

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/03222/FPA
FULL APPLICATION DESCRIPTION:	Residential Development of 52 Dwellings with new access and associated works.
NAME OF APPLICANT:	BDW Trading Limited
ADDRESS:	Land To The West Of Briardene Cadger Bank Lanchester
ELECTORAL DIVISION:	Lanchester Steve France
CASE OFFICER:	Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. Lanchester is a large village that sits on the A691 midway between Durham City and Consett. To the north are the larger mining originated settlements of Annfield Plain and Stanley, whilst south of the village is a network of small rural and mining related settlements including Cornsay, Quebec and Esh. The settlement is identified within the Durham Settlement Study 2012 as a 'local service centre'.
2. Based around a central historic core designated as a Conservation area, the village was extensively extended in the late 20th Century by primarily Local Authority built housing on the east A691 access to the settlement, and latterly large estates of private residential development on the west side, where Newbiggin Lane and the B6296 at Cadger Bank enter the village. Lanchester sits astride Smallhope Burn, with the modern estates sited on the sometimes steep valley sides. This watercourse, although small, has a history of flooding the village centre. The surrounding countryside is a mix of arable and grazing agricultural land, and whilst the countryside to the north, east and south of the village subject to an Area of High Landscape Value (AHLV) designation in the Derwentside District Local Plan, the land to the west, including the application site, is not.
3. Some 130m west of the village, on the south side of the B6292 lies the Roman Fort of Longovicium with Dere Street Roman Road running north/south across the modern highway. The fort is the standard playing card shape, some 2.80 ha in size, with the extent of the associated formal scheduled ancient monument (SAM) designation, which stretches across the River Browney to the south, and farmland to the north of the main road, some 74.5ha in area. A layby with an information board sits just west of the Fort.

4. The application site is some 3.61ha in size and sits on the north side of the B6292 at Cadger Bank, with its north and east boundaries shared with modern residential development on Briardene and Fox Hills Crescent, and the site itself and its west and south boundaries semi-improved agricultural grassland. The site boundaries are hedged and reflect the historic field pattern showing on Ordnance Survey Maps dating to 1880. The northern part of the site falls steeply to a small watercourse – Alderdene Burn – from a belt of mature trees, some of which are formally protected. A second belt of protected mature trees bisects the middle of the site. The front, southern, boundary of the site, facing the B6292 is formed of a stone wall separated from that highway by around 5.3m of steeply sloping verge designated as Adopted Highway and a public footpath that runs on one side of the main road. A field gate currently accesses the land from adjacent the nearest dwelling. The whole site slopes down to the north-east, towards the village centre. The site is not part of the scheduled ancient monument.
5. A subterranean pipeline, described by the applicant as a high pressure water main, runs north/south across the western part of the site, this feature including a 'no-build' buffer zone either side of it.

The Proposal

6. The application proposes a residential development of 52 houses served from a new single access point on Cadger Bank. A single spine road leads to the north of the site where it terminates in a cul-de-sac head. The tree belts are retained, with the housing layout led by the topography, these existing natural features and the presence of the aforementioned pipeline. A set-back site 'frontage' onto main road attempts to integrate the development into the existing settlement, with further efforts to achieve such through a design of house style that sets out to pick up on the best examples of the local vernacular. The dwellings include a mix of detached, semi-detached and terraced properties. Ten of the dwellings would have 1 bedroom, six would have 3 bedrooms, twenty-three would have 4 bedrooms and thirteen would have 5 bedrooms. The affordable housing provision is unusually included as a small clustered character group near the entrance to the site. Ten affordable housing units are proposed.
7. The pipeline route and easement is used as an area of communal open space with a footpath that extends around the front of those properties fronting the main road. Because of the site levels this route includes a number of steps, which would preclude its adoption, meaning maintenance would be the responsibility of the developer through a management company.
8. The steeply sloping land between the north tree belt and Alderdene Burn was included within garden curtilage when the application was submitted – this area now ceded as a separate ecology/wildlife area during the course of the application to meet the requirements of the County Ecologist. No public access is proposed to this area.
9. There has been revision to the proposed road layout during the course of the application primarily in order that the slopes of the public highway are such that it can be adopted by the Council as Local Highway Authority.
10. The applicant proposes to mitigate any negative effect on archaeology by enhancing the interpretative materials associated with Lanchester Roman Fort.
11. The application is reported to Committee as a major application.

PLANNING HISTORY

12. There is no recent planning history on this site. Objectors to the scheme refer to refusal of an application for open-casting in 1977 and of housing in 1989 the grounds of refusal are summarised by objectors in paragraph **????** of the report below.

PLANNING POLICY

NATIONAL POLICY

13. 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.
14. 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’.
15. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy 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 below.
16. The following elements of the NPPF are considered relevant to this proposal;
17. *NPPF Part 4 – Promoting Sustainable Transport.* Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
18. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area. Paragraph 55, within this part of the NPPF seeks to promote sustainable development in rural areas, stating that housing should be located where it enhances or maintains the vitality of rural communities – for example developing within groups of smaller settlements that mutually support each other’s services. Local planning authorities are advised to avoid new isolated homes in the countryside unless there are special circumstances, such as a defined functional need, to secure the future of heritage assets, or where a ‘truly outstanding or innovative’ design of ‘exceptional quality’ can be argued to; reflect the highest standards of architecture; significantly

enhance its immediate setting; and be sensitive to the defining characteristics of the local area.

19. *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.
20. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
21. *NPPF Part 11 – Conserving and enhancing the natural environment*. The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
22. *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. Any harm or loss should require clear and convincing justification. Where substantial harm would be caused to designated heritage assets, permission should normally be refused.

NATIONAL PLANNING PRACTICE GUIDANCE:

23. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
24. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.
25. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
26. *Conserving and Enhancing the Historic Environment* – Explores the terms 'significance' and 'special architectural or historic interest' and 'harm', noting assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and

the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

27. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
28. *Design* - The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
29. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
30. *Tree Preservation Orders and trees in conservation areas* - A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the: cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.
31. *Rural Housing* - It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.

LOCAL PLAN POLICY:

32. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
33. *Policy GDP1 – General Development Principles* – is an overarching policy which aims to ensure that all developments incorporate a high standard of design, conserve energy and are energy efficient, protect the existing landscape and natural and historic features, protect and manage the ecology of the area, protect valuable open land, provide adequate landscaping, incorporate crime prevention measures and improve personal safety, protect amenity, provide adequate drainage, protect flood risk areas and protect the water resource from pollution.

34. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
35. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.
36. *Policy EN6 - Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.
37. *Policy EN9 – Works to trees covered by preservation orders* – Only allows the cutting down, lopping, pruning, topping or uprooting of protected trees if the work is necessary because of good arboricultural reasons or the survival or growth prospect of other protected trees is threatened, or if the tree is causing structural damage and no other remedial action is possible, or the tree is a danger to life or limb.
38. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible and development will only be permitted which will not cause harm to, or result in the loss of trees protected by preservation orders, or trees which contribute to the character and appearance of conservation areas. Throughout the district existing trees should be retained where possible. In determining planning applications consideration will be given to the effect of a proposed development on any existing trees, which contribute significantly to the setting of nearby existing buildings or visual amenity.
39. *Policy EN19 - Protection of Sites and Settings of Ancient Monuments and Archaeological Features* - there will be a presumption of the retention in situ of nationally important remains. Remains of more local significance will be protected from damage. An archaeological assessment may be requested prior to determining an application. Recording of known remains will be required where these would be affected.
40. *Policy HO7 – Development Limit for Lanchester and Burnhope*, states that no new housing development in Lanchester will be approved outside of the Development Limit.
41. *Policy HO22 – Recreation Public Open Space within housing sites*, sets out a requirement for such, with a preference for on-site provision or monies in lieu if this cannot be achieved.
42. *Policy TO1 – Sites for the development of new tourist attractions* – proposes ‘interpretation’, subject to no adverse effect on that character and appearance of the Conservation Area.
43. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

OTHER MATERIAL DOCUMENTS:

44. *The Lanchester Village Design Statement, May 2004* – outlines guidance to conserve the valued aspects of the village and the land around it and seeks to enable appropriate development based on guidance and aspirations.

RELEVANT EMERGING POLICY:

45. 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 and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan is being prepared. In the light of this, policies of the withdrawn CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

46. *Highways* – County Highways Engineers have expressed reservations as to the distance of the site from the village centre in terms of sustainability, and criticise its lack of connection and links into the existing residential estates. In terms of the site's internal layout and car parking provision, its proposed access / egress, and the implications for the surrounding highways environment no objection is raised.
47. *Historic England* – write in detail that 'the proposed development lies directly to the east of the boundary of the Scheduled Monument known as Lanchester Roman Fort. For 2,000 years the fort, and its associated settlement or 'vicus' have remained undeveloped and the resulting rural setting is an important factor in our understanding and appreciation of the site which allows its military function to be understood and the poignant event of its abandonment to be felt. The proposal would markedly erode this rural setting by developing a field that currently separates the monument from the edge of Lanchester. This would curtail the commanding views of, and from, the Fort to the east and heavily intrude upon its rural, peaceful setting. Historic England considers that the proposal will cause a substantial degree of harm to the significance of the Scheduled Monument through its negative impact upon setting.
48. Section 132 of the NPPF states that Scheduled Monuments are amongst the most nationally significant designated heritage assets in England and that substantial harm to that significance, through alteration or destruction to the heritage asset or its setting, should be a wholly exceptional occurrence.
49. The remit of Historic England is to advise upon the impact of the proposal upon the historic environment and from this view point we object to the application.

Noting the policy guidance within sections 17, 132, 133, 134 and 135 of the NPPF we ask that any public benefits of the proposal are 'robustly scrutinised'.

50. In terms of the significance; for the Roman Fort, 'the proposed development lies directly to the east of the boundary of the scheduled monument known as Lanchester Roman Fort (Longovicium) (SM DU22; HA 1002361). The monument consists of the military fort and its civilian settlement, the 'vicus', and originated in the mid-2nd century AD. It was rebuilt several times until the end of the Roman occupation of Britain around 410 AD. The fort is situated at the eastern tip of a high spur of land with the vicus occupying a much larger area falling away to the north, south and east of it. Remains of civic baths are recorded to the SE of the fort; with a reservoir at the terminus of two aqueducts, and a cemetery recorded to the SW. Taken altogether this designated heritage asset covers 73.46ha. The site is on Historic England's Heritage at Risk Register due to land management and some illegal metal detecting issues.
51. It could be argued that the fort and vicus represent the origins of the modern village. Many abandoned Roman sites formed the focus of new settlements re-colonised in the early Middle Ages, indeed '-chester' is a place name that reflects this link. Beyond this important link to the identity of the village, the site's significance as a scheduled monument lies in the good state of preservation of its archaeological deposits in addition to its rural setting close to, but set apart from, the modern village. It is important to note that, in the degree of preservation and the quality of its setting, Lanchester is the best example amongst the six Roman Forts within County Durham and it remains the only one where the original strategic location of the fort can still be fully understood and appreciated without the impediment of later and/or modern settlement encroaching directly upon it.
52. The monument's landscape and rural setting is important to its significance for two reasons. Firstly, its location on a high spur of land with strategic and commanding views over the landscape, in particular along Dere Street and the crossings of the River Browney and Smallhope/Stockerley Burns, illustrates Roman military planning. Secondly, aside from the intermittent traffic, a sense of remoteness is part of the experience of appreciating this site. The modern development of Lanchester sits below the brow of the hill to the east / north-east and thus there is little visual intrusion into the immediate setting. This emphasises the poignant event of the site's abandonment and the passage of time over the preceding 2,000 years'.
53. In addition to the effect on the Scheduled Ancient Monument, the development site is adjacent to the Lanchester Conservation Area, specifically a spur of that area which radiates out from the historic core of the village along Cadger Bank. For the effect on the significance of the Conservation Area; 'whilst the bulk of the Area's significance is contained within its historic core this spur illustrates the village's historic links with its rural landscape, doing so in an visually appealing way that includes stone walls, mature planting and the gradual thinning out of historic buildings'.
54. Considered next is the issue of 'impact'. For the Lanchester Roman Fort Scheduled Monument;
55. Direct impact - Whilst the application site lies outside the Scheduled Monument, the submitted archaeological report indicates that it is likely to impact upon archaeological deposits that are related to it. Specifically these are settlement and property ditches; pits, and probable Roman quarrying activity; and importantly, there is the potential for the boundary of the vicus to be identified.

56. Historic England recently considered whether the application site should be included within the scheduled area reaching the conclusion that on the basis of existing evidence that it did not meet the criteria. In paragraph 5.20 of the submitted Planning and Affordable Housing Statement, the applicant considers that the findings of the designation review infer that "...the proposed development is...acceptable in terms of its impact on any archaeological resource on the site..." Such a conclusion stretches the remit of the designation review too far, from considering what is nationally significant to what may or may not be acceptable in planning terms. What the review confirms is that the site has archaeological potential of at least local importance and potentially national importance, noting that should a substantial feature (2m wide and 1.23m deep) interpreted as the possible eastern vicus boundary be accurately identified as such, then this would be: "...a rare feature of some significance..." suggesting that once more evidence becomes available there is some potential that it may satisfy the designation criteria. This feature contained both Roman pottery sherds and a fragment of Roman glass. The palaeo-environmental data taken from it and other samples across the site support the theory that the archaeological features are most likely Roman and represent domestic activity.
57. The archaeological features are located at relatively shallow depths below ground. Proposed finished floor levels show that there will be significant reductions in levels of ca. 400mm to 1m along the western boundary. In addition, there appears to be retaining walls on Plot 44 between the house and garage; and between Plots 45 and 52, indicative here of reductions of 3.25m in site levels. Archaeological features will certainly be severely impacted upon. Recording of archaeological deposits to be lost through development is well-established through the planning process, but should not be a factor in deciding whether their loss should be permitted.
58. This loss of archaeological data from features which clearly form a continuation of the Scheduled Monument, directly and irreversibly harms our ability to fully understand the significance of the Monument, thus harming its significance.
59. Indirect impact – Setting; as described above, 'the rural setting of the monument makes a strong contribution to its significance as a designated heritage asset. The suburban village edge is already close to the monument but topography diminishes this effect. Most importantly, the gap between the monument and village creates a very strong visual buffer between the two.
60. The proposal would markedly erode this rural setting by removing the buffer between the village and monument. The effect of the two storey dwellings and their gardens, close to the boundary, in addition to the estate-wide effect of increased light and noise will collectively suburbanise the north eastern boundary of the monument. The effect of this will be to curtail the commanding views of, and from, the Fort to the east; furthermore, the ability to appreciate the monument's setting in peace is lessened. A planted edge between the monument and development does little to mitigate this effect; indeed, it would create a distinct, hard, edge directly abutting the scheduled monument and the breathing space between village and monument, which currently exists, would be permanently lost.
61. The submitted setting report acknowledges in its conclusion that "...development will remove open land, part of which lies within the Roman vicus settlement, between the built-up area of Lanchester and the scheduled area, but this represents only a small percentage of the setting as a whole..." This may be true

in the sense that the monument commands a wide relationship with its landscape, but it is not the amount of setting affected that is the issue here but rather the fact that the proposal site as a undeveloped field makes a major contribution to the monument's setting.

62. To conclude there is a considerable impact upon an important aspect of the monument's setting and that, in turn, causes a substantial degree of harm to its significance as a designated heritage asset'.
63. Considering the impact on Lanchester Conservation Area; 'The proposal site marks the current western edge of the village and as such acts as visual prelude to the conservation area whose boundary along Cadger Bank marks the gradual transition between the rural and urban. An obvious suburban estate boundary would be contrary to this character and care should be taken to analyse the visual connection with the Conservation Area and the possibility for landscape design to mitigate or harmonise any effect'.
64. Heritage England's assessment of the policy implications are that, 'Government policy makes it clear that conserving heritage in an appropriate manner for the benefit of this and future generations is one of the over-arching principles of the NPPF (section 17). Furthermore, section 132 states that Scheduled Monuments are amongst the most nationally significant designated heritage assets in England and that substantial harm to that significance, through alteration or destruction to the heritage asset or its setting, should be a wholly exceptional occurrence.
65. The justification for such a level of harm is a high test, one where the loss or harm is demonstrably necessary to achieve substantial public benefits that outweigh that harm (section 133). Any public benefit, such as housing provision will need to consider the way in which these can be provided in alternative locations, less damaging to the historic environment.
66. In addition, the significance of the non-designated heritage, in this case the archaeological deposits within the proposal site, must be taken into account by making a balanced judgement in relation "...to the scale of any harm or loss and the significance of the heritage asset..." (section 135). It is important to note that the recording of archaeological deposits to be lost is a well-established requirement where the public benefit test has been met, but should not be a factor in deciding whether their loss should be permitted (section 141)'.- 67. Therefore the position of the statutory consultee is that, 'Historic England considers that the proposal will cause a substantial degree of harm to the significance of the Lanchester Fort Scheduled Monument through the negative impact upon its setting. The remit of Historic England is to advise on the impact of the proposal upon the historic environment and from this view point we object to the application. Noting the policy guidance within sections 17, 132, 133, 134 and 135 of the NPPF we ask that any public benefits of the proposal are robustly scrutinised'.
- 68. They 'recommend that you note the objection lodged in this letter regarding the proposal's impact upon the historic environment and that determination takes into account the high tests of justification outlined in the NPPF'.
- 69. *Northumbrian Water* – have written to confirm they have no issues with the application, providing it is carried out in strict accordance with the applicants submitted Drainage Plan, requesting adherence to the specifications this document be conditioned in the event of an approval. It is noted that their

comments do not relate to the quality of the Flood Risk Assessment as a whole – the Council being the Lead Local Flood Authority.

70. *The Coal Authority* – note the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically historic recorded underground coal mining at shallow depth and likely historic unrecorded underground coal mining at shallow depth associated with coal that outcropped across the site. The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted requiring the site investigation works detailed in the submitted Desk Top Study be undertaken prior to commencement of development, with any recommended mitigation completed thereafter.

INTERNAL CONSULTEE RESPONSES:

71. *Spatial Policy* - consider that that the Derwentside District Local Plan (DDLPL) remains the starting point for the consideration of this application. Through the identification of relevant 'saved' policies and their assessment against NPPF it can be demonstrated that there remain sufficient relevant 'saved' policies at this point in time that are eligible to be attributed weight through the consideration of this application.

72. The Council accepts that it cannot currently demonstrate a 5-year supply of housing sites in strict accordance with Paragraph 49 of NPPF and it is therefore appropriate to consider the proposal in the context of the presumption in favour of sustainable development set out in Paragraph 14 of NPPF. However, for the reasons set out in the full text of Spatial Planning Officers' updated response, this stance does not mean that the decision-taker should disregard the relevant 'saved' policies of the DDLPL in conducting the required planning balance assessment.

73. Paragraph 14 of NPPF confirms that a '*presumption in favour of sustainable development*' should be seen as the '*golden thread*' running through the planning process. It goes on to confirm that for decision taking this means that where relevant policies are '*out of date*', (as is the case in this instance), then planning permission should be granted unless the proposal fails either of the two tests set out in Paragraph 14;

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

74. In this case the latter test is relevant as the site relates to a designated heritage asset and therefore the presumption in favour of granting permission does not apply and as recent case law has clarified it should be applied first. Hence the proposal must be determined in accordance with heritage policies within the NPPF (namely Paragraphs 128 - 134) which indicate development should be resisted because of the site's relationship with a designated heritage asset unless the relevant test set out in Paragraph 133 is met.

75. In the absence of an Objectively Assessed (housing) Need (OAN), the Council has identified a "proxy" OAN which has been used to measure the current housing land supply against. This provides a context for determining the level of

benefit that would result from the scheme, boosting the housing supply (and therefore the weight that should be attributed to this issue in the decision making process) which should in turn be balanced with any other identified benefits and harm and considered in the context of the relevant 'saved' DDLP policies.

76. Spatial Policy Officers' consultation response: sets out the relevant planning policy context within which the application should be determined, identified key impacts of the scheme in the context of current relevant policies. It identifies potential benefits which would arise from the proposal, but which it was concluded were not considered on balance to outweigh the identified harm to the significance of a designated heritage asset. The response confirms further that the planning application is not considered to be premature; and that no other significant considerations are identified which would outweigh the above policy concerns.
77. In light of the above there is an in principle policy objection to this planning application as the scheme is not considered to meet the test set out in Section 12, Paragraph 133 of NPPF and therefore conflicts with specific policies in the NPPF which indicate development should be restricted and thus fails to meet the requirements of paragraph 14. In relation to the other impacts identified providing that specialists of the relevant disciplines were satisfied with appropriate mitigation measures proposed there would be no policy related objection to these aspects of the scheme.
78. *Archaeology* - This proposal would have significant effects upon the Roman fort and accompanying civil settlement of Longovicium which lie in open countryside west of modern Lanchester. This is the best preserved example of this class of site in the county the majority of which has been designated as a Scheduled Monument of national importance. The proposed development would encroach upon and involve the removal of the physical remains of part of the civil settlement. It would constitute the first ever extension of the built-up area of the village onto the buffer zone of open ground that currently forms a clear separation of ancient and modern settlements. Indeed it would bring the modern settlement right up to the boundary of the Scheduled Monument resulting in a fundamental change to the special character of its setting and consequently degrading its significance. In view of the foregoing the proposal appears to be in substantial conflict with the NPPF (Section 12) and Saved Policy EN19 of the Derwentside Local Plan.
79. Description/Context - The proposal site lies immediately adjacent to the northern sector of the eastern boundary of the nationally important Scheduled Monument of Lanchester Roman fort and its accompanying civilian settlement. It forms part of a zone of open ground between it and the modern housing occupying the lower ground to the east. The Roman fort lies 115 metres to the south-west of the proposal site where its defensive wall still stands to a height of more than 2 metres above ground level. The boundary of the Scheduled area was defined in the late twentieth century at a time when the precise location and extent of the civil settlement beside the fort were unknown. A programme of geophysical survey commissioned by the Friends of Longovicium group and financed by a grant from the Heritage Lottery Fund in the period 2008-09 revealed that, contrary to some earlier theories, the civil settlement here took the form of ribbon development along the Roman road known in later times as Dere Street which passes by the fort some 60 metres to the east. This settlement extends for nearly 300 metres both to the south and to the north of the fort and in total has a length of nearly 1 kilometre. The settlement follows a layout normal for such communities consisting of long narrow buildings set end-on to the road frontage

with fenced and/or ditched property plots to the rear. Beyond the limits of the settlement Dere Street would have been lined by cemeteries belonging to the Roman community.

80. The results of the aforementioned geophysical surveys indicated that the remains of properties on the east side of Dere Street north of the fort extended into the land west of Briardene. This was subsequently confirmed by geophysical survey and trial-trenching commissioned by the applicant which revealed the rear portion of property plots and, running longitudinally across the centre of the site, a substantial ditch considered to define the eastern limit of the settlement.
81. Significance - As an extensive and well-preserved archaeological site Lanchester possesses high evidential value because of the wealth of information it contains relating to an important period in Lanchester's development. It also has high value in historical terms representing a period of at least two hundred and fifty years of Lanchester's existence. The people of Lanchester take great pride in their Roman heritage, as demonstrated by the work of the Friends of Longovicium over many years, and so the Roman site and its surroundings also has great communal value. The proposal site makes a major contribution to the significance of the heritage asset. Firstly, although not included within the boundary of the Scheduled area the site nonetheless contains the physical remains of an integral and important part of the Roman settlement. Lanchester is the best preserved of the six such settlements in County Durham, having largely escaped any form of later development or major erosion. The Roman forts and accompanying settlements at Bowes, Ebchester and Chester-le-Street are buried beneath and have been severely damaged by modern settlements. The Roman fort at Greta Bridge is partly overlain by a hotel and its facilities and has also been subject to erosion by the River Greta, while a large section of its civil settlement was removed to make way for the diversion of the A66 in the 1970s. Finally, at Binchester the fort is partially overlain by Binchester Hall and neighbouring farm buildings, while a substantial part of both fort and settlement has been destroyed by the River Wear eroding the site.
82. Secondly, the proposal site in its current state makes a vital contribution to the setting of the Roman settlement as a whole. A major and fundamental element of the significance of the Longovicium site is its open rural character, enabling the position of the fort and the civil settlement in relation to the landscape to be clearly and fully appreciated. It is the only Roman fort in County Durham where the original strategic location of such an installation, and its relationship to the topography, can be understood without the impediment of later settlement, development or afforestation. As the majority of the civil settlement at Lanchester grew up as ribbon development along Dere Street to the east of the fort, it is this aspect of the scheduled monument that is particularly sensitive to any form of change. The contribution of setting to the significance of a heritage asset is often expressed by reference to views alone but qualitative issues can be equally important such as quiet and tranquillity (English Heritage, Good Practice Advice Note 3 'The Setting of Heritage Assets', para. 9, 2015. In terms of the preservation of both its physical remains and its setting Lanchester is unique among the Roman forts of County Durham.
83. Policy - The following policies are relevant. Saved policy EN19 of Derwentside Local Plan Para 1. Where nationally important archaeological remains, whether scheduled ancient monuments or not, and their settings, would be affected by a proposed development, there will be a presumption in favour of their physical preservation in situ. The National Planning Policy Framework (NPPF), specifically: Para 132 When considering the impact of a proposed development

on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of designated assets of the highest significance, notably scheduled monuments.... should be wholly exceptional. Para 133 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 139 Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments should be considered subject to the policies for designated heritage assets.

84. Impact on Significance - 1. Archaeology. The proposal would encroach upon and entail the partial destruction of the archaeological remains of the settlement associated with the Roman fort. Although not included within the boundary of the area designated as a Scheduled Monument the archaeology within the land west of Briardene is nevertheless part of a heritage asset of which the remainder and majority has been designated of national importance. 2. Setting. Development on the land west of Briardene would constitute the first ever encroachment onto the open area which currently separates the site of Roman Longovicium from the modern housing estates to the east. This would cause a fundamental change to the baseline condition of the monuments setting transforming it from a tranquil area of open ground into a suburban area with all of the associated effects of human activity. This would result not only in significant visual intrusion but also greatly increased levels of vehicular traffic as well as noise, light spill and air pollution. It would cause substantial harm to the setting of the monument which is unique for this class of monument in County Durham. The magnitude of the impact on the significance of the monument can thus be classified as high and its effects substantial and adverse. Once developed it is highly unlikely that the site would ever revert to open ground in the future and thus the harm to the significance of the scheduled monument would almost certainly be irreversible and permanent.
85. Allowing this development could potentially have additional consequences in the future. It would be the first time that development was allowed within the open zone that currently separates the monument from the housing estates to the east. As such it could set a precedent for and serve to encourage further proposals within this clear zone which it would be more difficult to resist resulting in further degradation of the monuments setting and even greater harm to its significance. It would also detract from any future scheme of improved access, interpretation and presentation. As mitigation the applicant offers ten affordable housing units and some interpretation material duplicating the work already done by the Friends of Longovicium.
86. During the course of the application the applicant's archaeology representatives commented on the above comments with a 'rebuttal', with subsequent comment by the County Archaeologist. The rebuttal did not alter the following conclusion.
87. Conclusion - This proposal would appear to be in substantial conflict with the national and local policies listed above. It would involve the destruction of part of the best preserved archaeological site of this type in the county and would also have a detrimental impact on the setting of the scheduled monument, in combination resulting in substantial harm to its significance. The Planning

Authority will need to decide if the mitigation measures offered constitute substantial public benefits sufficient to outweigh the degree of harm caused to a monument of national significance.

88. *Ecology* – Initially raised concerns at the proposals leading to discussions and revision of the proposals. The revised proposals provide for a nature reserve with no public access, separate from the proposed residential curtilages on the northern, steeply sloping part of the site adjacent Alderdene Burn, including the northern belt of protected trees overcame this initial objection. Data from the bat activity surveys provide the LPA with sufficient information to discharge its responsibilities under the Habitat Regulations, with provision of integral bat boxes proposed within the proposed site mitigation. Mitigation is also proposed and accepted to protect the roost for the Barn Owl identified within the site – with a nest box proposed in the nature reserve. Details surrounding the long term management of wildlife areas and the mitigation / working methods for protected species will need to be conditioned as part of any planning permission.
89. *Drainage* – write that according to the EA and Durham County Council SFRA data there does not appear to be a risk of flooding to the development site, and with Durham County Council designated as a Lead Local Flood Authority responsible for flood risk management for its area. Providing that the greenfield run off rate is to be restricted to 3.5l/s/ha to reduce the risk of flooding downstream as agreed pre-submission and full drainage details are submitted and agreed by the County Council, no objection is raised to the proposals.
90. *Design and Conservation Officers* – write that the key issues in dealing with this application concern foremost, the impact on the designated assets - the Roman Fort and the Conservation Area. In the first instance, Design and Conservation Officers concur with the Archaeology Team's comments and concerns about the impact on this Schedule Monument. As the impact upon the setting of the conservation area; the conservation area is located directly to the south east of the site, extending up Cadger Bank from the centre of the village and has a very attractive green and sylvan character, the stone walls, overhanging vegetation and trees are a dominant feature up the steep winding road here, and this provides a very attractive and memorable entrance into the village. At present the site provides attractive open countryside and informal setting to the outskirts of Lanchester and the conservation area. Views along Cadger Bank have a rural inviting atmosphere.
91. The proposed development would impact on the informal rural setting of the village and conservation area, it would encroach with its new access and built frontage to some extent onto the frontage of Cadger Bank. It would extend development westwards and impact on the entrance into the village, impacting on the informal ambience and disrupting rural views down the bank. This development would contribute to changing the special character of the conservation area's setting and street-scene views into the conservation, consequently degrading its significance. In view of the above the proposal appears to be in substantial conflict with the NPPF (Section 12) and Saved Policy GDP1 General Development Principles of the Derwentside Local Plan.
92. In an assessment of the scheme against the principles of BfL (Building for Life) 12, the single, compromised access/egress from the site is noted – with no other connections to the village, leading to a lack of integration. No facilities are proposed in the scheme over and above the Public Open Space, but the site has a reasonable relationship to such in the village centre. Attempts to reflect local character are recognised as are attempts to work with existing site features and

the topography. Other than its lack of connection to the existing settlement, the scheme is considered to score 'reasonably well' against the BfL12 criteria.

93. *Landscape and Arboriculture* – A summary of Landscape Officers comments; the present design will result in unacceptable damage to trees and the landscape character of the area and should be re-considered. They note the site is not within any locally or nationally designated landscape, but is immediately to the north of an Area of High Landscape Value. It is immediately adjacent to part of the Lanchester Roman Fort Scheduled Ancient Monument, and is close to the westernmost extension of the Lanchester Conservation Area.
94. A number of trees within the site are the subject of group or individual Tree Preservation Orders. These are important for a number of reasons, including the screening and softening of the appearance of the site. In the case of the larger trees, in particular, there is a significant contribution to the landscape character as these are trees that were, or still are, hedgerow trees. The site is primarily visible from public viewpoints on the B6296, which passes the site to the south east. When passing the boundary of the site the road is in a shallow cutting, which limits visibility to the near edge of the site, while when approaching the site from the south west the site itself falls away towards Lanchester, reducing the visibility of parts of the site beyond the south western edge. The site is also intermittently visible from Newbiggin Lane to the north-west.
95. In terms of effects on landscape features; the importance of the trees on and surrounding the site is outlined above. The Arboricultural reports detail protective measures, which, if implemented would give adequate protection to almost all the trees on the site. However, the retaining walls shown on the preliminary levels plan are completely incompatible with the necessary tree protection. If these retaining walls are constructed severe, possibly fatal, damage would be done to a large number of the trees, including ones round all sides of the site. Some of the trees that would be affected are situated within neighbouring properties. This is unacceptable, both as regards the landscape character of the area, and because of the loss of screening resulting from the loss of trees. The soft landscaping plan is generally satisfactory.
96. *Affordable Housing* – Officers note the Planning and Affordable Housing Statement proposes the delivery of 52 units of which 10 (20%) would be affordable homes, which would assist in meeting identified housing need. The affordable provision should ideally provide a split of 70% - 30% between affordable rent and affordable home ownership, the developer has indicated that it is proposed that there will be a mix of house type. Early contact with a Registered Provider is recommended.
97. *Environmental Protection (Land Contamination)* – have assessed the submitted documentation and concur with the risk assessment and recommendations. On the basis the land is proposed changed to a more sensitive receptor, a pre-commencement condition requiring a Site Investigation and Risk Assessment, with further investigation and mitigation as required, is requested attached to any approval.
98. *Sustainability Officers* – acknowledge access to local services and facilities on foot is good except for further education, although bus access does not meet minimum access requirements. Stanley is a short drive away, however employment and retail facilities of 'regional significance' are over 7km distant. Reference is made to the SHLAA appraisal which scored the site against the three elements of sustainability as poor for economic, and average for social and

environmental. Submission of the Sustainability Statement is welcomed, but further information would be required.

99. *Travel Plan Advisors* – note that whilst a travel plan has been submitted with the application and recorded on file, the proposed development is below the threshold where one was required.

100. *Education* –No contributions for Education provision are required, with some existing capacity, noting that even if this scheme followed approval of the housing application at Newbiggen Lane (currently refused and under appeal) with that scheme required to build in additional capacity, there would still be no shortfall.

OTHER CONSULTEE RESPONSES:

101. *Durham Police* – Architectural Liaison Officer notes that whilst the overall layout is acceptable issues of passive security through street lighting design, tree maintenance, and adoption of footpaths should be taken into account. This relates to the Police ‘Designing out Crime’ initiative.

PUBLIC RESPONSES:

102. Neighbours have been consulted by way of direct mail – 105 letters being sent out to neighbours considered directly affected, or within a reasonable distance of the site. Site notices were displayed at the entrance and at public areas around the site, the main approaches to it and the village centre. A press notice was published in The Northern Echo. Each method of notification specified the application was a Major proposal, and affected the setting of a Conservation Area. In response to this exercise the Council received 371 letters of objection (noting that some correspondents submitted a number of communications), 5 letters of support and a representation.

Against the Application

103. Objections have been received from Lanchester Parish Council, The Lanchester Partnership, the Friends of Longovicium, Friends of Segedunum, the Campaign to Protect Rural Lanchester, the Architectural and Archaeological Society of Northumberland, Lanchester Dairies, and the Campaign to Protect Rural England. The main points of objection are summarised below, the full text of the correspondence being available on the Council’s website.

104. The Roman Fort and its setting – Significant concern is raised for damage to the unaltered landscape and the integrity of the Roman Fort, a tourist attraction, and its setting, with the importance of the fort, its setting and the surrounding archaeological remains contended not properly assessed in the application nor capable of mitigation in the development, with specific reference made to the relevant paragraphs in the NPPF. It is further argued that the ‘rebuttal’ of the Council’s Senior Archaeologist’s comments by the applicant’s archaeological advisors does not overcome public concerns and objections, being considered a mainly academic discussion around the interpretation of significance. The importance of the fort and its setting, both for its intrinsic and historical importance, and its role in the cultural importance of the identity of the village is set out. The detail of the supporting protective legislation is set out, with detailed technical and policy arguments. It is further noted that the Council’s extended SHLAA exercise discounted development on the site on the basis of the likely archaeological impacts, with residents objecting to its initial inclusion as a SHLAA site. The site was not proposed allocated within the County Durham Plan.

105. Roads, traffic and locational sustainability - The access and egress from the site at the entrance to existing village and its speed restrictions on a steep hill, following a blind crest, the road being utilised by heavy traffic, with the operation of the nearby Lanchester Dairies in particular, are considered to result in an unsafe highway safety arrangement. These issues will discourage both walking and cycling, with particular disadvantage to the elderly and pushchair users. The scheme is unsustainable in locational terms. Residents of the development, detached from the village centre both by an unsustainable walking distance, exacerbated by the steep slopes in the village and the substandard existing footways are likely to rely heavily on private cars, with unacceptable effects on the commercial village centre, reducing parking capacity there for existing residents and driving commercial activity to other settlements, undermining the commercial viability of the businesses in Lanchester. Bus services in and through the village are poor heightening this concern. Particular concern is raised from the increase in traffic and pressure on local infrastructure as to the effect on road safety for young and elderly existing residents crossing the road to access the Medical Centre in the Village Centre. Pollution from exhaust fumes in the village centre will increase to unacceptable levels. Lanchester Dairies consider the proposals could have a significant effect on their business operations from their vehicles interacting with traffic on the new access. The submitted travel plan is contended to contain inaccuracies and be 'of limited value'.
106. The effects of the construction traffic, through the village centre, climbing up the steep hill to the site and near to the blind crest are of concern from noise, vibration, dust and disturbance. Any employment benefits for the village will be temporary – during the build process alone.
107. Economic sustainability – In addition to the contention that the lack of locational sustainability will direct potential commercial benefits elsewhere, the scheme is contended as not supported by local businesses nor of any benefit to the local community or economy. The development will not improve the economic, social and environmental conditions in Lanchester.
108. The Extension of the Village - In terms of the resultant effect on the form of the settlement, this unplanned extension is contended 'lop-sided' ribbon development. The village considers itself to be 'under siege' from development and developers, with housing proposed at Cadger Bank, Newbiggen Lane, The Paddock and Paste Egg Bank – any approval would represent a precedent giving momentum to the other schemes. The intrinsic feel and 'rural charm' of a small village and its community would be sacrificed if new development is approved, with a concern that the settlement would lose its identity and become a town, with further green spaces lost to the village. With a range of properties available for sale within the village, there is no need for new housing developments, with the Council having a 5 year housing land supply in hand. The scheme is presented not to serve a demand or a need but to satisfy the commercial greed of the applicants, with 200 more residents an unreasonable addition to an existing community of only 4000, contended by others as a 10% increase in population. Residents complain there will be a detrimental effect on house prices in the village if the scheme is approved. There are complaints that the scheme provides no affordable housing, and others that affordable housing is proposed. This village is presented as having accommodated far more development than the County average to a point where it is now beyond capacity. The developers are pointed to demand and available brownfield land and housing sites in Consett and Stanley.

109. Effect on the countryside and wildlife - The application would result in the loss of green-field, undeveloped countryside and Green Belt, outside the defined settlement boundary. In addition to the harm to the village, the development would harm the surrounding landscape character, being obtrusive in views from different parts of the settlement and more distant receptors. The wildlife in the field, with the Barn Owls identified in particular, will be lost through the development. The Village Green will be at risk from teenagers. There is no indication of the maintenance implication for the open space within the scheme. Light pollution will result from the extension of the village onto a dark green-field site.
110. Effect on the Conservation Area – The development is contended to compromise the setting of the Conservation area in developing the manse that was associated with dwellings within the Conservation Area.
111. Planning Policy - The application is considered premature in terms of the preparation of the Neighbourhood Plan by the Parish Council, the Village Design Statement, contrary to the policies in the Derwentside District Local Plan and the NPPF. The Council has a history of refusing development on this land. In 1988 planning permission was refused on five grounds summarised as follows, with no reason to deviate from this position:
1. The development would extend the physical limits of the village unacceptably into surrounding attractive countryside.
 2. The access would be dangerous, being on a steep hill.
 3. A precedent would be created for other similar proposals.
 4. The site has suspected archaeological value as a result of its nearness to the Roman Fort.
 5. Any damage to the setting of the Roman Fort may prejudice its future development as a tourist attraction and reduce its value as an archaeological site.
112. Flooding and sewage – these issues in the village are well documented and the development will compromise both, the natural soakaway and run-off from the field being lost to the built development. A detailed concern is raised with the appearance of the proposed drainage outfall ramp at the northern end of the site where visible from facing residences in Foxhills Crescent. The extent and detail of the submitted drainage model is considered insufficient both for the effect on Alderdene Burn which floods in its own right and on the wider village.
113. Residential amenity - The effect on existing residents will be unacceptably compromised, both through facing distances and the levels introduced by the scheme resulting in overshadowing and overlooking. The use of existing private gardens will be compromised. Property values will be compromised.
114. Local Services - Demand for the existing school places in the village outstrips supply to the detriment of local children. Local community and medical facilities and services are already over-subscribed. Local Policing budgets will be overstretched.
115. Consultation - The pre-application public consultation exercise carried out by the developer and the application consultation exercise carried out by the Council are both criticised. Inaccuracies in the submitted documentation are referred to including the location of bus-stops, description of the dwellings proposed and the ease of access to the local schools.

116. In support of the application a small number of residents and the land-owner have written in support of the scheme. Ensuring the future sustainability for the future of the village through the provision of housing for young couples is the principle argument. The land owner notes that the site was originally allocated for housing with the knowledge that the site required further investigation, and that investigation found 'little or nothing of particular significance'. The separation of the fort from the site means there is no visual relationship between the two. With the exception of the remains of the fort, the Ancient Monument comprises agricultural fields with no other visible remains, so there can be no reasonable suggestion that development on the application site would affect the setting of any specific remains within the designation. Development would not affect any 'interpretation' of the adjacent fields as a Scheduled Ancient monument. Historic England refused an application to extend the extent of the Ancient Monument in 2015. The Courts have held the test for a grant of planning consent varies according to the quantum of harm to significance. Whatever level of significance is attributed to the adjacent field, that significance will remain entirely unchanged by development on the site. There will therefore be no destruction of an asset and no reduction in its significance.
117. In the absence of an up to date development plan the application must be considered primarily on the basis of the presumption in favour of sustainable development, with the Council's responsibility to deliver a wide choice of high quality homes and maintain a 5 year supply of housing land. There are no site-specific factors that would mean that new housing could not be satisfactorily accommodated and delivered on the application site. It is apparent that a satisfactory access can be provided; no harm will be caused in terms of highway safety; there are no flood risk issues; all services are either available or can be made available; protected trees will be retained; satisfactory landscaping can be introduced, and general and residential amenity will be protected. These are all material considerations that must be taken into account objectively along with the public benefit that will result from new housing on the site and the presumption in favour of sustainable development.

APPLICANTS STATEMENT:

118. The Cadger Bank site lies on the edge of Lanchester, presenting a logical urban extension to Lanchester. The site would benefit from access to all of the existing amenities in Lanchester, within walking distance and as such would represent a sustainable location. The development of the site offers a genuine opportunity to create a sustainable living environment where the wider objectives of reducing car journeys can be met.
119. The Council assessed the site as suitable for housing development in its SHLAA. The site was subsequently proposed as a housing allocation for an estimated 95 houses in the Preferred Options Plan, 2012. Therefore at this time the Council considered the site to be a suitable, sustainable, location for new housing.
120. However, in the SHLAA update 2013, the site classification was changed unsuitable. The applicant did not consider this change sound. A number of proposed allocations have proved not to be deliverable, given their location in the Green Belt. This site is not within the Green Belt and could make a contribution to meeting housing needs in the County and maintaining a 5-year housing land supply.

121. We are of the opinion that Lanchester, as a local service centre should have some housing development. Lanchester has a significantly ageing population as outlined in and many businesses are being forced to close because of the lack of local spend. These 52 new homes will provide new people to spend approximately £520,000 locally per annum.
122. As part of the development 52 houses are proposed. The houses proposed include a mix of detached, semi-detached and terraced properties. Ten affordable houses are proposed as part of the development.
123. The main reason for refusal is archaeology: in-situ preservation of below ground archaeology and impact on the setting of the scheduled ancient monument.
124. Durham Archaeological Services carried out a full trial trenching exercise across the site and found nothing worthy of in-situ preservation. The remains in situ have been degraded by ploughing and the presence of a high pressure water main running across the site. The soil is also acidic, therefore any remains will not have been well preserved. Better technology will also exist in the future to evaluate these remains, therefore greater public benefit could be gained by leaving them in-situ for now.
125. In terms of setting the site has no above ground features. The Scheduled Ancient Monument already covers a huge area and the site is not critical to the appreciation of the Fort. Historic England's National Heritage List shows Lanchester Fort as a Scheduled Ancient Monument. The designated area extends up to but does not include the application site. A request was submitted by a third party to Historic England to schedule the below ground remains on the site. Historic England refused the application on 14 August 2015. Historic England described the trenching results as 'slight and fragmentary', and found that the below ground evidence was insufficient to merit scheduling.
126. We would urge the Council to consider the benefits of the proposal in making their decision. The development will create 42 much needed market houses, £14m investment in the area, 10 affordable homes and a well-designed scheme. Creation of a natural habitat for wildlife along Alderdene Burn, council tax receipts of £78,000 per annum and new homes bonus for the Council of £468,000 per annum. BDW are also planning to improve the footpath to Cadger Bank and offer new interpretations boards to enhance the public information about the Fort.

The above is not intended to list every point made and 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/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

127. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the presumption in favour of sustainable development as described in paragraph 14 of the NPPF, and the effects of the tests set out for assessing the harm on heritage assets set out in part 12 of the same.

The Development Plan

128. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside District Local Plan (DDLDP) remains a statutory component of the development plan and the starting point for determining applications as set out at paragraph 12 of the NPPF. However, the NPPF advises at paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF. NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. However, notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired. Furthermore NPPF paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.

The National Planning Policy Framework

129. Paragraph 14 of the NPPF states that there is a 'presumption in favour of sustainable development', which should be seen as a golden thread running through both plan making and decision taking. For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - (ii) specific policies in the Framework indicate development should be restricted.

130. Whilst the application should be considered as to whether it represents sustainable development, the weight of the heritage issues in particular must be carefully considered. Paragraph 14 indicates that where a decision is made in the context of development plan policies which are out-of-date, permission for sustainable development should be granted unless specific policies elsewhere in the Framework indicate development should be restricted. Those policies include policies relating to designated heritage assets. Where such policies apply, the presumption in favour of granting permission is therefore disapplied. Elsewhere in the Framework, paragraph 133 states that; 'local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...'

131. The application site is located outside of the residential framework of Lanchester, where the development plan Policy HO7 seeks to control the built extent of the settlement. The plan contains no up-to-date saved housing policies relevant to consideration of the application. Given the age of the Plan and housing supply figures that informed it when it was adopted in 1997, the

housing, supply policies therein do not reflect an up-to-date objective assessment of need. Other policies that may be considered relevant to the housing land supply assessment in light of the recent caselaw may be attributed weight i.e. EN1 and EN2.

132. The NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) and that housing applications should be considered in the context of a presumption in favour of sustainable development. If the Council cannot demonstrate a five year housing land supply, housing policies in a Local Plan cannot be considered up to date. The housing trajectory associated with the withdrawn CDP is no longer relevant and similarly the CDP Objectively Assessed Need (OAN – for housing) figure no longer exists. This raises the issue of what is the requirement against which the supply is to be measured in order to calculate whether or not 5 year housing land supply exists.
133. In the period until a new Local Plan OAN figure can be established, the Council has sought to accord with advice in the Planning Practice Guidance regarding OAN: 'Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government should be used as the starting point, but the weight given to these should take account of the fact that they have not been tested (which could evidence a different housing requirement to the projection, for example because past events that affect the projection are unlikely to occur again or because of market signals) or moderated against relevant constraints (for example environmental or infrastructure).'
134. In undertaking this assessment the Council fully recognises that the DCLG requirement figure cannot be regarded as representing the OAN as it does not take into account market signals, and nor has it been publicly tested. However, it is considered that this serves as a 'proxy', providing a context to quantify the supply position and that the Council can demonstrate a robust and deliverable supply of housing in the pipeline. The Council also has a healthy housing land supply measured against the emerging evidence base in support of the options for the forthcoming County Durham Plan.

Strategic Locational Sustainability

135. Setting aside the heritage asset issues, the site is considered by Planning Officers to be in a sustainable location in terms of accessibility to the goods, services and facilities demanded by the occupants of modern residential developments, proportionate to the size of the urban settlement – a conclusion that derives from comparison with a balance of the three strands of sustainability; economic, social and environmental.
136. Whilst the planning system has historically considered sustainability – it may not always have been called that – the detailed interpretations of such against in particular the current policy context in Durham are critical. A conclusion that the location is sustainable in terms of accessibility is consistent with the conclusions reached in another housing proposal in the same settlement included on the agenda for this Committee Meeting at The Paddock. In strategic terms the

village of Lanchester, identified as a 'local service centre' has a good range of commercial and social services – reflected in a strong local pride and sense of identity – that serves the residents of the village itself, along with those of surrounding smaller settlements, detached dwellings and a rural community. The village also sits midway within a hierarchy of larger settlements, providing more extensive commercial, leisure, social and employment opportunities – these including the towns of Annfield Plain and Stanley, and Durham City with its edge of town large retail parks and major transport arteries. This is material to the assessment of sustainability – the village cannot be assessed in isolation. Indeed Lanchester could be argued to have historically provided the role as a focal point and service centre to the surrounding area.

Local Locational Sustainability

137. The locational sustainability must also be assessed on the village level on the same basis as the above. The site is around 660m (by path) from the village centre, via the steep slopes of Cadger Bank and a footway of varying quality and width. The latter point has been subject to discussions between the applicant and Durham County Highways Engineers during the course of the application, with a scheme of improvements agreed for the single footway on Cadger Bank to bring it to a standard considered safe in highways terms (with one sticking point – the presence of a protected tree in the footpath outside Alderdene House, preferred removed for pedestrian highway safety by Engineers, retained by Planning Officers). Agreement on improvements has been reached. The site is over the standard 500m distance from the village centre considered a test of reasonable pedestrian sustainability, but it is argued that as a rural village the expectations of convenience and immediate access – both for distance and elevation – are different, accepted as one of the consequences of not living in a larger, urbanised and more convenient environment. There are comparable distances to existing housing developments on the edges of the village that are accepted by the residents living there, with the topography a feature of the Village, bringing both character and compromises to convenience. This measure of sustainability / accessibility is therefore considered acceptable.
138. The topography as a discouragement to potential cyclists in the scheme is also raised as an objection by residents. Cadger Bank is steep – and would present a challenge to the casual cyclist, however the close proximity of the Lanchester Valley Walkway on the old railway branch line is a likely attraction to potential cycle users within the development, both for leisure purposes, and giving off-road cycle access to Consett and Durham City.
139. Therefore, whilst the comments of colleagues in the Sustainability Team are acknowledged, their strict interpretation and assessment of this topic must be developed into a wider assessment of the implications of the development site and its context on its own merits and the advice and policies in the NPPF as a whole. On this basis the locational sustainability of the site as regards its physical relationship to the village centre and wider area is considered acceptable. However, for the avoidance of doubt, it is essential to note that whilst this conclusion of the sustainability of the site in terms of accessibility of goods service and facilities is positive, paragraph 14 sets out that there is a presumption in favour of sustainable development – except where specific policies in the Framework advise otherwise. Considered against both the specific advice in the NPPF at paragraph 133 and the proportionate weight given to Policy EN19 the proposals are considered unacceptable, and the site therefore – in overall terms – not sustainable, as detailed below.

140. The village is a focal point for the wider area, in addition to serving the demands of the village itself. The well organised public objection to the proposals present the facilities of the settlement as at 'breaking point'.
141. The Council's Education Team assess the capacity of local schools, and have the option of requesting financial contribution to meet any perceived current or future short-fall through a s.106 agreement attached to any planning approval. They have assessed the implications of the scheme in its own right, and in the context of other current proposals – concluding that no contribution is required in this instance.
142. Additional economic activity in the village centre will derive from the scheme to the benefit of local businesses, and if, as will be the case at present with existing residents, there are economic benefits to the wider commercial environment, this is not a negative. It is difficult to accept the argument that the additional economic activity that will derive from the development will economically undermine the village centre, as contended by some. Assertions are made that the medical and dental facilities in the village are over-subscribed, although this is not quantified. Now subject to market forces, provision of these types of facilities is a business reflection of demand compared to a requirement of health service provision. Increased demand may bring additional provision.
143. Concluding this point, Lanchester is considered a well-served village with a range of facilities proportionate to its size and place within an established wider hierarchy of settlements. The size of the development is not considered such that it would have a disproportionate negative effect on existing facilities, and the site's location to those services within the village and beyond is comparable to existing residential development within the village and proportionate to the expectations of such in this type of settlement. The application site is therefore considered to be locationally sustainable.

The paragraph 14 Presumption in Favour of Sustainable Development

144. The comments of the Council's Spatial Policy Team are summarised above. The arguments are a complex interpretation of the evolving Policy context against which the current application must be assessed, in the absence of an up-to-date development plan where the saved policies have varying weights compared to their compatibility with the NPPF, the proxy position for an Objectively Assessed Need derived housing land supply, assessing the evolving weights of the saved policies in the Derwentside District Local Plan 1997 against the detailed policies and overall intent of the NPPF and the planning imperative of providing for new housing development.
145. The proposals must be considered against the policies in the NPPF considered as a whole and the three strands – economic, social and environmental – of sustainable development, and take into account all the potential benefits of the development – summarised in the Applicant's Statement as, creation of, '42 much needed market houses, £14m investment in the area, 10 affordable homes and a well-designed scheme. Creation of a natural habitat for wildlife along Alderdene Burn, council tax receipts of £78,000 per annum and new homes bonus for the Council of £468,000 per annum. BDW are also planning to improve the footpath to Cadger Bank and offer new interpretations boards to enhance the public information about the Fort'.
146. The above series of benefits from the scheme support the economic role of sustainability, this requiring the right type of land is available in the right places.

For the social role and as noted by supporters of the scheme, the development has the potential to help meet the current and future needs of present and future generations by adding to housing supply – meeting the social role of sustainable development. The environmental role of the site includes both the appropriateness of the development in the landscape on the urban fringe, and the effect on the heritage interests in the area. Many of the issues involved overlap the three elements of sustainability. The positive outlined by the applicants have been weighed as required against the ‘adverse impacts’, then the ‘higher’ test in paragraph 133 of ‘substantial public benefits’. It is concluded that whilst the scheme brings the usual expected benefits of new housing development, it does not demonstrate ‘substantial public benefits’ that would outweigh the substantial harm to the heritage assets.

147. In bringing the application forward, the applicant points to the initial identification of the site within the SHLAA process, which when updated 2013, was subsequently changed to ‘unsuitable’ for development. The applicants do not consider this change sound. However, their arguments relate to the deliverability of allocations within that process and the benefits this scheme could make a contribution to meeting housing needs in the County and maintaining a 5-year housing land supply. Officers consider the principle of this argument sound, but point out the NPPF at paragraph 14 leads to a significant caveat – ‘...granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted’. For this application those specific policies are considered by Officers to be those relating to designated heritage assets.
148. At paragraph 17, explaining the Core Principles of the NPPF, Local planning authorities are advised to, ‘conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations’. Later, at part 12 of the NPPF, ‘Conserving and enhancing the historic environment’, paragraph 132 explains the importance of ‘significance’ in weight of the planning assessment. Paragraph 133, explaining ‘harm’, states that; where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Therefore the key planning balance assessment to be made in the context of Paragraph 133 is whether the ‘substantial harm or loss’ is necessary to achieve ‘substantial public benefits’ which outweigh that harm or loss, which as noted by Historic England, is a ‘high test’. Paragraph 134 requires that any harm, albeit less than substantial, to a designated asset should be weighed against the proposal’s public benefits. Paragraph 135 explains the approach to be taken on a non-designated heritage asset.
149. An exchange of professional views between the Council’s and the applicant’s Archaeologists, led to the latter’s acknowledgement that ‘the proposed development will cause harm to the archaeological interest of the buried archaeological remains at the site’, although it was qualified that ‘these remains are likely to be of relatively limited heritage significance’. Both the Council’s Archaeologist and Heritage England disagree on this point, the Council’s response to the applicant’s ‘rebuttal’ stating, ‘it is an undeniable fact that the archaeological features on this site are an integral part of the heritage asset as a whole, the majority of which is designated as a scheduled monument of national importance, and all parts of the complex are equally significant albeit potentially in differing ways’.

150. With paragraph 17 of the NPPF stating that planning should 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations', The proposal to build houses on the Cadger Bank site are considered likely to not only destroy the archaeological remains of part of the Roman fort and vicus complex but would also harm the significance of the entire site by the associated adverse effects upon its setting', compromising the significance of both designated assets of the highest significance and non-designated assets that have the potential for higher designation, and the loss of significance of designated assets. The Roman Fort at Lanchester is identified by the County Archaeologist as of, 'unique significance within the group of six such sites in Co. Durham (in that it) is that it is the one that has been least affected by development in modern times and is totally free of modern buildings'.
151. On the basis that there is substantial harm to a designated heritage asset, Officers' assessment as above concludes that the scheme fails the test set out in paragraph 133 and there must be an in principle policy objection to this planning application if the Council as Local Planning Authority considers that the public benefits of the scheme do not weigh sufficiently favourably in the outcome of the relevant planning balance assessment (set out in Section 12, Paragraphs 132, 133 and 135 of NPPF) to counteract the substantial harm that would occur to the significance of the assets designated and undesignated. That harm is the effect of the development on the setting of the designated Heritage Assets of the Roman Fort and the wider Scheduled Ancient Monument, and the additional archaeological remains that extend beyond the designated area.
152. The NPPF sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including, notably scheduled monuments should be wholly exceptional. Further, at paragraph 135, it is advised, 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
153. Appropriate weight should also be given to the policies in the development plan, with Policy EN19 of the 1997 Derwentside Plan seeking to protect nationally important – i.e. scheduled – archaeological remains and to protect remains of more local significance from damage. This policy confirms a presumption in favour of retaining heritage assets in situ. Given the previously undeveloped status of this site and its association with known significant archaeological assets saved Policy EN19 is considered relevant to the consideration of this application. Assessed for compliance with the NPPF, it is acknowledged that the policy was designed to be applied in the context of the now expired PPG 16 (Archaeology and Planning) which provided further guidance on the approach to be taken in respect to this issue, but this policy is not inconsistent with the 10th Core Planning Principle set out in Paragraph 17 of NPPF or with Paragraph 128

and can be afforded weight, and used with the more up-to-date advice in the Framework.

154. It is noted that, as referred to in the 1989 decision and in line with Policy TO1 of the development plan, the Roman fort and its setting have a value as a tourist attraction.
155. The relation to the other potential impacts identified relating including landscape, ecology and highways, are assessed below. In conclusion on the paragraph 133 tests:
 - (i) For the reasons set out above, it is considered that substantial harm will accrue to a designated heritage asset of great significance if the proposals are permitted;
 - (ii) The benefits put forward by the developer of a contribution to the housing supply, the provision of affordable housing, local economic benefits, new homes bonus contributions, a new wildlife habitat, council tax receipts, footpath improvements and new interpretation boards do not amount to 'substantial public benefits';
 - (iii) In any event the benefits of the development cannot only be achieved by causing the harm to the heritage asset. Paragraph 133 counsels a refusal of permission except where it is demonstrated that the harm to the asset is necessary to achieve substantial public benefits. This is not the case. Many of the claimed benefits would arise irrespective of where the development was located; and harm to the significance of the asset is not necessary to achieve them.

Other Considerations

The Conservation Area

156. The Conservation Area in Lanchester covers the central historic built core of the village, extends to the north-east to cover an extended area of countryside at Paste Egg Bank as 'setting', and extends up the traditional east and west approaches to the village at Peth Bank and Cadger Bank. On Cadger Bank the designation includes the large older dwellings of West Grange and Pelham House and their respective curtilages. The lower part of the site faces onto the end of the Conservation Area. Historic England's assessment of the effect of the development on this specific area, which 'acts as visual prelude to the Conservation Area whose boundary along Cadger Bank marks the gradual transition between the rural and urban' – reflected in residents' comments in its previous role as glebe land to the nearby manse to the vicarage concludes that 'care should be taken to analyse the visual connection with the Conservation Area and the possibility for landscape design to mitigate or harmonise any effect'.
157. Any harm can therefore potentially be mitigated by good design and careful landscaping through condition, ensuring, 'special attention' is 'paid to the desirability of preserving or enhancing the character or appearance of that area'. The retention of the existing front boundary wall and the setback of built development inside the site, separated from the front boundary by the proposed new communal stepped footpath are considered to help achieve the required visual entry into the village, as a transition between the rural and urban landscapes on the entrance to the Conservation Area. This is further assisted by the landform, including the gradient of the highway verge, and the existing and proposed planting at the approach to the village, where the development will not

be immediately apparent on the approach from the west. The development plan contains no policies relevant to the topic of the Conservation Area, assessment being led by the requirements and tests set out in s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraph 134 of the NPPF. That the effect on the setting of the designated Conservation Area can be potentially mitigated is reflected in the comments of Heritage England, and on this basis Officers conclude that the harm to the heritage asset would be less than substantial, weighed against the public benefits of the proposal.

Physical Extension of the Village and Landscape Impact

158. The application involves the encroachment of the settlement into the area surrounding the settlement. The land involved is not subject to landscape designation, contrary to the land to the south of the B6292 which is defined as Area of High Landscape Value in the development plan in policy EN6. With two sides of the land bordering the existing settlement, and with the proposal working within the context of the historic field pattern, the development could be seen as continuing a natural process of extension, particularly in line with the late 20th Century expansion of the village on the west slopes of the valley.
159. The village has successfully assimilated extensive modern developments in this area and there is no reason in principle why a development of the scale proposed here should not be assimilated likewise. Below the crest of the hill to the east, views of the development when approaching from Hollinside would be restricted on the western approach to the village, and when viewed from longer views from the west – for example at the head of Peth Lane at Burnhope.
160. The site sits below the raised promontory of land upon which the Roman fort was set to give its commanding views over the Browney Valley and the river crossing of Dere Street. The land falls below the fort towards the village, with the modern western extent of the existing settlement close to, but visually screened by the landform on this approach. The visual impact of the proposed development would benefit from the same arrangement. It is noted that this visual screening works in terms of the landscape assessment, but undermines the relationship with the Roman Fort and the SAM – the Fort designed to sit in watchful isolation in a prominent position – the interpretation of which would be unacceptably eroded if the modern settlement intruded too far into the isolated setting of such.
161. For many years the extent of the village was protected by the settlement boundary defined in Policy HO7 of the Derwentside Plan and the Village Design Statement. The Spatial Policy comments make it clear that both as a tool to prevent built development, not as one to protect the countryside, the settlement boundary is not defensible as a viable planning restraint. Acknowledging that objectors have cited this issue in reference to a previous refusal on the site, Officers would contend that the different conclusion reached for this application reflects the significantly changed current Planning Policy context. It is noted that Landscape Officers' comments acknowledge the views of the site on the approaches to the village are restricted by the landform. These could be further mitigated by conditioning a landscaping scheme that likewise benefits the relation to the Conservation Area as discussed elsewhere in this report. In principle the extension of the village in the countryside in this location is considered acceptable in landscape terms, notwithstanding the heritage asset implications.

Site Layout and Design

162. Whilst proposed layout has some deficiencies in terms of its lack of connection to the existing adjacent residential estates, in overall terms, particularly following a redesign of levels on the site frontage, the application is considered to display strong design credentials, with genuine attempts being made to reflect the local vernacular in a range of quality homes that reflect some good practice in terms of the advice set out for good design in the NPPF, the National Planning Practice notes and BfL12. The developer has struggled with the site levels – resulting in a significant amount of design work for levels during the planning application process. The levels have been dictated and distorted by the presence of the service easement across the western side of the site, with a no-build easement either side of it – effectively this feature, rather than the natural slope, has set the datum level for design of the site levels.
163. The initial application had minimal information in this respect, with significant implications for potentially positive elements of the scheme – such as the retention of the mature tree belt that stretches across the middle of the site, and for the effects on residential amenity on site boundaries shared with existing dwellings. This information has now been provided, and the unnecessarily dramatic change in levels between dwellings on the main road fronting elevation reduced. The detailed site levels have been accompanied by additional information on the effects of the change of levels on the trees on the site to address the concerns raised by County Tree Officers above, bringing the scheme into compliance with policies EN9 and EN11 of the development plan – these policies having a high degree of resonance with the NPPF.
164. Parts of the main estate road within the scheme have only one footway – bringing the dwellings closer together, the developer contending this gives a ‘village feel’ within that part of the site. The materials and design of the dwellings in the scheme are accepted as having a high quality appearance, giving the development a ‘character’ of its own, and ensuring detailing is appropriate to the locale. Making a virtue of some of the site constraints such as passing through the tree belt into areas of different character and using the ‘no-build’ zone for public open space, the development proposes different character areas within it, and extensive areas of open space – although the latter are compromised by the stepped access to areas of them restricting use by some members of the community. The extent of open space proposed is considered to meet the requirements for such set out in policy HO22 of the plan, although in the event of an approval provision of recreation equipment would be needed to be secured – this could be achieved through condition or legal agreement – and could take the form of either children’s play equipment or adult’s exercise equipment spaced along the footpaths. Whilst some issues of neighbour amenity have been raised in relation to proposed levels and facing distances between the proposals and existing dwellings, none of the relationships are considered such that a refusal could be sustained. In overall terms however, following the additional design work carried out in process, the development is considered a well thought out, high quality response to the site constraints, following the advice in the NPPF and NPPG and meeting the requirements of proportionate weight attributed to policy GDP1 of the development plan.

Highway Safety

165. This is a significant topic for objectors, both in terms of the access and egress proposed for the development and the additional volume of traffic required accommodated by the local road network and in the village centre, accessing local businesses and joining the A691 Durham / Consett main road. The main highways issues, as noted in part above, have been resolved to a degree where

there is no objection to the technical arrangements and capacities proposed, although Highways Engineers have noted some concerns as to locational site sustainability in terms of its distance from the village centre and lack of connections to the existing residential estates. The developer has redesigned the proposed layout to achieve a vehicular layout capable of adoption by relocating a unit to achieve required gradients at the northern end of the site. Both the specification and location of the site access / egress in relation to the village entrance, surrounding speed restrictions and the topography – i.e. the slope and the ‘crest’ of the hill to the west are considered acceptable as is the volume of traffic that the scheme will generate in relation to the capacity of the existing road network.

166. The scheme is criticised for the lack of permeability and integration into the existing urban form, and it is noted, consistent the Sustainability Officer’s and residents’ criticisms that bus availability is lacking, being over 600m from the site. Residents’ concerns regarding parking in the village centre have been outlined above.
167. Furthermore, whilst the highways redesign has overcome the technical problems allowing for adoption of the vehicular highways, this has brought unintended consequences for the pedestrian environment, introducing steps to access the northern end of the walkway proposed for above the drainage easement. With steps also proposed along the footway that runs along the inside of the site frontage, this means that significant elements of the proposed leisure footpath routes within the site would be of restricted access for pushchairs and less able members of the public, significantly reducing their value. These areas of footpaths would not be adopted by the Council and would have to be maintained by a private management company.
168. With the technical highways requirements of the scheme met, the other highways issues are not considered such that they would constitute a viable refusal reason, or an ‘adverse impact’ that would ‘significantly and demonstrably outweigh the benefits’. On this basis the proposals and the applicant’s intention to improve the footpaths on Cadger Bank between the site and the main village are concluded to bring the scheme to the required level of compliance with Policy TR2 of the adopted Local Plan.

Drainage

169. Drainage and flooding are key aspects of concern in Lanchester where repeated flooding in the village centre has been a dramatic and distressing feature of the village centre. Northumbrian Water is the statutory undertaker for foul drainage issues, with Durham County Council now the Strategic Flood Risk Authority.
170. Both consultees have responded to the detailed information submitted with the application – Northumbrian Water confirming they have no issues with the application, providing it is carried out in strict accordance with the applicants submitted Drainage Plan, requesting adherence to the specifications this document be conditioned in the event of an approval.
171. The Council’s Drainage Engineers write that according to the EA and Durham County Council SFRA data there does not appear to be a risk of flooding to the development site. They raise no objection to the proposals providing that the greenfield run off rate is to be restricted to 3.5l/s/ha in other works that the run-off rate from the scheme is less than that at present, to reduce the risk of

flooding downstream as agreed pre-submission and full drainage details are submitted and agreed by the County Council.

172. A particular issue has been raised as to the appearance of the outfall proposed for the north of the site on Alderdene Burn. Officers are confident that an acceptable design and finish of this feature could be achieved through imposition of a condition.

Ecology

173. Ecology provision has been significantly improved to the point where it is a positive element in the balance of determining the application. The application was submitted with the gardens of the dwellings in the northern part of the site extending down the slope, including the northern tree belt, terminating at Alderdene Burn. Following discussions with the County Ecologist, the northern area of the site, including the tree belt is now proposed as an ecology area, separate from the estate. Further detail and agreements by condition will be needed to secure the identified mitigation measures for bats and barn owls, along with detailed management plans and monitoring schedules for the wayleave grasslands and retained and enhanced grasslands associated with the remaining trees and provision to prevent public access. With the views of the County Ecologist key in ensuring appropriate mitigation is incorporated within this scheme so as to accord with 'Saved' Policy GPD 1 and Paragraph 118 of NPPF and in gauging the weight which should be attributed to any harm or benefits when undertaking the planning balance assessment to determine the acceptability of this scheme, the revised scheme as presented to date is considered both policy compliant and a positive in the proposals.

Contaminated Land and Coal Mining Legacy

174. Environmental Protection (Land Contamination) have assessed the submitted documentation and concur with the risk assessment and recommendations. On the basis the land is proposed changed to a more sensitive receptor, a pre-commencement condition requiring a Site Investigation and Risk Assessment, with further investigation and mitigation as required, is requested attached to any approval.
175. The Coal Authority noted the need for a condition in the event of an approval to undertake additional investigation works before development works commence that includes a requirement for implementation of any mitigation identified.

Affordable Housing

176. If the application were to be agreed provision to ensure the delivery of the affordable housing through a s.106 legal agreement should be made. Such a legal agreement would meet the tests required for such as set out in the Community Infrastructure Levy Regulations 2010 and described in the National Planning Practice Guidance notes, as being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

Embedded Sustainability

177. With the submission considered to lack some of the detail required to fully address expectations for the inclusion and installation of embedded

sustainability, a condition would need to be attached to any approval to secure a scheme of embedded sustainability as requested by Sustainability Officers.

The Construction Period

178. A number of issues have been raised in relation to the construction period if the application is approved. In the first instance, despite the views of objectors, the employment opportunities that would be created during the construction process are a positive, material benefit of the scheme that must be taken into account in the determination process, likewise the potential for the scheme to benefit the local supply chain.
179. Adjacent residents in particular, but also those on the likely approach routes raise concerns as to the effects of site traffic and building works on the site. Whilst there would undoubtedly be an effect from these issues, Members will be aware that the ability of the Council to affect these issues through the planning process is through conditions relating to working hours, and siting of compounds and construction routes within the site. The wider Council and the Police have powers through Highway legislation and the Environmental Protection Acts to protect against damage to and obstruction of the public highway, and statutory nuisance. Such conditions could be applied in the event of an approval, justified against policy GDP1(h) of the development plan.

CONCLUSION

180. Planning Officers consider the site to be in a largely sustainable location in terms of accessibility, and accept that the development can demonstrate a number of benefits both to the local area and to wider issues, in particular of housing land supply. This latter issue is of importance in the absence of the Council being able to formally demonstrate a formal five year housing land supply, with due weight being given to the current 'proxy' position in relation to establishing an 'Objectively Assessed Need' for the supply of housing land summarised from Spatial Policy Officer's comments, above. The conclusion of that analysis is effectively whilst the Council cannot formally demonstrate a five year housing land supply, Spatial Policy Officers are confident that such a supply exists, and shows that the Council does not have such a shortage of housing land that it needs to approve all housing proposals however damaging to interests of acknowledged importance.
181. The NPPF sets out a presumption in favour of sustainable development at paragraph 14, but with two critical caveats, one of which requires development to be tested against other requirements in the NPPF where it is indicated development should be restricted.
182. In relation to these, the proposal to build houses on the Cadger Bank site are considered likely to not only destroy the archaeological remains of part of the Roman fort and vicus complex but would also harm the significance of the entire site by the associated adverse effects upon its setting', with the fort sitting in clear isolation from the modern built settlement, compromising the significance of both designated assets of the highest significance and non-designated assets. The 'higher' test set out in paragraph 133 of the Framework requires that decision makers considering substantial harm to or loss of significance of heritage assets of the highest significance should refuse consent unless it can

be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm.

183. This conclusion is reached from the advice received from Historic England and the County Archaeologist. The development will result in the loss of physical archaeology and will compromise the setting of the scheduled ancient monument. There is consensus with the applicants that, 'the proposed development will cause harm to the archaeological interest of the buried archaeological remains at the site', with the Council contending the proposals result in Substantial harm to an asset of the greatest significance. The extent of the 'vicus', and the separation of it as part of the heritage asset from the modern settlement – i.e. both the physical implications of the scheme and the implications to the setting of the archaeology both inside and outside the designated monument, is a critical part of the protection and understanding of the archaeology. To quote the County Archaeologist, 'it is an undeniable fact that the archaeological features on this site are an integral part of the heritage asset as a whole, the majority of which is designated as a scheduled monument of national importance, and all parts of the complex are equally significant albeit potentially in differing ways'. Refusal on the basis of the advice set out in Part 12 of the NPPF and Policy EN19 of the local plan are therefore proposed.
184. Whilst a wide range of concerns have been raised by the local community in response to the consultation exercise, Officers consider that these have been properly assessed and weighted through the consideration of the application and are not considered to demonstrably and significantly outweigh the benefits when assessed against the NPPF as a whole.
185. The application's public benefits and suggested direct mitigation are not considered to outweigh the harm that will result to the Scheduled Ancient Monument, its setting, part formed by the site and the archaeological interest on the proposed development site itself.
186. It is the advice of specialist advisors that the development will cause the substantial harm described in paragraph 133. It is the conclusion of Officers that 'substantial public benefits' necessitating the harm have not been set out that would overcome the 'substantial harm' and 'significant and demonstrable adverse impacts' that would result from the development. It is therefore recommended refused.

RECOMMENDATION

187. That the application be **REFUSED** for the following reason:
1. The local planning authority considers that substantial harm will be caused to the significance of a designated heritage asset of the highest significance, namely the Scheduled Monument of Longovicium Roman Fort by reason of adverse impacts upon its setting including the destruction of archaeological remains of the extended vicus complex that are themselves non-designated heritage assets. The proposal fails to demonstrate that substantial public benefits would arise, or that the harm to the designated asset is necessary in order to achieve any such benefits. The proposal does not constitute sustainable development and is contrary to policy EN19 of the Derwentside

STATEMENT OF PROACTIVE ENGAGEMENT

188. The Local Planning Authority in arriving at the recommendation to refuse the application has been consistent in advice with regards the application and has considered the possibility of a positive outcome in accordance with the NPPF, working to agree all those issues capable of resolution but it has not been possible in this instance to overcome the principle objection of the effect on the archaeology of the site. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012).

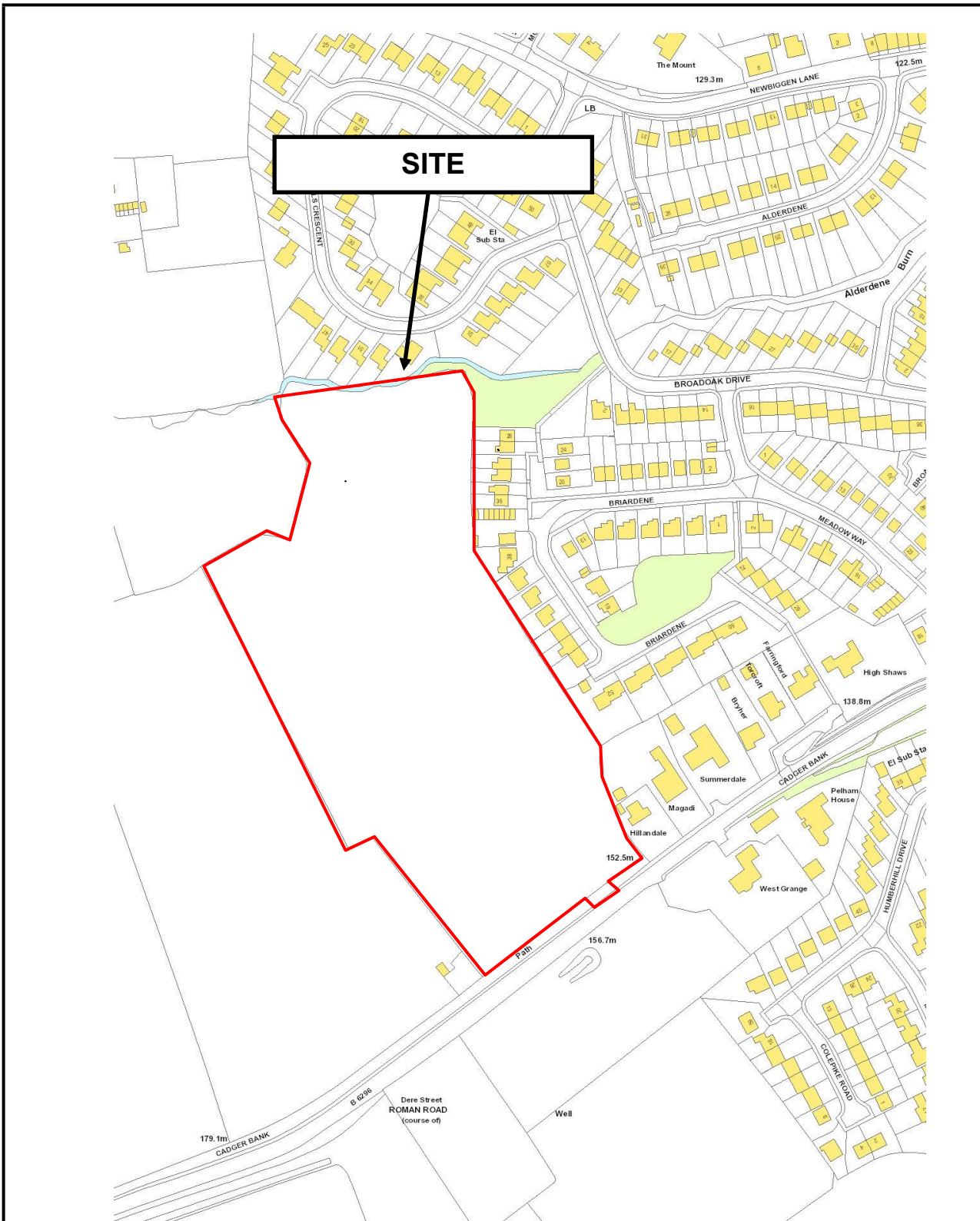
National Planning Practice Guidance Notes.

Derwentside District Local Plan 1997, saved policies .

The County Durham Strategic Housing Land Assessment.

County Durham Settlement Study 2012.

Statutory, internal and public consultation responses.



Planning Services

Land To The West Of Briardene. Cadger Bank, Lanchester

Application Number DM/15/03222/FPA

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

Comments

Date 30th June 2016

Scale 1:2500