

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00793/OUT
FULL APPLICATION DESCRIPTION:	Construction of 55 residential dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access)
NAME OF APPLICANT:	Hellens Group Limited
ADDRESS:	Land to the east of Prospect Place, Commercial Road East, Coxhoe
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Background

1. This application has previously been presented to planning committee on 22 September 2015. The application heard at that planning committee proposed that 40% of the dwellings proposed would be affordable homes (22 units). Members resolved to grant planning permission subject to conditions and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following;
 - i) Provision of 40% affordable housing
 - ii) Revocation of the provisions of S106BA of the Town and Country Planning Act 1990 (as amended)
 - iii) Financial contribution towards school accommodation provision – final figure to be devised at the reserved matters stage.
 - iv) Financial contribution of £4,000 towards the provision of public art
2. The S106 legal agreement has not been completed nor the decision notice issued. The applicant is still seeking planning permission for the development of the 55 dwellings. However, planning permission is now sought on the basis that the 40% proportion of the site previously proposed to constitute affordable homes can, as an alternative, be provided under the “Prince Bishops Homes Model” (PBHM). This model provides the potential for a low cost housing product to be sold to a purchaser and the 40% of the site proposed to be PBHM housing would still be secured by a S106 legal agreement.

The Site:

3. The application site relates to a parcel of land of 1.56ha. The site has previously been used as a limeworks. This was removed in the late 1970's. The site is considered to be Greenfield. The site now comprises a range of grasses and shrubs. The site is generally level, gradually sloping from east to west.
4. Tursdale Beck is located to the north of the site and this is bordered by woodland. Coxhoe Ponds Local Wildlife Site (LWS) and Crow Trees Nature Reserve (LNR) border the application site to the east. To the south lies a road whilst to the west is the "The Limes" residential development which is nearing completion and has been in the process of construction since 2008.

The Proposal:

5. Planning permission is sought in outline for the construction of 55 residential dwellings, associated works and landscaping. All detailed matters except access are reserved.
6. Access to the development site is proposed via the road which borders to the south with the access point situated in the south-west corner of the site.
7. Whilst the final detail of the proposed layout and dwellings is at this stage unknown, the indicative layout proposes a range of 2 to 4 bed properties with an area of the site reserved for public open space.
8. The application is accompanied by a biodiversity management plan which proposes management measures to the land within the ownership of the applicant though outwith of the application site which forms part of the Coxhoe Ponds Local Wildlife Site.
9. The application is being reported to Central and East Planning Committee as the development constitutes a major residential development comprising of more than ten dwellings.

PLANNING HISTORY

10. The land to the west of the site (land to the south and north of Commercial Road East), was granted outline planning permission for 80 new dwellings and 2,400m² of employment space in 2008. A reserved matters application was subsequently approved for 80 new dwellings in 2009 which have now been constructed. An application to vary condition 7 on the 2008 outline permission was approved in 2009 which restricted occupancy until a scheme for the treatment of foul flows from the development had been completed. In 2010 planning permission was granted for a substitution of a housetype within the development originally approved in 2008.
11. The employment use approved in the 2008 planning application was not implemented and instead planning permission was granted in 2011 for an additional 47 houses.
12. Further variation of condition applications to permit the substitution of housetypes were approved in 2012 and 2013.

13. In December 2014 an application for the erection of 103 dwellings and associated works on the application site and additional neighbouring land was withdrawn (DM/14/01858/OUT).

PLANNING POLICY

NATIONAL POLICY

14. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. 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. The following elements of the NPPF are considered relevant to this proposal.
16. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
17. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
18. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development. 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.
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. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

20. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. 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 and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
21. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
22. *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.
23. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

24. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; health and well-being; land stability; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The City of Durham Local Plan (2004) (CDLP)

25. *Policy E7 – Development outside of Settlement Limits.* Development outside of settlement boundaries will only be permitted when it accords with other policies in the plan.
26. *Policy E14 – Protection of Existing Trees and Hedgerows.* Views hedgerows and trees as a valuable resource to be protected when new development is being considered.

27. *Policy E15 – New Trees and Hedgerows.* Tree and hedgerow planting is encouraged.
28. *Policy E16 – Nature Conservation – the Natural Environment.* Is aimed at protecting and enhancing nature conservation assets. Proposals outside protected sites will be required to identify significant nature conservation interests that exist on or adjacent to the site. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts should be identified.
29. *Policy E17 – Sites of Special Scientific Interest.* States that development that would adversely affect a SSSI will only be permitted where the development is of overriding national importance, the development cannot be located elsewhere and remedial and compensatory measures are undertaken.
30. *Policy E18 – Sites of Nature Conservation Importance.* Seeks to safeguard such sites by resisting development which would be detrimental to their nature conservation interest unless it is demonstrated that the benefits from the development would outweigh the nature conservation interest of the site, that there are no appropriate alternative sites for development, that commensurate measures are undertaken to minimise adverse effects and that appropriate habitat creation or enhancement in the vicinity of the site to compensate unavoidable damage undertaken.
31. *Policy E24 – Ancient Monuments and Archaeological Remains.* Ancient monuments and other nationally significant archaeological remains and their settings will be preserved in situ and damage would not be permitted. Archaeological remains of regional and local importance will be protected in situ and where preservation in situ is not justified by, ensuring that in areas where there is evidence that significant archaeological remains exist, or reasons to pre-suppose they exist, pre-application evaluation or archaeological assessment will be required and requiring as a condition of planning permission, that a programme of archaeological investigation, recording and publication has been made.
32. *Policy E26 - Historic Parks and Gardens.* States that development will only be permitted at such locations where it would not detract from the enjoyment, layout, design, character, appearance or setting of the park/garden or result in the loss of its integral features.
33. *Policy H3 – New Housing Development in the Villages.* New housing development comprising windfall development of previously developed land will be permitted within settlement boundaries.
34. *Policy H5 – New Housing in the Countryside.* In the countryside new housing development will be permitted only when it is; required by persons employed in agriculture or forestry where there is a functional need and the enterprise is financially viable, the size is commensurate with the established functional need; adequate provision cannot be made within the settlement/existing buildings and it respects the character of its landscape setting.
35. *Policy H12 – Affordable Housing.* Requires residential schemes of 25 units or more, of 1 ha or more, to provide a proportion of affordable housing where a local need exists.

36. *Policy H12A – Type and Size of Housing.* States that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.
37. *Policy H13 - Residential Areas – Impact upon Character and Amenity.* States that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
38. *Policy T1 – Traffic – General.* States that the Council will not grant planning permission for **development** that would generate traffic likely to be detrimental to highway *safety* and/or have a significant effect on the amenity of occupiers of neighbouring property.
39. *Policy T10 – Parking – General Provision.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
40. *Policy T21 – Walker’s Needs.* The Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths are protected; new footpaths are provided; and footpaths are appropriately signed.
41. *Policy R2 – Recreational and Amenity Space in New Residential Developments.* Seeks to ensure that the provision of open space for outdoor recreation is evenly distributed and is maintained at a level that meets the needs of its population.
42. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility.* States that the layout and design of all new development should take into account the requirements of all users.
43. *Policy Q5 – Landscaping General Provision.* Sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
44. *Policy Q6 – Structural Landscaping.* Development located on the edge of settlements or in exposed sites will be required to use peripheral structural landscaping in order to minimise adverse visual impact.
45. *Policy Q8 – Layout and Design Residential Development.* Sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
46. *Policy Q15 - Art in Design.* States that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
47. *Policy U5 – Pollution Prevention – General.* States that development that may generate pollution will not be granted if that pollution would have an unacceptable adverse impact upon the quality of the local environment, upon the amenity of neighbouring occupiers or would unnecessarily constrain the development of neighbouring land.
48. *Policy U7 – Pollution Prevention.* Development Sensitive to Pollution states that developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.

49. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
50. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative less vulnerable areas are unavailable, that no unacceptable risk would result, that no unacceptable risk would result elsewhere, or that appropriate mitigation measures can be secured.
51. *Policy U11 – Development on Contaminated Land.* Development will only be permitted where the nature and extent of contamination is established, the development would not add to the level of contamination, proposals include remedial measures and that there is no detrimental effect on the environment.
52. *Policy U13 –Development on Unstable Land.* Development will be permitted provided that there is no risk to the intended occupiers from stability or that satisfactory remedial measures can be undertaken.
53. *Policy U14 – Energy Conservation.* States that the use of energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY:

The County Durham Plan

54. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 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 being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

Coxhoe Neighbourhood Plan

55. In April 2015 Coxhoe was granted approval for designation of a neighbourhood area having regards to the Neighbourhood Planning (General) Regulations 2012. The plan is in a relatively early stage of preparation and as a result there is no policy position within the emerging Neighbourhood Plan against which to assess the application.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:

<http://www.durham.gov.uk/article/7215/Durham-City-Local-Plan> (City of Durham Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

56. *Coxhoe Parish Council* – Express concerns with regards to the cumulative impacts of housing developments in the area and the ability for Coxhoe Primary School to cater for the school places need. Comments are provided regarding the allocation of S106 monies emerging from the development and it is requested that monies are equally divided amongst the primary school, Future Leisure in Coxhoe and the village hall. The upgrade of the bridleway on land owned but not sought for development by the applicant would be welcomed and it is considered appropriate that the land be transferred to the Parish Council.
57. *The Highway Authority* – Raise no objections. The content of the submitted transport assessment is acceptable with the level of traffic generation from the development considered to have no material impact on the surrounding highway network. The access point is suitable. Whilst a matter for the reserved matters stage it is commented that revisions to the layout to improve connectivity should be made. Although a travel plan has been supplied a condition is requested to ensure it is effectively delivered.
58. *Natural England* – Raise no objections with regards to the potential for the development to affect statutory nature conservation sites. General and standing advice is provided with regards to protected species, green infrastructure, locally designated nature conservation sites, landscape and biodiversity enhancements.
59. *Environment Agency* – Raise no objections. Given the proximity of the site to Coxhoe East landfill site it is stated that there potential for migrating gas from the landfill to affect the site. It is therefore considered that a gas risk assessment to determine ground gas conditions is undertaken and a condition could resolve this. General and standing advice is provided with regards to foul water disposal, land contamination and in regards to Great Crested Newts.
60. *Northumbrian Water* – Raise no objections. The development should be implemented in accordance with the submitted flood risk assessment.
61. *Coal Authority* – Confirm that the site is located within the defined Development High Risk Area. The application is accompanied by a coal mining risk assessment and a preliminary site investigation. However, it is considered that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site and condition is recommended to this effect.
62. *Drainage and Coastal Protection* – Raise no objections. Final details of the proposed drainage arrangements for the development should be agreed in accordance with the hierarchy of preference for surface water disposal and the Council's surface water principles. Officers advise that discharge from the development should be restricted to greenfield run-off rates.

INTERNAL CONSULTEE RESPONSES:

63. *Spatial Policy* – Raise no objections. The principle of developing the site as an extension to Coxhoe is in conflict with the existing Local Plan (Policy H3). Policy H3 which establishes a settlement boundary to Coxhoe is considered to be a policy for the supply of housing, and consequently out-of-date as a result of the Court of Appeal judgment in the Richborough case. Policy H3 is also considered to be only partially compliant with the NPPF. In light of this, less weight should be attributed to the proposal's conflict with Policy H3.
64. It is accepted that because the Local Planning Authority cannot currently demonstrate an NPPF compliant Objectively Assessed Need (OAN) for housing, it is not in a position to demonstrate whether a 5-year housing land supply exists. In light of this paragraph 14 of the NPPF is engaged, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate development should be restricted.
65. This application has previously been found to have acceptable visual and landscape impacts, and the ecological implications of the development in respect of both protected species and County Wildlife Site were also found to be within acceptable parameters.
66. This current amendment seeks flexibility to allow the 40% affordable housing provision to be delivered as low cost housing products. Whilst this product type is not currently an NPPF compliant form of affordable housing, the Government has set out proposals to amend the national planning policy definition of affordable housing so that it encompasses a fuller range of products that can support people to access home ownership. The intention is to include low cost market housing as a form of affordable housing. Whilst these proposed changes to the NPPF and the definition of affordable housing is only an intention at the present time, Government consultations have been found to be material considerations in decision making in the past. Therefore in the interests of boosting significantly the supply of housing (like many authorities we have struggled to see sufficient homes built in recent years) the development of this site with this product type will assist with housing delivery and deliver consumer choice and a wider choice of homes.
67. *Design and Conservation* – No objections are raised to the impacts of the development upon heritage assets but consideration should be given to matters of archaeology having regards to the age of the former Steetley Lime works.
68. *Ecology* – Raise no objections to the development subject to the submitted habitat management plan conditioned and site maintained in perpetuity.
69. *Landscape* – The development would have some adverse landscape and visual effects and the extent of which would depend on whether some final modest amendments to the layout could be achieved. Landscaping to ease the transition from the built environment to a rural one is advised.
70. *Landscape (Arboriculture)* – No objections.
71. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. Taking into account the scale of the development and likely vehicular movements as a result there is no requirement for the application to be accompanied by an Air Quality Assessment.

72. *Environment, Health and Consumer Protection (Contamination)* – Raise no objections but due to the fact that the proposed development constitutes a change of use to a more sensitive nature a contaminated land condition should be applied to any approval.
73. *Environment, Health and Consumer Protection (Noise, Dust, Light, Smoke and Odour)* – Raise no objections. The submitted noise assessment is considered appropriate and the mitigation measures proposed should be implemented. Noise from the construction phase could occur and a condition to control such noise is recommended. A condition to control the lighting scheme having regards to proximity to existing property is recommended. A construction management plan to control dust and the potential for smoke is advised. No concerns are raised with regards to odour.
74. *Archaeology* – No objections and no matters of archaeological interest are raised.
75. *Access and Public Rights of Way* – No objections. The proposed contribution to upgrade the Limestone LinX Bridleway is welcomed.
76. *Housing Delivery* – The provision of 40% affordable housing would be in excess of the 20% affordable housing requirement for the area. Affordable housing should be provided on a split of 70% affordable rent and 30% affordable home ownership with a mix of 2, 3 bed and 2 bed bungalows. Details are requested in relation to the percentage discount of the affordable home ownership units. Specifically regarding the PBHM now proposed by the applicant whilst this would add choice to the market in the area it could not be defined as NPPF compliant affordable housing.
77. *School Organisation Manager* – Raise no objections. Based upon the 55 dwellings proposed a financial contribution of £70,230 so as to provide an additional 6 no. primary school places would be necessary.
78. *Sustainability* – Object to the application due to the potential impacts upon ecology and the distance from services, facilities and public transport services.

PUBLIC RESPONSES:

79. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 10 letters of representation have been received with a total of 9 objections and 1 letter of support. The matters raised are summarised below. Upon receipt of the amendments to the proposal (as outlined in the Background section of this report) a re-consultation exercise was undertaken to which no further representations have been received.

Principle of the Development

- The need for the housing is questioned with existing properties being slow to sell

Design and Layout

- The development is of too high density.
- Absence of landscape buffer between the proposed development and existing houses.
- The open space design and positioning is considered to be poor.

Residential Amenity

- Loss of privacy from property.
- Harmful impacts of overshadowing from the development.
- Disruption and noise from the construction phase.

Ecology

- Impacts on Great Crested Newts.
- Impacts upon a range of other species within the nature reserve.
- Impacts upon yellow-wort and autumn gentian.

Other issues

- Devaluing of property
- Loss of view from property.
- The site is used for dog walking.
- Understood that the developer of previous phases of The Limes had provide assurances that this land would not be developed.
- Inadequacy of the parking provision and the access arrangements to the site.
- Lack of public access to the wildlife site adjacent.

80. *The Durham Constabulary Architectural Liaison Officer* – The crime risk assessment for the development is considered low. The only concern within the layout is highlighted as being the area of open space which has the potential to generate nuisance complaints. Approaches to landscaping for the open space such as defensive planting could reduce the potential for such nuisance. General advice with regards to the principles of “Secured by Design” is provided.
81. *The Campaign to Protect Rural England* – Raise objections. Reference is made to the Planning Inspector’s Interim Report on the County Durham Plan and that the objective assessment of housing need is too high and planned growth is not realistic. It is considered that the Inspector left open whether Coxhoe and Parkhill could accommodate more development. Reference is made to High Court judgements considered applicable to the application in regards to 5 year housing land supply and the weight to be attached to Local Plan Policies. It is also considered that weight can be attributed to emerging County Durham Plan Policies which have not been identified as unsound by the Planning Inspector with particular reference to Policies 15 and 35.

APPLICANTS STATEMENT:

82. Hellens Group have already successfully delivered much new housing for the village of Coxhoe brought forward at the Limes Development which represented a very successful scheme. That development brought forward a contaminated vacant site with much needed market and affordable housing including bungalows for which there is an overwhelming demand locally. They have a track record of delivering quality sustainable development.
83. The current application site would further remediate the land and make a logical and moderate addition of new housing for the village and meet with a high demand recognised by Durham County Council Choice Based Letting Service for affordable housing in the village, including further bungalows.
84. Following detailed pre-application discussions with the Council an application was submitted and subsequently amended and reduced in scale to seek to address ecological and landscape concerns. Following discussions with the Council a further revised application was submitted which has now fully addressed all technical issues and previous objections.

85. The scheme will deliver much needed affordable housing which represents 40% of the housing proposed. We are working with Prince Bishop Homes to deliver the affordable element via their popular Rent to Buy Model which they are currently delivering at another site in Coxhoe. The scheme will also deliver much needed new family homes that will provide housing at an affordable price in a sustainable location with benefits to the local community through employment during construction and a boost to the local economy from increased spending in local services.
86. In summary, we consider that the scheme will bring overall benefit to the village, in particular much needed housing in a sustainable location and there are significant benefits of the scheme, particularly the delivery of affordable housing that should be given substantial weight in the determination of the application.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

87. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, landscape, visual impact and layout, residential amenity, viability and planning obligations, ecology, highway safety, heritage impact and matters of flood risk and drainage.

Principle of Development

The Development Plan

88. 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 City of Durham Local Plan (CDLP) 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 greater weight may be given to local plan policies depending on their degree of consistency with the NPPF.
89. 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, measured against full objectively assessed needs or up to date housing requirement.

The NPPF

90. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- 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 this Framework indicate development should be restricted.
91. The National Planning Policy Framework (NPPF) outlines the Government's objective of ensuring that the planning system delivers a flexible, responsive supply of land. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.
92. Paragraph 49 of the NPPF 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. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 14 of the NPPF is engaged and an application is to be assessed in this context.

Five Year Housing Land Supply

93. The housing trajectory associated with the withdrawn County Durham Plan (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 a 5 year housing supply exists.
94. Recently the Council has sought to accord with advice in the Planning Practice Guidance regarding OAN (PPG Revision date: 06 03 2014 Paragraph: 031 Reference ID: 3-031-20140306): *'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).'*"

95. The household projections published by the DCLG give a starting point for a housing requirement of 1,308 dwellings per annum. Applying the appropriate under delivery and 20% buffer against the requirement derived from the DCLG household projections the Council has been able to demonstrate a supply of over 5 years of deliverable housing land. It has been recognised, however, that the DCLG requirement has not represented a full OAN as it does not take into account market signals nor has it been publicly tested. However, the exercise has served as a “proxy”, providing a context to quantify the supply position and inform on decision taking on recent housing applications.
96. On 15 June 2016 a report into the County Durham Plan Issues and Options (the first stage of the re-emerging plan process) was presented at Cabinet. The report was approved at Cabinet and consultation on the CDP Issues and Options commenced on 24 June. In relation to housing, the Issues and Options present three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the CDP plan period). The three alternatives are:
- 1,533 houses per year (29,127 houses by 2033)
 - 1,629 houses per year (30,951 houses by 2033)
 - 1,717 houses per year (32,623 houses by 2033)
97. Set against the lowest figure the Council has been able to demonstrate a supply of over 5 years of deliverable housing land, against the middle figure around about 5 years’ worth supply and against the highest figure the Council is short of 5 years, though not significantly so at around 4 and a half years of supply.
98. Again none of the three scenarios within the Issues and Options (nor the figure derived from the DCLG household projections) have been publicly tested. However, it does serve to demonstrate that set against varying potential figures, one of which will be identified as OAN following consultation in the Preferred Option Stage Local Plan, the Council has a robust supply of housing which even in a worst case scenario is not significantly short of 5 years. Accordingly, it is considered that less weight should be afforded to the benefits of delivering new housing than would otherwise be the case if a less healthy land supply position applied. Nevertheless, the presumption in favour of sustainable development (NPPF Paragraph 14) is engaged, as the Council does not have a five-year supply in the terms of the NPPF requirements and additionally the local plan may be out of date for other reasons, as discussed below, and will only be rebutted where a proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits, both in the form of a contribution to housing supply and any other benefits, or if specific policies in the NPPF indicate development should be restricted.

Assessment having regards to Development Plan Policies

99. The application site lies adjacent to but outside of any settlement boundary as identified by CDLP Policies E7 and H3. The direction of Policy H3 is that housing may only be approved where it lies inside of the settlement boundary, to help to contain settlements and prevent sprawl into the surrounding countryside. Additionally, CDLP Policy H5 establishes a general presumption against allowing housing development beyond a settlement boundary unless it is required to fulfil an employment role. The proposal, seeking a residential estate beyond the settlement boundary of Coxhoe is therefore in conflict with CDLP Policies E7, H3 and H5.

100. Consistent with recent case law, CDLP Policies E7, H3 and H5 are considered to be policies which restrict the location where new housing may be developed and are therefore policies for the supply of housing. Furthermore, given the age of the CDLP and the housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date assessment of need. Having regards to the advice contained at Paragraphs 49, 211 and 215 of the NPPF, CDLP Policies E7, H3 and H5 in relation to housing land supply must now be considered out-of-date for the purposes of Paragraph 14 of the NPPF.
101. The recent Court of Appeal judgment in the Richborough case emphasises that policies in Paragraphs 14 and 49 of the NPPF do not make “out of date” policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision; this being a matter for the decision-maker, having regard to the advice in Paragraph 215 of the NPPF.
102. Though policies for the supply of housing which restrict the location of housing, CDLP Policies E7, H3 and H5 each hold resonance with the NPPF. Policy E7 has a remit of protection of the countryside which is consistent with NPPF Paragraph 17 which recognises the intrinsic character and beauty of the countryside and seeks to encourage the re-use of previously developed land. Policy E7 is considered fully consistent with the NPPF. Policy H3 also seeks to encourage development on previously developed land and seeks to direct housing to settlements best suited to accommodate the growth which is consistent with advice contained within paragraph 17 which seeks to focus significant development in locations which are or can be made sustainable. However, Policy H3 stringently restricts development on greenfield land within settlement boundaries and the extent of this restrictive nature is considered out of step with the NPPF. CDLP Policy H3 is therefore only partially consistent with the NPPF. CDLP Policy H5 seeks to restrict new housing in the countryside unless certain exceptional circumstances apply and some consistency with NPPF paragraph 55 applies. However, Policy H5 is also considered only partially consistent with the NPPF as it does not allow for the full range of circumstances set out in NPPF paragraph 55. In addition, paragraph 55 applies only to isolated residential development rather than that which is within the countryside by reason of being beyond a settlement boundary.
103. The remaining policies within the CDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development.
104. Policies for the supply of housing within the CDLP are out-of-date. As a result the acceptability of the development rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Neighbourhood Plans

105. Coxhoe does have an emerging Neighbourhood Plan, however, this is at an early stage in development and not at the submission stage which is the stage at which the PPG advises prematurity is more likely an issue to be considered.

Locational Sustainability of the Site

106. The County Durham Settlement Study is an evidence based document in support of the CDP which assessed the services, facilities and transport modes of settlements so as to inform the formation of a settlement hierarchy to establish where new development such as housing, employment and community facilities should be located. This Settlement Study identifies Coxhoe as a “smaller town/larger village” and as a result within the second tier of settlements behind main towns such as Durham, Consett and Bishop Auckland. Coxhoe is considered to have a range of services and facilities that in principle can support the addition of a further 55 dwellings.
107. The site is considered to be within reasonable access to public transport with bus stops located within 400m of the site. Some businesses and retail units are located on the nearest sections of Commercial Road East and are also located within 400m of the site. The main village centre is around an 800m walking distance from the site. Coxhoe Primary School which is located at the opposite end of Coxhoe is farther from the site at around a 1.7km walking distance. Therefore whilst access to a full range of services and facilities is not entirely convenient it is considered that the location of the site is sustainable.
108. The School Organisation Manager has advised that based upon existed committed developments in the Coxhoe area, planned extensions to Coxhoe Primary School, school capacity and the number of pupils that the development would likely yield a financial contribution of £70,230 so as to provide an additional 6 no. primary school places would be necessary. This is based upon the indicative site layout of up to 55 dwellings. This contribution towards school classroom accommodation would be ensured via the S106 legal agreement and would establish the final contribution requirement once the layout is precisely established at the reserved matters stage and the final number of dwellings known.
109. The concerns of Sustainability officers are acknowledged, however, it is considered that the proposed development would form an extension to one of the smaller towns/larger villages within the County with reasonable accessibility to services, facilities and transport links. No objections are therefore raised to the locational sustainability of the site.

Landscape, Visual Impact and Layout

110. The proposal would result in the development of a parcel of land on the edge of the settlement and as a result a degree of incursion into the countryside would result. NPPF Paragraph 17 recognises the intrinsic character and beauty of the countryside Policy E7 seeks to protect countryside as a finite resource, noting that landscape character is highly valued and worthy of protection in its own right.
111. The development has reduced in scale from the previously proposed development under application DM/14/01858/OUT and in turn the magnitude of visual and landscape impacts have also reduced.
112. The application is accompanied by a landscape and visual impact assessment (LVIA) and this considers the impact of the development during both the construction and operational phases and considers a range of landscape and visual impacts including upon landscape character areas, designated landscapes and settlements. The LVIA concludes that the overall landscape and visual impacts of the proposed development would not be significant within the area studied. The LVIA considers that impacts upon the range of landscape and visual receptors considered within the study would range from either no adverse impacts to moderate adverse impact.

113. Similarly, Landscape officers conclude that the development would have some adverse landscape and visual effects and the extent of which would depend on whether some final modest amendments to the layout could be achieved and landscaping provided to ease the transition from the built environment to a rural one is advised. At this outline stage the final layout and landscaping proposals for the development are not known.
114. It is considered that the scale of the development would not result in an excessive or unacceptable sprawl into the countryside or significantly harmful landscape impact. The degree to which the development would reduce the existing green chain of open sites which stretch up to Quarrington Hill would be reduced from the previously proposed scheme.
115. With the application being in outline with the only detailed matter included being means of access the precise layout and final appearance of the development is not being sought for approval. The indicative layout proposes two main estate roads, one on an east-west axis and a second on a north-south axis around which the dwellings would be arranged. An area of public open space is indicatively identified in a northern section of the site. At this stage the precise appearance and scale of the dwellings are not known.
116. It is acknowledged that the Highway Authority raise a point that they would expect improvements in elements of the layout and connectivity of the site whilst Landscape officers advise on final modest amendments to the layout and provision of landscaping to ease the transition from the built environment to a rural one is advised.
117. Public objection to the development raises objection on the grounds of the density, absence of a landscape buffer between the proposed development and existing housing at The Limes estate and the open space design and positioning. Ultimately at this stage the final layout, landscaping and appearance of the development is not known and detailed consideration on these matters would be made at the reserved matters stage. However, it is considered that the site in principle can cater for the quantum of development proposed.
118. Whilst the development would result in encroachment in the countryside beyond the existing built form of Coxhoe any landscape harm resultant would be limited and furthermore any adverse landscape and visual impacts must be weighed against identified benefits of the development, a balancing exercise that will be undertaken in this report's conclusion having regard to NPPF Paragraph 14.
119. Whilst an area of public open space is shown on the indicative layout and this would provide an area of open space which meets the requirements of CDLP Policy R2, this policy is not fully consistent with the NPPF as the standards which informed the policy are no longer up to date and have been updated through the Open Space Needs Assessment (OSNA). The OSNA provides advice with regards to what forms of open space a particular residential development should provide either on-site or off-site and provides a methodology for calculating financial contributions under a S106 legal agreement. The OSNA also provides details on adequacy of open space provision by area. The OSNA shows that the Coxhoe Electoral Division has an under-supply of parks and gardens, playspace and allotments. It is acknowledged that at this stage the layout is indicative the and the final open space provision would be resolved at the reserved matters stage, however, on the basis of the indicative layout it is considered likely that final open space provision would not meet the standards established within the OSNA and this is a factor to consider in the planning balance.

120. Otherwise In terms of the layout, appearance and landscaping works the development itself it is considered, subject to the final design approach to be resolved at the reserved matters stage, acceptable and compliant with CDLP Policies E14, E15, Q1, Q2, Q5 and Q6 and having regards to Parts 7 and 11 of the NPPF. CDLP Policies E14, E15, Q1, Q2, Q5 and Q6 are considered fully consistent with the NPPF and can therefore be attributed weight in the decision making process.

Residential Amenity

121. The site is located to the south west of the former Coxhoe Quarry and to the north east of the Joint Stocks Quarry and Landfill site where ongoing capping and restoration works are to be undertaken. It is located directly to the north of Commercial Road East which serves as a route to the household recycling centre, as well Joint Stocks Quarry and Landfill site. Given the use of this road by heavy vehicles and potential for other noise impacts in the locality of the site, a noise assessment has been submitted in support of the application.
122. The noise assessment identified the requirement to implement noise attenuation measures, by means of the provision of acoustic fencing to the rear of proposed properties fronting onto Commercial Road East, as well as ventilation and fenestration requirements. Environment, Health and Consumer Protection officers have indicated that implementation of these measures would enable the residential amenity of residential properties to be safeguarded. These requirements could be ensured by planning condition. Environment, Health and Consumer Protection Officers have raised no objections to the submitted noise assessment or development. It is considered that future residential occupiers would not be significantly impacted on by any nearby industrial or commercial properties or operations, including the operation of the recycling centre and landfill site.
123. Environment, Health and Consumer Protection Officers do consider that impacts from noise, dust and smoke could potentially occur during the construction phase. A condition to control the potential for such impacts can be added to an approval.
124. Additionally, Environment, Health and Consumer Management Officers raise no objections with regards to matters of air quality with no requirement for the submission of an air quality assessment.
125. Only indicative details are provided regarding the layout of the development. As a result a detailed assessment of the separation between properties both within the development and to existing adjacent properties would be made at the reserved matters stage. However, it is considered that in principle, the residential development could be accommodated on the site without unreasonably impacting upon the level of residential amenity that both existing residents currently enjoy and future occupiers require having regards to the requirements of CDLP Policies H13 and Q8.
126. Given the proximity of the site to Coxhoe East landfill site there is the potential for migrating gas from the landfill to affect the site and this is raised within the comments from the Environment Agency. It is therefore considered that a gas risk assessment to determine ground gas conditions is undertaken to investigate the risk and where necessary propose appropriate mitigation measures and a condition can be added to any approval. With regards to other potential sources of contamination Environment, Health and Consumer Protection Officers have raised no objections, however, it is considered that a condition to investigate the potential for contamination and the need for mitigation measures can be added to any approval.

127. Officers raise no objections to the development on the grounds of any adverse impact upon the amenity of neighbouring occupiers or land users. The development is considered to result in no unacceptable levels of pollution. The development is considered compliant with CDLP Policies H13, Q8, U5, U7 and U11 and Parts 8 and 11 of the NPPF. CDLP Policy U11 is considered fully consistent with the NPPF and Policies H13, Q8, U5 and U7 partially consistent with the NPPF and can be attributed weight in the decision making process.

Viability and Planning Obligations

128. As discussed within the “Background” section to this report, planning committee has previously considered this application on 22 September 2015. The application is being presented to committee for a second time due to a proposed amendment to the affordable housing offer and therefore an amendment to the proposed planning obligations.
129. In order to widen the choice of high quality homes and widen opportunities for home ownership, paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need. Policy H12 of the CDLP requires a fair and proportionate level of affordable housing on sites over 1ha or 25 dwellings, and Policy H12A requires proposed housing to be of an appropriate type and size.
130. Policy H12 is considered to be only partially compliant with the NPPF. It is consistent with the overall objectives of NPPF, in that paragraphs 47, 50 and 158 of the NPPF require an element of affordable housing to be provided on housing sites, based upon an up to date evidence base. Consequently, the unspecified target of a “fair and reasonable” amount specified by Policy H12 should instead be replaced by an evidence based figure.
131. The County Durham Strategic Housing Market Assessment (SHMA) update report was completed in June 2016 and supplies an evidence base for affordable housing requirements across the Central Delivery Area in which the site falls. A 20% affordable housing requirement applies to the Central Delivery Area.
132. The application as originally presented to committee proposed that 22 of the 55 dwellings would be affordable units which equates to 40%. This is an affordable housing contribution that would therefore be in excess of the SHMA requirements. The applicant considers that there is “a pent up demand” for affordable housing and therefore proposed an increased provision as a benefit of the development to be taken into account in the planning balance. However, the application also sought to demonstrate that the provision of affordable housing would be unviable without grant funding.
133. The application states that through receipt of grant via the Homes and Communities Agency (HCA) under their Affordable Homes Programme the affordable housing proposed can be delivered.
134. In order to acquire the grant from the HCA the applicant, within a separate process from obtaining planning permission, must demonstrate to the HCA that the development is unviable in order to acquire the grant. In general the HCA look unfavourably upon any applications for grant whereby the related planning permission includes a condition or S106 legal agreement to ensure the provision of the affordable housing. However, even in those circumstances the HCA will still consider an application for grant funding but the application must be considered at a national board and the applicant would have to demonstrate the additional benefits that the scheme would bring.

135. With regards to the viability of the development the applicant has previously submitted development appraisals to demonstrate the various costs and revenues of the development. These appraisals have been scrutinised with the benefit of advice from the Council's Valuation officers. Several development appraisals have been submitted so as to demonstrate the viability of the development with and without affordable housing and with adjustments to the inputs in line with requests from officers. This is to ensure that revenues from sales prices and costs associated with the development appear to officers as accurate as is possible. As summarised within the committee report from September 2015 officers concluded that based upon the viability appraisals the development would be unable to provide the affordable housing and remain viable.
136. Subject to availability the applicant can apply to the HCA, demonstrating a viability argument in order to obtain an HCA grant in order to deliver the 40% affordable housing.
137. Within the amended proposals now being reported to planning committee the applicant is suggesting an alternative to the affordable housing provision deliverable via HCA grant. This alternative, would entail that 40% of the site be provided under the "Prince Bishops Homes Model" (PBHM). The applicant considers that this is an alternative affordable housing produce.
138. The NPPF defines affordable housing within Annex 2. Essentially the NPPF identifies three forms of affordable housing, social rented, affordable rented and intermediate housing. Key to a housing product meeting the definition of affordable housing is that the product should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
139. In summary the PBHM involves the following:
 - i) The PBHM dwelling is valued
 - ii) The PBHM is let at market levels
 - iii) Upon the fourth anniversary of the tenancy the property can be valued again with any uplift from the first valuation calculated
 - iv) The customer then has the option to acquire the dwelling at a price which discounts 50% of any uplift in the value of the dwelling (subject to criteria)
 - v) The PBHM then seeks to utilise sales proceeds back into the delivery of further PBHM homes
140. In conjunction with the Council's Housing Delivery officers consideration has been given to whether the PBHM is an NPPF compliant affordable housing product. The justifications submitted by the applicant including an enclosed opinion from a legal practice have been considered.
141. Officers conclude that PBHM is not a NPPF compliant affordable housing product. The product would not remain at an affordable price for future eligible households as once sold, there would be no control on the product remaining affordable in perpetuity for future eligible households. The subsidy would not be recycled as there would be no control that the subsidy would be recycled into alternative affordable housing provision (though it is acknowledged that the applicant states that proceeds from sales would go back into the delivery of further PBHM homes).
142. As a result it is considered that the weight to be attributed to the benefit of the site delivering 40% PBMH is less than if it would deliver 40% NPPF compliant affordable housing, for instance through the use of an HCA grant.

143. Nevertheless it is still accepted that through the provision of the PBHM homes the development would be providing a wider choice of homes and widen opportunities for home ownership. In that sense the PBHM accords with the advice contained within NPPF paragraph 50. Therefore if the development was delivered with 40% PBHM homes it is still considered that this would be a benefit due to widening the opportunity for home ownership to potential purchasers but it would not be a benefit on par with the provision 40% NPPF compliant affordable housing. The planning balance of the benefits and adverse impacts of the development is concluded elsewhere in this report.
144. The applicant still proposes that the PBHM housing would be ensured via a S106 legal agreement as an alternative to the NPPF complaint affordable homes which would also be covered by the legal agreement should they remain deliverable.
145. Reviewed against the CIL regulations and NPPF paragraph 204 the proposed amendment to the S106 commitments to ensure the provision of the 40% PBHM homes is considered necessary to make the development acceptable as it forms part of the benefits of the development to be considered in the planning balance, a benefit to be weighed against the adverse impacts of the encroachment into the countryside and associated landscape harm and a benefit to be weighed in the balance if the NPPF complaint affordable housing cannot come into fruition. This S106 obligation is considered fairly and reasonably related in scale and kind to the development.
146. The September committee resolution referenced a further clause within the S106 legal agreement to be included whereby the applicant was required to waive their right to apply to remove the affordable housing obligations via a S106BA application. This is due to the Growth and Infrastructure Act inserting Section 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduced an application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing with only the matter of viability be assessed. However, these provisions were repealed at the end of April 2016 and therefore there is no need for a clause within any S106 legal agreement requiring the applicant to waive their right in this regard.

Ecology

147. Coxhoe Ponds Local Wildlife Site (LWS) and Crow Trees Nature Reserve (LNR) border the application site to the east. Quarrington Hill and Coxhoe Bank Plantation LWS lies approximately 175m to the south of the application site. Quarrington Hill Grasslands Site of Special Scientific Interest (SSSI) lies approximately 1km from the site and Raisby Hill Grasslands SSSI 1.4km south east of the site. Cassop Vale SSSI and NNR are approximately 3km north of the site.
148. Natural England raises no objections with regards to the potential for the development to affect statutorily designated sites.
149. The previously withdrawn application site for 103 dwellings (ref DM/14/01858/OUT) was in part located within the Coxhoe Ponds LWS and as a result of the loss of this locally designated ecological site attempts to mitigate and compensate for the losses were proposed. This involved the active management of land adjacent and nearby to the site.
150. The reduction in the scale of the development now proposed under this application has resulted in the entirety of the application site being located outwith of Coxhoe Ponds LWS. With no loss of the LWS now occurring no compensatory measures in this regard are necessary.

151. The application is accompanied by a biodiversity management plan which proposes management measures to the land within the ownership of the applicant though outwith of the application site which forms part of the Coxhoe Ponds LWS. The management proposals which are provided in greater detail within the submitted management plan are broadly divided into a grassland management area, woodland, scrub and pond management area and a stream management area. This management plan is an update on previously devised management plans the implementation of which has been a requirement of previously approved development at The Limes development to the west. Public objection includes comment that there is limited access to the LWS, however, encouraging too greater public presence within ecological sites can damage habitat.
152. Ecological submissions identify eleven ponds and three small scrapes are located to the east of the site. Surveys undertaken recorded the presence of Great Crested Newts (GCNs) within four of the ponds. Whilst none of these ponds are located within the bounds of the application site, the site is within close enough proximity that it provides terrestrial habitat for the GCNs.
153. The presence of protected species such as great crested newts is a material consideration, in accordance with Circular 06/05 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) and Part 11 of the NPPF. In addition with regards to European Protected Species (EPS) under the requirements of The Habitats Regulations it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England. Regulation 9(3) of The Habitat Regulations requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species license from Natural England. This requires an examination of the derogation provisions. In this instance there will be a requirement to trap-out any GCNs within the site and this will require a European Protected Species (EPS) Licence from Natural England.
154. The LPA must discharge its duty under Regulation 9(5) and also be satisfied that these three tests are met when deciding whether to grant planning permission for a development which could harm an EPS. The Local Planning Authority should be satisfied that; i) the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment ii) there must be no satisfactory alternative; and iii) favourable conservation status of the species must be maintained.
155. With regards to the first test, the development is meeting no purposes of public health/safety or safety. The development does seek, however, to make a contribution towards the maintenance of housing land supply including 40% affordable housing or a low cost housing product (the PBHM) and these are social and economic benefits of the development.
156. With regards to the second test it would be a satisfactory alternative for the development to not occur at this site which would preserve the GCN habitat.
157. The ecological submissions proposed mitigation and compensatory habitat management and it is considered that the favourable conservation status of the species would be maintained.

158. It is concluded that it remains likely Natural England would grant an EPS licence. Ecology officers have raised no objections to the development provided that the habitat management proposals submitted as ensured in perpetuity and a condition can be added to any planning permission. As a result officers raise no objections to the development on the grounds of impacts upon ecological assets and the development is considered compliant with CDLP Policies E16, E17 and E18 and Part 11 of the NPPF. CDLP Policy E16 is considered fully consistent with the NPPF and policies E17 and E18 are partially consistent with the NPPF and can be attributed weight in the decision making process.

Highway Safety

159. The application is accompanied by a transport assessment (TA) which seeks to inform on and assess the key highways related implications of the development. The TA assesses matters such as the accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; committed developments.
160. Vehicular access to the development is sought via a single point in the south-west corner of the site where the site meets the existing B6291. No off-site highway works are proposed with the submitted TA concluding none would be necessary to mitigate the impacts of the development.
161. The Highway Authority has raised no objections to the development. The submitted TA has been assessed and it is accepted that the level of traffic generation will not have a material impact on the surrounding highway network and a suitable access to the site can be formed.
162. As a result no objections are raised regarding matters of highway safety with the development considered compliant with CDLP Policies T1 and T21 and Part 4 of the NPPF. CDLP Policy T21 is considered fully consistent with the NPPF and Policy T1 partially compliant with the NPPF and can be attributed weight in the decision making process. Policy T10 regarding parking provision is not NPPF compliant and is attributed no weight as a result.

Heritage Impact

163. The application is accompanied by a heritage statement which considers the potential for archaeological deposits below ground and the impact of the development upon designated and non-designated heritage assets within 1.5km of the site. The heritage statement considers that no impacts would occur as a result of the development. Modern activity on the site as a result of the lime works would have removed the potential for earlier (prehistoric/Roman) deposits. A locally designated historic parkland (Coxhoe Hall Park) is located approximately 200m to the east of the site. A modern plantation screens the parkland the site of Coxhoe Hall and associated grounds from the development and no impacts are considered to result.
164. Design and Conservation officers raise no objections with regards to the potential impact upon heritage assets although the need to consider the potential for archaeological assets is referenced. Archaeology Officers have considered such matters and raise no objections. As a result no objections are raised with regards to the heritage impact of the development with the proposal considered compliant with CDLP Policies E24 and E26 and Part 12 of the NPPF. CDLP Policies E24 and E26 are fully consistent with the NPPF and can be attributed weight in the decision making process.

Flood Risk and Drainage

165. The application is accompanied by a floor risk assessment (FRA) which outlines the potential for the site to be subject to flooding and considers in principle foul and surface water disposal from the development.
166. The application site is located within flood risk zone one, essentially the land least prone to fluvial flooding. The submitted FRA proposes that foul waters are disposed of to the mains sewer and Northumbrian Water have raised no objections to this. With regards to surface waters the FRA proposes that these would discharge to Tursdale Beck which is situated to the north of the application site with discharge rates controlled to greenfield run-off rates. Drainage and Coastal Protection Officers have stated that final details of the proposed drainage arrangements for the development should be agreed in accordance with the hierarchy of preference for surface water disposal and the Council's surface water principles. This would require a demonstration that if surface water discharge to Tursdale Beck is to be the final solution then infiltration techniques cannot be utilised which would be sequentially preferable having regards to the above mentioned hierarchy. It is considered that a condition can be added to any planning permission to agree final drainage proposals.
167. As a result officers raise no objections to the development having regards to CDLP Policies U8a and U10 and Part 10 of the NPPF. CDLP Policy U8a is considered fully consistent with the NPPF and Policy U10 partially consistent and can therefore be attributed weight in the decision making process.

Other Issues

168. The application site is accompanied by a low or zero carbon technology feasibility study. This recommends that the use of photovoltaic panels would be the most appropriate means of reducing carbon emissions. A condition to resolve final proposals of energy reduction for the scheme can be added to any approval having regards to CDLP Policy U14 and Part 10 of the NPPF. CDLP Policy U14 is considered fully consistent with the NPPF and can be attributed weight in the decision making process.
169. The Coal Authority has confirmed that the site is located within the defined Development High Risk Area. The application is accompanied by a coal mining risk assessment and a preliminary site investigation. However, it is considered that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. A condition can be added to any approval in this respect having regard to CDLP Policy U13 and Part 11 of the NPPF. CDLP Policy U13 is considered fully consistent with the NPPF and can be attributed weight in the decision making process.
170. No impacts upon formally designated public rights of way would result from the development. The applicant has stated that they would implement improvement works to the Limestone LinX pedestrian and cycle routes and improvements would be welcomed by Access and Rights of Way Officers.
171. Public objections to the development include those regarding the potential for devaluing of property values and the loss of a view from property however neither of these are material planning considerations to be attributed weight.

172. Limited weight can be attributed to the public objection that the site in its undeveloped form can be utilised for dog walking and that the development would impinge upon this.

Planning Balance

173. The acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

Benefits

174. The development would assist in maintaining housing land supply at a time when the Council cannot demonstrate a 5 year housing supply against an objectively assessed need and policies for the supply of housing are out of date. In the light of the supply position against the DCLG projections and scenarios within the CDP Issues and Options this benefit is considered more limited, however.
175. The development proposes that either;
- i) 40% affordable housing would be provided or;
 - ii) 40% PBHM homes would be provided
176. In regards to i) 40% affordable housing would provide a significant contribution towards affordable housing need, a need which is greatest within the central housing delivery area in which the site is situated. The provision of the 40% affordable housing can be ensured by way of the S106 legal agreement.
177. In regards to ii) 40% PBHM on the site would provide a wider choice of homes and widen opportunities for home ownership than standard open market housing. It is considered a benefit of the development though it cannot be afforded the same weight as that given to the delivery of NPPF compliant affordable housing. Again a legal agreement can ensure the PBHM is provided should the affordable housing not be provided.
178. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy.

Adverse Impact

179. The development would result in an encroachment into the countryside beyond the existing built-up area of Coxhoe with a degree of resultant landscape and visual harm.
180. The open space provision provided within the development (layout determined at the reserved matters stage) is unlikely to meet the standards provided within the OSNA.

CONCLUSION

181. The acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF.

182. The application site is neither locally, nor nationally designated in terms of its landscape quality, and whilst the development would alter the character of the landscape, such impacts would be limited.
183. The adverse impacts are considered to not significantly and demonstrably outweigh the benefits of the proposal which would principally relate to; the boost to housing supply including affordable homes/PBHM homes and direct and indirect economic benefits.
184. The proposal has generated public interest. Concerns expressed regarding the proposal have been fully taken into account, and carefully balanced against the scheme's wider social, economic and environmental benefits. However, they are not considered to raise issues that justify planning permission being withheld.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 to secure the following:

- i) The provision of 40% affordable housing or the provision of 40% Prince Bishops Homes Model housing
- ii) Financial contribution towards school accommodation provision – final figure to be devised at the reserved matters stage
- iii) Financial contribution of £4,000 towards the provision of public art

And subject to the following conditions:

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

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

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

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

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

Plans:

Site Location Plan Rev 1 dated 10/03/15
Landscape Proposals D106.P.101

Documents:

Noise Assessment Document by ENS Ltd reference NIA/5236/14/4965/v2

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regard to Policies E7, E14, E15, E16, E18, H13, T1, R2, Q1, Q2, Q5, Q6, Q8, U5 and U7 of the City of Durham Local Plan 2004 and having regards to Parts 1, 4, 6, 7, 8, 10, 11 and 12 of the NPPF.

4. No development shall take place until the detailed design of the vehicular access to the site has been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004. *Required to be pre-commencement as the final access arrangements to the site should be known prior to works commencing.*

5. No development shall take place until a detailed scheme for the disposal of foul and surface water from the development has been first submitted to and then approved by the Local Planning Authority. The submitted shall accord with the hierarchical approach to surface water disposal. The scheme shall include but not necessarily be restricted to the following;

- Detailed designs of features, infrastructure and any associated works and landscaping
- Full details of all surface water run-off rates and discharge rates to any watercourse
- Full details of the management and maintenance proposals/regime

The development shall thereafter be implemented in accordance with the approved scheme. The approved scheme shall managed, maintained and operated in perpetuity.

Reason: To ensure adequate surface water disposal measures for the development in the interests of reducing the risk of flooding having regards to City of Durham Local Plan Policies U8A, U9 and U10 and Part 10 of the NPPF. *Required to be a pre-commencement condition as the final drainage system should form an integral part of the layout of the development.*

6. No development shall take place until a scheme to minimise energy consumption has been submitted and approved by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in accordance with the approved scheme and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance having regard to Policy U14 of the City of Durham Local Plan 2004 and having regards to Part 10 of the NPPF. *Required to be pre-commencement as the energy reduction scheme should seek to involve a fabric first approach designed and potentially implemented at an early stage.*

7. No development shall take place until the results of an intrusive site investigation of ground conditions having regards to coal mining legacy in the vicinity of the site have been submitted to and approved in writing by the Local Planning Authority. Where the results of the site investigation necessitate the need for remedial measures to be undertaken then said remedial measures must also be submitted to the Local Planning Authority and the development must thereafter be implemented in accordance with the approved details.

Reason: In the interests of land stability and coal mining legacy issues having regards to Policy U13 of the City of Durham Local Plan and Part 11 of the NPPF. *Required to be pre-commencement so that any site instability issues are understood and can be catered for prior to development commencing.*

8. No development shall take place until a scheme to deal with any contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) If the Phase 2 assessment identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

Completion

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with City of Durham Local Plan Policies U11 and U10 and NPPF Part 11.

9. No development shall take place until a construction management strategy has been submitted to and approved by the Local Planning Authority. Said management strategy shall include but not necessarily be restricted to the following;
- Details and methods of dust suppression which will include a Dust Action Management Plan
 - Details and methods of noise reduction
 - Confirmation that the burning of combustible material shall be prohibited on site
 - Details and methods of reducing the potential for mud on the roads in the vicinity of the site
 - A management plan for the construction vehicle and delivery vehicle movements to and from the site including details of predicted movements any Banksmen and Signallers to be employed
 - Details of parking arrangements/management of construction site staff
 - Details of compound location
 - Details of the site construction hours within which construction activities including any deliveries to and from the site shall be permitted

The construction phase of the development shall be implemented in accordance with the approved construction management strategy.

Reason: In the interests of the residential amenity of neighbouring occupiers having regards to the City of Durham Local Plan Policies U5 and U7 and Part 11 of the NPPF. *Required to be a pre-commencement condition as construction activity mitigation must be agreed prior to the commencement of the works.*

10. No development shall take place unless in accordance with the Biodiversity Management Plan dated February 2015. The management methods and proposals contained within the Biodiversity Management Plan shall be implemented in perpetuity.

Reason: To minimise impacts upon protected species and to preserve nature conservation assets having regards to Policies E16 and E18 of the City of Durham Local Plan and Part 11 of the NPPF.

11. No development shall take place unless in accordance with the noise mitigation proposals contained within section 5 of the submitted Noise Assessment Document by ENS Ltd reference NIA/5236/14/4965/v2.

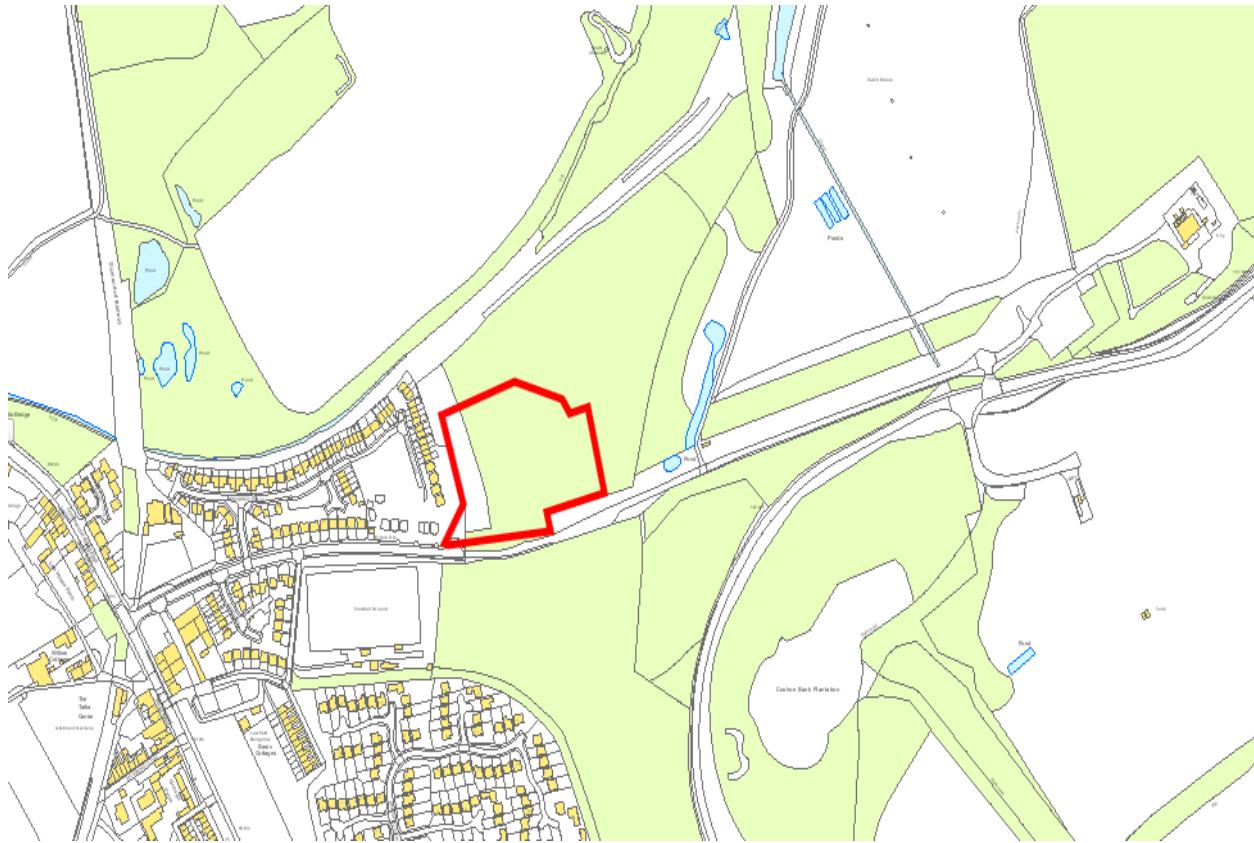
Reason: To ensure that occupiers of the development receive acceptable levels of amenity having regards to Policies Q8 and U7 of the City of Durham Local Plan 2004 and Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- City of Durham Local Plan 2004
- The County Durham Plan (Issues and Options)
- Statutory, internal and public consultation responses



Planning Services

Construction of 55 residential dwellings comprising 22 affordable dwellings and 33 open market dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access) at Land to the east of Prospect Place, Commercial Road East, Coxhoe (DM/15/00793/OUT)

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Comments

Date July 2016

Scale Not to scale