed to the economic ambitions set out in the Plan, following legal advice for the purposes of assessing the 5-year supply, the Council is to have regard to the Inspector's conclusions as to the housing land supply requirement, even though the Council may disagree with it. Until the Court has determined the judicial review claim, the Inspector's conclusions on the five year housing land requirement may be given significant weight. Consequently, its housing policies are considered to be up to date in this regard. Whilst it is recognised that schemes should not be resisted solely on housing oversupply grounds, this does enable the LPA to be more selective over which sites it does release, to ensure that the most sustainable and appropriate sites are brought forward for development.
72. In regards to the sustainability of the site, Kirk Merrington is identified as a medium-sized village (4th tier) containing limited services and employment opportunities. Consequently, residents of the settlement are likely to be reliant upon accessing employment and main shopping requirements in higher order neighbouring settlements such as Spennymoor, Bishop Auckland and Chilton, as well as further afield in Durham City and Newton Aycliffe. These trips are more likely to be made using the private car and the site is not considered to be as accessible to shops, services and facilities as proposed housing sites identified within the emerging CDP. Any development which does take place in medium-sized villages therefore needs to be commensurate with the role and function of the settlement. The provision of up to 49 dwellings is made up of a significant addition to Kirk Merrington that currently consisting of 414 houses and a population of 739 (County Durham Settlement Study 2012). It is accepted that the formation of a retail store would improve the sustainability credentials of the village. However the provision of this is not considered to significantly change its sustainability as a whole in comparison to larger villages and towns in the vicinity of the site where more sustainable sites could be brought forward.

County Durham Plan

73. The NPPF advocates a plan-led system and the most sustainable settlements (and sites within them) for development are identified in the CDP. Paragraph 216 of the NPPF sets out in detail the weight which can be afforded to relevant policies in emerging plans. As highlighted above 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 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.
74. Policies 15 and 35 are of relevance to the consideration of the proposal. However because of the significant objections received and the lack of comment by the Planning Inspector only very limited weight can be afforded to these policies.
75. Policy 15 of the CDP makes provision for development on unallocated sites within built up areas. The CDP provides a definition of a built up area as being land contained within the main body of existing built development of a settlement identified in the Settlement Study. Land on the edge of a settlement can be considered to be part of the built up area where it is physically 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.
76. The housing element of the scheme would be located beyond the edge of the current settlement, on land that is not well contained by existing built development, and additional housing would not consolidate the existing built form of the village. The site is not considered to form part of the built up area, and the development would instead form an extension of the settlement into the countryside. Consequently, the proposal cannot draw support from Policy 15.
77. As the site is situated within open countryside, it is appropriate to assess the proposal against Policy 35. This makes provision for development in the countryside where it is in accordance with a proposed allocation, is necessary for rural business purposes, would support local services, enhances environmental or tourism assets or involves the reuse of heritage assets or existing redundant buildings. It is considered that the proposal fails to meet any of these criteria, and consequently is considered to be contrary to this policy.
78. The main town of Spennymoor is located approximately 1.5 miles to the north of Kirk Merrington where there are a number of sites earmarked for housing development through extant planning permissions. These include Merrington Lane where the former factories of Electrolux and Thorns were previously located. Whilst Barratt Homes are now on part of Merrington Lane delivering their 366 unit scheme, the former Electrolux site has no committed developer despite benefitting from outline planning permission for 425 homes. Granting approval on an attractive greenfield site on the edge of Kirk Merrington could impact on both the deliverability and build out rates of sites within Spennymoor. From both a sustainability, and realisation of plan objectives perspective, the priority is to see those previously-developed sites on the edge of Spennymoor brought back into productive use through development for housing. Schemes such as the proposed have the potential to compete with, and undermine the delivery of these sites. The applicant does contend that Kirk Merrington and Spennymoor are two distinct housing market. However given the distance between these areas this view is not shared.

Potential Benefits

79. The applicant has highlighted a number of benefits that could arise from the scheme including, a total capital investment of £4 million in relation to the total development, an expected generation of 24 direct and 36 indirect construction jobs, increased expenditure potentially worth £430,000 to the local economy, annual council tax receipt of £77,000, potential new homes bonus of £383,000 and £9,000 per annum in business rates. It is also highlighted that the development would provide a mix of housing to meet housing needs, including six bungalows and a 10% affordable housing provision.
80. It is accepted that provision of a retail store would improve the sustainability of Kirk Merrington and would be a welcomed addition given the lack of retail provision at present. However in comparison to other larger villages and towns in close the village as a whole performs poorly against sustainability objectives, including ready access to services and amenities without the reliance on the private motor car. The scheme would deliver the required amount of affordable housing as well as bungalows, but this should not in itself render an unsuitable site acceptable for development. Whilst not disputing that the proposal would have economic and construction benefits, many of these are of a type which would accrue from any housing development and are not necessarily specific to the application site. There are a significant number of homes within the local area that are proposed to be allocated across the plan period, already have permission or are under construction and these create local economic benefits when development is realised.
81. Whilst the NPPF promotes the presumption in favour of sustainable development and highlights the economic, social and environmental dimensions to achieving this. It also implies that these should not be seen in isolation and are mutually dependent. It is accepted that the development of the site would boost housing supply and has the potential to provide a proportion of affordable housing which is a key aspect of government policy. The provision of the convenience store also has the potential to improve the sustainability of the village. However the promotion of growth and development should not be at the expense of other elements of sustainable development. This includes the protection of the rural landscape and open countryside and promotion of locations that provides good access to services. It is also considered that there is no overriding need to develop this site at this time given the Council's position in terms of housing supply, the plan led provision within the CDP, and availability of housing on more accessible previously developed land in close proximity.

Infrastructure

82. Saved Policy D8 of the Local Plan sets out that developments are required to contribute towards offsetting the costs imposed by them upon the local community in terms of infrastructure and community requirements. In this instance the Local Education Authority has highlighted that Kirk Merrington Infant School will be at capacity in 2018. It is calculated that a development of 49 dwellings (discounting the 6 bungalows for older persons) would likely generate 11 pupils of Primary School age. Based on a breakdown cost of £9130 per pupil a figure of £100430 has been requested to contribute towards offsetting the cost of providing this additional accommodation and facilities, which could include the provision of a drop off area for children. The applicant has indicated a willingness to provide this contribution which would need to be secured through a S106 agreement. To date no agreement has been received, however this could be dealt with as part of the appeal process and therefore a reason for refusal on this basis could not be sustained.

Visual Impact and impact on Conservation Area

83. Local Plan Policies E1 and D5 require that developments should be designed and built to a high standard which contributes to the quality of the built environment and also has an acceptable impact on the surrounding landscape of the area. This is reflected within sections 7 and 11 of the NPPF which sets out that good design is indivisible from good planning while also seeking to protect local landscapes. Policies 35 and 39 of the emerging County Durham Plan seeks to protect character of the countryside from inappropriate development.
84. The application site is a predominately green field location. Its eastern boundary borders the existing development of Kirk Merrington but the remainder of the site is surrounded by agricultural fields with sporadic developments to the north east and to the south. There is a level change evident across the site with the land falling away from the existing dwellings of Kirk Merrington in a south westerly direction. This results in the western edge of Kirk Merrington being prominent within the local landscape. It also gives the impression that this existing boundary forms a natural limit to the built development of the village and that land to the west is located within the open countryside. Although the surrounding landscape is not covered by any specific landscape designation, the site and surrounding land form part of an attractive approach to Kirk Merrington from the highway to the south west.
85. The layout and appearance of the proposed development is not under consideration, at this stage but the submitted information suggests that the development would be arranged around a series of cul-de-sacs with small areas of public open space through the scheme. The layout, similar to the previous application indicates that landscaping buffers would be located to the western and southern boundary of the site, to mitigate the impact of the development in the landscape.
86. As part of the supporting information a Landscape and Visual Impact Assessment, has been submitted appraising the development from a number of key views, principally to the west and south of the site. This assessment has been updated following the refusal of the previous planning application and the level of planting has been marginally increased, while there are some small amendments to the indicative layout. The Council's Landscape Officer has reviewed this amended assessment and still considers that a development in this location would not form a natural extension to the settlement of Kirk Merrington, but represent a significant incursion into an attractive landscape. This would have a local, but significant adverse residual impact on the surrounding countryside, especially to the south and west within about 1km distance. Development in this location would also affect the setting of the village in the surrounding landscape on approaching Kirk Merrington from the western flank. While the landscape mitigation measures are welcome, it is considered that these would not be sufficient to mitigate the landscape impact especially in the early years of the development and due to the level changes on site. The scheme is therefore considered to remain contrary policies E1 and D1 of the Local Plan
87. Concerns are also again raised by the Council's Design and Conservation officer in respect of the setting of the Kirk Merrington Conservation Area, due to alterations to the form of the ridge top medieval village. Although the housing development would have an effect on the form of the village, it is also recognised that the western conservation area boundary is predominately set back from the boundary of the site and the housing would not necessarily be seen in the context of the application site. It is therefore considered that this objection could not be sustained.
88. The proposed retail store would be located within the boundary of the conservation area. Although in outline form at present, it is considered that a suitable scheme

could be developed that would preserve or enhance the Conservation Area in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990.

Highway Safety and accessibility

89. Saved Local Plan Policy D3 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. Objections have been received regarding the proposed access from the development and the potential impacts on highway and pedestrian safety. Specific concerns have also been raised in relation to the junction from Low Road on to the main highway through the village and the increase in vehicle movements.
90. It is proposed that the existing field access to the site would be widened to adoptable standards and would serve as the only vehicle access to the site. Internally it is indicated that the dwellings would be arranged a series of cul sacs. It is also indicated that there would be pedestrian links from the south west of the site and in an easterly direction into the rear of the Fox and Hounds Public House. These foot path links would be in a similar position to established Public Rights of Way that cross the site. The Council's Rights of Way Officer has stated that a scheme of deviation separate to the planning application would most likely need to be agreed should the scheme progress.
91. Although the proposal falls below the thresholds requiring a Transport Assessment, the applicant has submitted an assessment in support of the application. In appraising this assessment the Council's Highway's Officer raises no objection to the scheme following minor amendments to the visibility at the junction with the development. It is also advised that the surrounding road network could adequately accommodate the likely traffic generated from the development, particularly in relation to the junction of Low Road and the B6287.
92. Overall it is considered that the development would not adversely impact on the highway safety of the surrounding road network, while the details regarding highway layout, parking provision and accessibility could be controlled in any future reserved matters application. The proposal is therefore considered to comply with policy D3 of the Local Plan in this respect.

Impact on amenity of adjacent residents and future occupants

93. Local Plan Policy D5 highlights that residential developments should protect the amenities of neighbouring uses and future occupants. Based on the indicative layout and relationship with existing properties, subject to a number of small amendments, a scheme could be devised that would protect the amenity of neighbouring land users and achieve minimum separation distances. No nuisance, noise or disturbance impacts above those associated with residential uses are predicted. Subject to suppressing dust and controlling working hours through the construction phase no objections are offered by the Council's Environmental Health Unit.
94. The retail unit is shown with a frontage to the main road and set off the boundary with adjacent residential properties while a parking area is proposed to the rear. It is considered that given the existing commercial use of the site and surrounding boundary treatments there would be no significant loss of amenity for existing residents. However in order to safeguard the amenity of neighbouring residents the Environmental Health Unit suggests conditions controlling the nature of plant and machinery be installed.

95. Objections have been raised by local residents regarding the loss of views from the residential properties of the Croft and Merrington Heights. While residents would experience a reduction in outlook, a loss of a view is not a material consideration which should be afforded any weight in the determination of this application.
96. In terms of open space provision, saved policy L2 of the Local Plan requires that for every 10 dwellings 600sqm of informal play space and amenity space should be provided. This would equate to 2940sqm across the scheme. Although the site layout indicates an open space provision, this falls short of the policy target. The applicant has indicated a willingness to enter into a S106 agreement for an offsite contribution. To date no agreement has been received, however this could be dealt with as part of the appeal process and therefore a reason for refusal on this basis could not be sustained. Alternatively this is a matter that could be covered by condition to ensure that any reserved matters application reflects this requirement
97. A land contamination survey has been undertaken on the site which identifies the low risk of contaminants being present. The Council's Land Contamination Officer considers the findings of the report sound subject to conditions requiring appropriate site investigations.

Ecology

98. Paragraph 11 of the NPPF and policy E11 of the Local Plan requires that local planning authorities take into account, protect and mitigate the effects of development on biodiversity interests. The applicant has submitted an ecology report assessing the potential impacts of the development on protected species. This report concludes that there is a low risk of any protected species being located on site.
99. The Ecology Section offers no objection to the scheme subject to the implementation of the mitigation measures set out in the report. It is therefore considered that the granting of planning permission would not constitute a breach of the Conservation of Habitats & Species Regulations 2010 and the Planning Authority can satisfy its obligations under these.

Flooding and Drainage

100. The NPPF requires that consideration be given to issues regarding flooding particularly from surface water run-off and that developments adequately dispose of foul water in a manner that prevents pollution of the environment.
101. In terms of the disposal of foul water, Northumbrian Water raise no objections to the scheme subject to a condition detailing the drainage system for approval. In support of the application a flood risk assessment has been submitted highlighting that the site lies within Flood Zone 1, it is also proposed that surface water discharge from the site would be restricted to greenfield runoff rates. Having considered this flood risk assessment the Environment Agency and Council's Drainage Officer have no objections to the scheme.

Other Issues

102. In terms of Archaeology, the NPPF sets out the requirements for an appropriate programme of archaeological investigation, recording and publication of results. The applicant has submitted a geophysical survey and has prepared a written scheme of archaeological investigation. In reviewing these documents the Council's Archaeology Officer advises that subject to the investigation works being carried out

before ground works commence the development should have a low risk of impacting on anything of archaeological interest.

103. Planning plays a key role in helping to reduce greenhouse gas emissions providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development as set out in the NPPF. The development would be expected to achieve at least 10% of its energy supply from renewable resources. Although the applicant has undertaken a commitment to achieve this, no details have been supplied to show how this would be achieved. This matter however could be controlled by condition to demonstrate how energy efficiency would be addressed and to show the on-site measures to produce a minimum of 10% of the total energy requirements of the development from renewable energy sources.

CONCLUSION

104. Applicants are procedurally entitled to resubmit applications that are substantially the same within 12 months of a determination of an earlier decision and the opportunity has been taken to do this and to try and address concerns that were previously identified with the scheme determined in December 2014. However it is considered that while there have been some further minor modifications, analysis and justification for what is proposed, these steps do not address the key issues that were highlighted in the reasons for refusal.
105. The resubmitted scheme has been re assessed against relevant policy documents and other material considerations and it is concluded that the development would still represent an unacceptable encroachment into the countryside that would have an adverse visual impact on the surrounding landscape. It is therefore considered that the application conflicts with policies E1, H8 and D1 of the Sedgefield Borough Local Plan, which are considered consistent with the NPPF in this respect.
106. Although the scheme would make a contribution to housing supply, and has the potential to provide a proportion of affordable housing, the promotion of growth and development should not be at the expense of other elements of sustainable development. It is considered in this instance that these potential benefits and others listed do not outweigh the adverse visual impacts of the development and the poor accessibility of the site to services in comparison to surrounding settlements. It is also considered that there is no overriding need to develop this site at this time given the Council's position in terms of housing supply, and plan led approach to provision within the CDP, although very limited weight can be afforded to these policies at this stage. The proposal is not considered to represent sustainable development when assessed against all elements of the NPPF.
107. Although the applicant has confirmed a commitment to securing affordable housing on site, this does not override other considerations.

RECOMMENDATION

That the application is **Refused** for to the following reasons:-

1. The Local Planning Authority considers that the site is not a sustainable location for significant new residential development, and represents a significant incursion into

the open countryside in conflict with policies H8 and D1 of the Sedgefield Borough Local Plan and paragraphs 7 and 17 of the National Planning Policy Framework.

2. The Local Planning Authority considers that the proposed development, as a result of its siting and scale in open countryside would unreasonably and unacceptably alter the character and setting of the settlement of Kirk Merrington, contrary to policies E1, H8 and D1 of the Sedgefield Borough Local Plan and paragraphs 7 and 17 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the decision to refuse the application has sought to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application. However, in this instance, fundamental matters of principle were unable to be addressed satisfactorily.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

Sedgefield Borough Local Plan

County Durham Plan (Submission version) and

Affordable Housing & CIL Development Viability Study

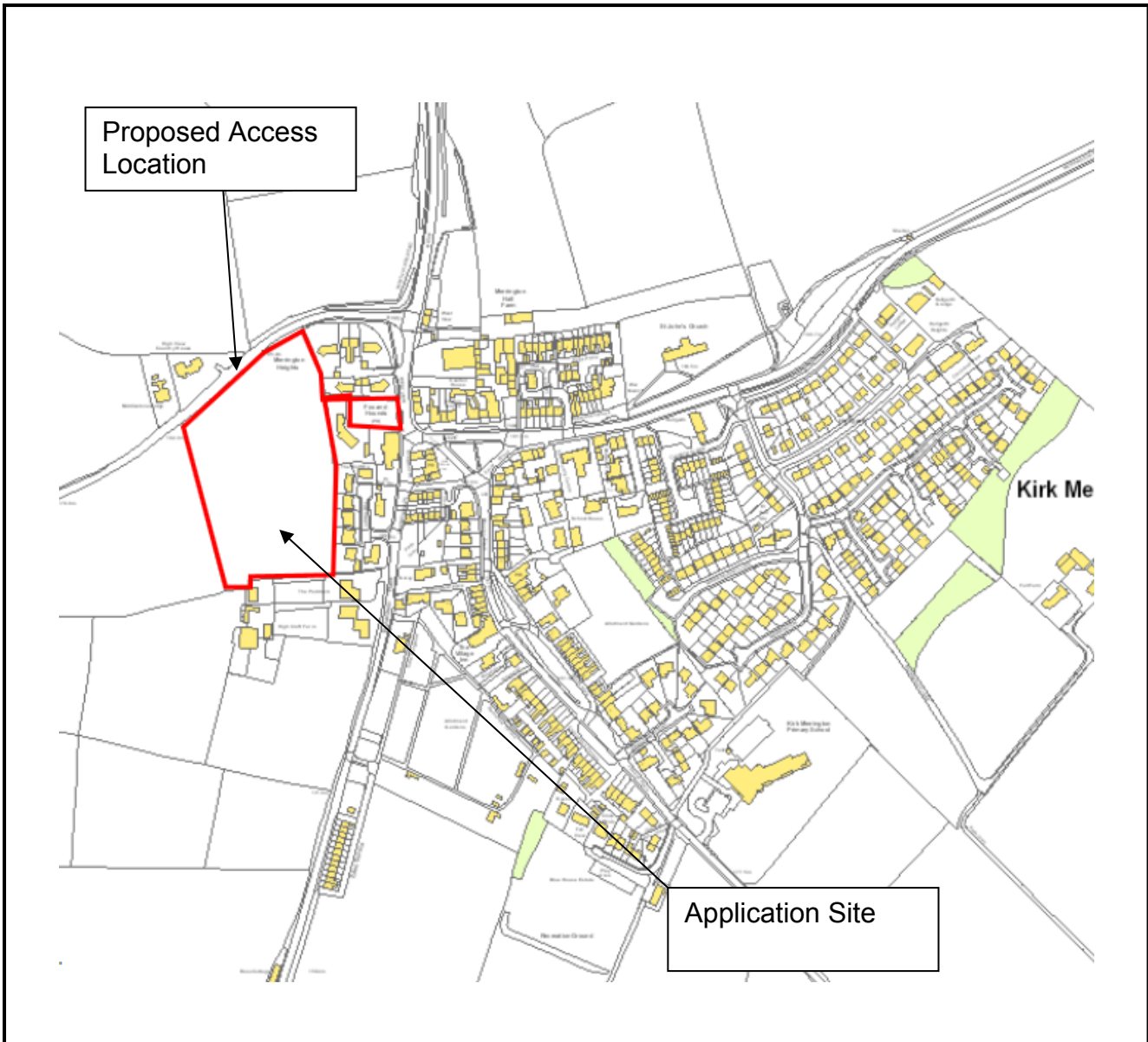
Statutory responses from Highway Authority, Environment Agency, Northumbrian Water Limited.


Internal responses from Highways Authority, Design and Historic Environment Section, Spatial Policy Section, Landscape Section, Archaeology Section, Environmental Health, Contaminated Land Section, Sustainability, Ecology Section and Arboricultural Officer.

Representations received from the public and other representative bodies

Assessing Development Proposals in County Durham - Council Policy Position Statement following receipt of the Interim Inspector's Report into Stage 1 of the Examination of the County Durham Plan 10th June 2015

Planning application files DM/15/01622/OUT and DM/14/01692/OUT



 <p>Planning Services</p>	<p>Erection of retail store and 49 dwellings (outline)</p>	
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	<p>Date 9th July 2015</p>	<p>Scale 1:5000</p>