

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/16/03590/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline residential development all matters reserved for 14 dwellings
<b>NAME OF APPLICANT:</b>	Mr Jon Tweddell
<b>ADDRESS:</b>	Land East Of North Bitchburn Terrace North Bitchburn Bank North Bitchburn DL15 8FD
<b>ELECTORAL DIVISION:</b>	Crook
<b>CASE OFFICER:</b>	Tim Burnham Senior Planning Officer 03000 263963 <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application site comprises of approximately 0.5 hectares of undeveloped farm land which sits to the south east of North Bitchburn Terrace, North Bitchburn, Crook, fronting onto the unclassified adopted highway which runs between North Bitchburn and the B6286 to the east. The site is fronted by a well-established hedgerow with views over open countryside available from the site to the north and south.
2. The application seeks outline planning approval with all matters reserved for the erection of 14 dwellings.
3. The application is reported to the Planning Committee because the development is classed as a major application.

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### PLANNING HISTORY

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4. An application for 49 houses on the whole of the field (3/2005/1149) was refused in 2006.
5. An application for 1 house adjacent to 23 North Bitchburn Terrace(DM/16/02765/FPA) was recently refused in 2016.

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### PLANNING POLICY

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#### NATIONAL POLICY

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy

Framework (NPPF). However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

7. *NPPF Part 4 – Promoting sustainable Transport.* Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties. There must be safe and suitable access to the site for all people.
8. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Local planning authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities; however, isolated homes in the countryside should be avoided.
9. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning policies and decisions should aim to ensure that developments will function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and are visually attractive. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
10. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
11. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
12. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from

contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

*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 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)*

#### **LOCAL PLAN POLICY:**

13. The following saved policies of the Wear Valley District Local Plan, as amended by Saved and Expired Policies September 2007 are relevant to the application; however, in accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight:-
14. *Policy ENV1: Protection of the Countryside:* The District Council will seek to protect and enhance the countryside of Wear Valley. Development will be allowed only for the purposes of agriculture, farm diversification, forestry or outdoor recreation or if it is related to existing compatible uses within the countryside as defined in other Local Plan policies.
15. *Policy GD1: General Development Criteria* All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area. The policy has a number of general criteria in relation to design and setting, landscape and environmental impacts, and highways and transport.
16. *Policy H3: Distribution of Development* New development will be directed to those towns and villages best able to support it. Within the limits to development of towns and villages, as shown on the Proposals Map development will be allowed provided it meets the criteria set down in Policy GD1 and conforms to the other policies of this plan.
17. *Policy H15: Affordable Housing:* The District Council will, where a relevant local need has been established, seek to negotiate with developers for the inclusion of an appropriate element of affordable housing on development sites.
18. *Policy H22 Community Benefit* On sites of 10 or more dwellings the local authority will seek to negotiate with developers a contribution, where appropriate, to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality.
19. *Policy H24: Residential Design Criteria* New residential developments and/or redevelopments will be approved provided they accord with the design criteria set out in the local plan.
20. *Policy T1 General Policy – Highways* All developments which generate additional traffic will be required to fulfil Policy GD1 and i) provide adequate access to the developments; ii) not exceed the capacity of the local road network; and iii) be capable of access by public transport networks.

*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/media/3403/Wear-Valley-local-plan-saved-policies/pdf/WearValleyLocalPlanSavedPolicies.pdf>*

## RELEVANT EMERGING POLICY:

### The County Durham Plan -

21. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

22. *Highways Authority*: The application is in outline with all matters reserved albeit an indicative plan has been submitted. The overwhelming majority of the site is within the derestricted (60mph) area of the unclassified 34.11 highway. The sight visibility splays depicted on the plan are appropriate for 30mph eighty fifth percentile speeds. The splay to the west is also not drawn correctly. A DCC speed survey has shown speeds are in fact substantially higher, both being over 40mph, and commensurate with minimum splays of 135m to the west and 105m to the east. In practice this would be achievable only if the access were positioned at a point 70 to 75m east of the western application site boundary. The typical distance from existing field boundary hedge to edge of carriageway is 1.3m. The splays should not conflict with this hedge (i.e. be reliant upon regular trimming of a growing hedge in order to achieve continued availability of splays necessary in interests of highway safety). For information this is nevertheless implied by the indicative drawing. The footway west of the site is narrow and substandard (1m wide, for 20m length, in front of numbers 22 and 23). While this is a relatively short length, that which leads west from the application site to number 23, is also relatively narrow. It would not be good practice to approve multiple residences where the nearest settlement and bus stops are solely via this footway, particularly given traffic speeds. Manual for Streets (2007) notes that for lightly used streets minimum footway widths for pedestrians should generally be 2m and streets with high traffic speeds can make pedestrians feel unsafe. The minimum recommended footway width for parents walking with small children is 1.2m. If approved it is considered the proposal would likely set a precedent for future residential development.

23. *Northumbrian Water*: Request a condition for a detailed scheme of foul and surface water disposal.

### INTERNAL CONSULTEE RESPONSES:

24. *Landscape Section*: Object - The site is not in a locally or nationally designated landscape. It is currently pasture with hedge boundaries. It is in a Landscape Conservation Area as categorised in the Durham Landscape Strategy, with a strategy of "Conserve and enhance". It is primarily visible from the road that passes the site to the south. It is outside the Settlement Limits to Development as

defined in the Wear Valley District Local Plan, and is therefore in conflict with saved policy ENV1. It is separated from North Bitchburn by a small site that is currently undeveloped. It would appear as an extension to the settlement that would add to its apparent size in a disproportionate manner, and have a significant negative effect on the local landscape character in conflict with policy GD1. It would also be visible in more distant views from the ridges to the south of the Wear, and to the north of Crook, and in these views its layout and orientation would maximize its visibility and apparent size. Taken overall this proposal appears to be in significant conflict with landscape related policies.

25. *Education*: There are sufficient primary and secondary school places available to accommodate pupils from this 14 house development.
26. *Environmental Health Noise*: No objections subject to the submission of a construction management plan.
27. *Ecology*: No objections to the proposals from an ecological perspective, it is however recommended that if any further development was to be proposed on the site then significantly more biodiversity enhancements than have been recommended, would be expected.
28. *Affordable Housing*: The proposal is to deliver 14 units for market sale. As the development will be for less than 15 units and the site is less than 0.5 ha in size we would not expect affordable units to be required on site.

*The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>*

#### **PUBLIC RESPONSES:**

29. The application has been publicised by way of press notice and site notice. One letter of concern has been received from an adjacent landowner who would wish to ensure that the development proposed would not prohibit future access to land to the rear for housing purposes.
30. One letter of objection has been received in relation to the application. It is suggested that the application would be contrary to the Wear Valley Local Plan in relation to the landscape impact of the development and highway safety.

*The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>*

#### **APPLICANT STATEMENT:**

31. The Applicant has engaged with the LPA on a pre-application basis and although the advice received was negative, it is considered that the form of development presented is sustainable and takes account of the character of the area. The development is positioned directly adjacent to existing development that is served by public transport and some local services. The design respects the terraces adjacent in a similar form of development. Given that the LPA does not have a deliverable 5 year supply of housing land, it is considered that this also adds weight to the current submission.

32. In terms of highways safety, the access arrangements, although lodged in outline, could be amended to take account of any concerns raised by the Highway Authority. The Applicant is happy to make a contribution towards open space provision.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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33. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that as this is an outline application with all matters reserved the main planning issues in this instance relate to the principle of the development, location, impact on the character and appearance of the area, highways safety, section 106 contributions and other issues.

### Principle of Development

34. The application site is agricultural land which sits outside of the North Bitchburn development limit boundary as defined in the Wear Valley Local Plan, and as such is within the open countryside. Saved policy ENV1 of the Wear Valley Local Plan states that development within the countryside will only be permitted for the purposes of agriculture, farm diversification, forestry or outdoor recreation or if it is related to existing compatible uses. The proposal for residential development is therefore in conflict with Policy ENV1.
35. Nevertheless, because of the age of the Wear Valley Local Plan, having regard to paragraph 215 of the NPPF, there are no up to date housing policies for the area and therefore only limited weight can be given to Policy ENV1 in respect of housing location.
36. To that end, due consideration is to be given to the proposal in the context of the presumption of sustainable development as set out in paragraph 14 of the NPPF. This presumption states that development should be approved unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

### Location

37. There are very few services or facilities within North Bitchburn itself which is a very small settlement, identified within the council's settlement study as a lowest tier hamlet. Local residents are wholly reliant on services and facilities in surrounding villages and towns to meet their daily living needs.
38. However, Howden-le-Wear and Crook are approximately 1.2km and 2.4km away from the application site respectively. Both settlements, but particularly Crook, offer a wider range of local facilities, schools and employment. It is possible to reach these settlements via a regular bus service which also extends further afield to Bishop Auckland and Darlington accessed from a bus stop approximately 120mtrs to the west of the application site. Accordingly, future residents of the proposed housing would have access to the nearest services and facilities by public transport and therefore would not be wholly reliant on private car travel.
39. The proposal does not therefore significantly conflict with paragraphs 34 and 55 of the NPPF in respect of avoiding isolated housing.

## Character and appearance

40. The site does not fall within any special landscape designation, but it is open countryside, defined in the County Landscape Character Appraisal as the West Durham Coalfield landscape character area. The landscape strategy for this area is to enhance the landscape where it has been degraded while conserving what is most distinctive about its character, including its rural identity. Saved Policy GD1 of the Wear Valley Local Plan requires among other things, that new development contributes to the quality and environment of the surrounding area and does not unreasonably harm the rural landscape of the area. One of the Core planning principles within NPPF paragraph 17 is to recognise the intrinsic character and beauty of the countryside. Paragraph 56 of the NPPF states that the Government places great importance on the design of the built environment. Paragraph 58 states that planning decisions should ensure developments respond to local character and reflect the identity of local surroundings. Policy GD1 is therefore consistent with the aims of the NPPF.
41. Visually, the hedgerow which lines the south eastern boundary of the side garden at 23 North Bitchburn Terrace, and trees and planting to the rear of this property, form a clear and defined settlement edge, which defines the open countryside beyond from the relatively compact settlement form of North Bitchburn. The proposed development would sit distinctly separate from the adjacent built development at North Bitchburn Terrace, its disassociation with the established terrace being more marked due a gap which would be left by an undeveloped parcel of land immediately to the north west of the application site where a planning application on this gap site was recently refused and also previously dismissed at appeal in 2004.
42. As a result, the development would appear as a harmful visual intrusion into open countryside rather than a natural extension to the settlement. Due to the elevated position of the site, running north west/south east along a ridge, it would also be visible in more distant views from the north and south and in these views the layout and orientation of the proposed development would maximize its visibility and negative landscape impact. In dismissing the appeal for a single dwelling to the west of the site, the Inspector was of the view that any form of residential development beyond North Bitchburn Terrace would be a significant intrusion into the surrounding countryside. This current proposal is of significantly greater scale and impact.
43. In addition, in order to achieve a safe vehicular access to the site the Highway Authority would require the access to be positioned 70-75 east of the western site boundary with minimum splays of 135m to the west and 105m to the east. This would necessitate removal of a section of the roadside hedgerow to create a large gap for the access. The full extent of the required gap is unknown at this stage but it is likely to be significantly greater than a typical farm access given the need to accommodate the estate entrance and visibility requirements to either side. The hedgerow, as an established and continuous historic hedgerow, is a strong landscape feature leading into the settlement, and the formation of a large gap in the hedgerow would add further to the negative landscape impacts of the proposal.
44. Accordingly, there is significant conflict with the objectives of Wear Valley Local Plan Policies ENV1 and GD1, which among other things seek to protect and enhance the countryside and ensure that new development does not have a detrimental impact on the landscape quality of the surrounding area.

45. There is also conflict with the following parts of the NPPF to which the relevant parts of Wear valley Local Plan Policies ENV1 and GD1 are consistent: the fifth core planning principle of paragraph 17, which among other things, advises that planning should recognise '...the intrinsic character and beauty of the countryside...'; and paragraph 56 'Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.'

#### Highway safety

46. Although the application is in outline with all matters reserved, under article 5(3) of the Development Management Procedure Order 2015, an outline application must indicate the area where access points to the development will be situated.

47. The indicative layout plan shows the proposed access approximately 12mtrs from the western boundary of the site, however the Highway Authority has advised that in order to achieve required visibility of 135mtrs to the north west and 105mtrs to the south east, the access would have to be located further to the east, approximately 70-75m from the western site boundary.

48. This would mean that the required eastern visibility splay would cross third party land to the east of the site and would require ongoing maintenance of such splays. Planning Practice Guidance warns against the use of conditions where it is unlikely that its requirements can be achieved and therefore the matter could not be resolved by a grampian condition to achieve the visibility splays.

49. As such it has not been demonstrated that the development could be served by a safe and suitable vehicle access. The Highway Authority also notes that the section of footway to the west of the site leading into the village and to the bus stops is substandard width, which adds further to the highway safety concerns with the proposal. The proposal therefore conflicts with Wear Valley Local Plan Policies GD1(xx) and T1, which require safe access to the site.

50. The NPPF advises at paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It is considered that an access without suitable visibility splays would have a severe impact in terms of restricted visibility for highway users which would lead to an increased risk of collisions for all road users.

#### S106 Contributions

51. Policy H22 states that on sites of 10 or more dwellings the local authority will seek to negotiate with developers a contribution, where appropriate, to the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality.

52. A shortfall in the provision of play space has been identified in the area through the Councils Open Space Needs Assessment.

53. Policy H22 together with guidance in the NPPF about how 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 demonstrates that a planning obligation is necessary to make the development acceptable in planning terms.



54. Whilst the applicant has recently stated that they would be happy to make a contribution towards open space provision, no S106 agreement or undertaking to enter into a S106 agreement has been supplied. Planning Practice Guidance (PPG) indicates that a condition requiring that a planning obligation be entered into should only be used in exceptional circumstances in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. That is not the situation here and therefore a condition would not be an appropriate means of securing a financial contribution towards the provision and maintenance of open space.
55. Accordingly, in the absence of an appropriate agreement or undertaking the proposal would not make adequate provision for open space provision and therefore conflicts with Saved Local Plan Policy H22 and NPPF paragraph 73 in respect of promoting healthy communities.
56. Policy H15 states that where a relevant local need has been established the council will seek to negotiate with developers for the inclusion of an appropriate element of affordable housing. In line with an up to date housing evidence base, the affordable housing section have advised that as the development will be for less than 15 units and the site is less than 0.5 ha in size there is no requirement for an affordable housing provision to be included on this site.

#### Other issues

57. An Ecology report has been undertaken which has identified the site as having limited ecological value. The Ecology section has raised no objections to the application. The site does not fall within the coal mining high risk area, and no flood risk is identified on the site, issues of foul and surface water drainage could be dealt with via condition. No objections have been received from the Education Section as there are sufficient school places to accommodate the development. The noise action team have raised no objections.

#### Planning Balance

58. The main purpose of the NPPF is to achieve sustainable development and the NPPF sets out that there are 3 strands to sustainable development, which are mutually dependent - economic, social and environmental.
59. The construction phase of the development would bring some economic benefits to the area through employment, although the jobs would be transitory and the benefits to the local area would be to a limited extent.
60. The new homes would boost the supply of housing in the area in line with the NPPF, but at a modest scale. However, the proposal would not make suitable provision for open space provision which conflicts with the social role of dimension to promote healthy communities.
61. In environmental terms, it has been concluded that the proposal would have a harmful effect on the character and appearance of the area, and it has not been demonstrated that safe access to the development can be achieved.
62. The lack of harm in respect of ecology and flood risk are neutral aspects that do not count as benefits in favour of the proposal.
63. Taking all these issues into account it is considered that the adverse impacts on the character and appearance of the area, inability to achieve safe access and lack

of open space provision, significantly and demonstrably outweigh the modest economic and housing supply benefits of the proposal. It is therefore concluded, in the context of the presumption in favour of sustainable development set out in paragraph 14 of the NPPF that the proposed development would not constitute sustainable development having regard to the policies of the NPPF taken as a whole.

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## CONCLUSION

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64. In the current policy context, in the absence of up to date local housing policies, NPPF Paragraph 14 advises that developments should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole.
65. A presumption in favour of sustainable development is at the heart of the NPPF, but despite the acknowledged contribution the proposal would make to housing supply, the proposed development is at odds with this presumption because it would have an adverse impact on the character and appearance of the area, could not achieve safe access to the site within land under the applicant's control, and does not make suitable open space provision. There is conflict with Wear Valley Local Plan Policies ENV1, GD1 and H22, as well as NPPF paragraphs 32, 56 and 73.
66. It is therefore considered that the adverse impacts of the development would significantly and demonstrably outweigh any benefits when assessed against the policies of the NPPF as a whole.

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## RECOMMENDATION

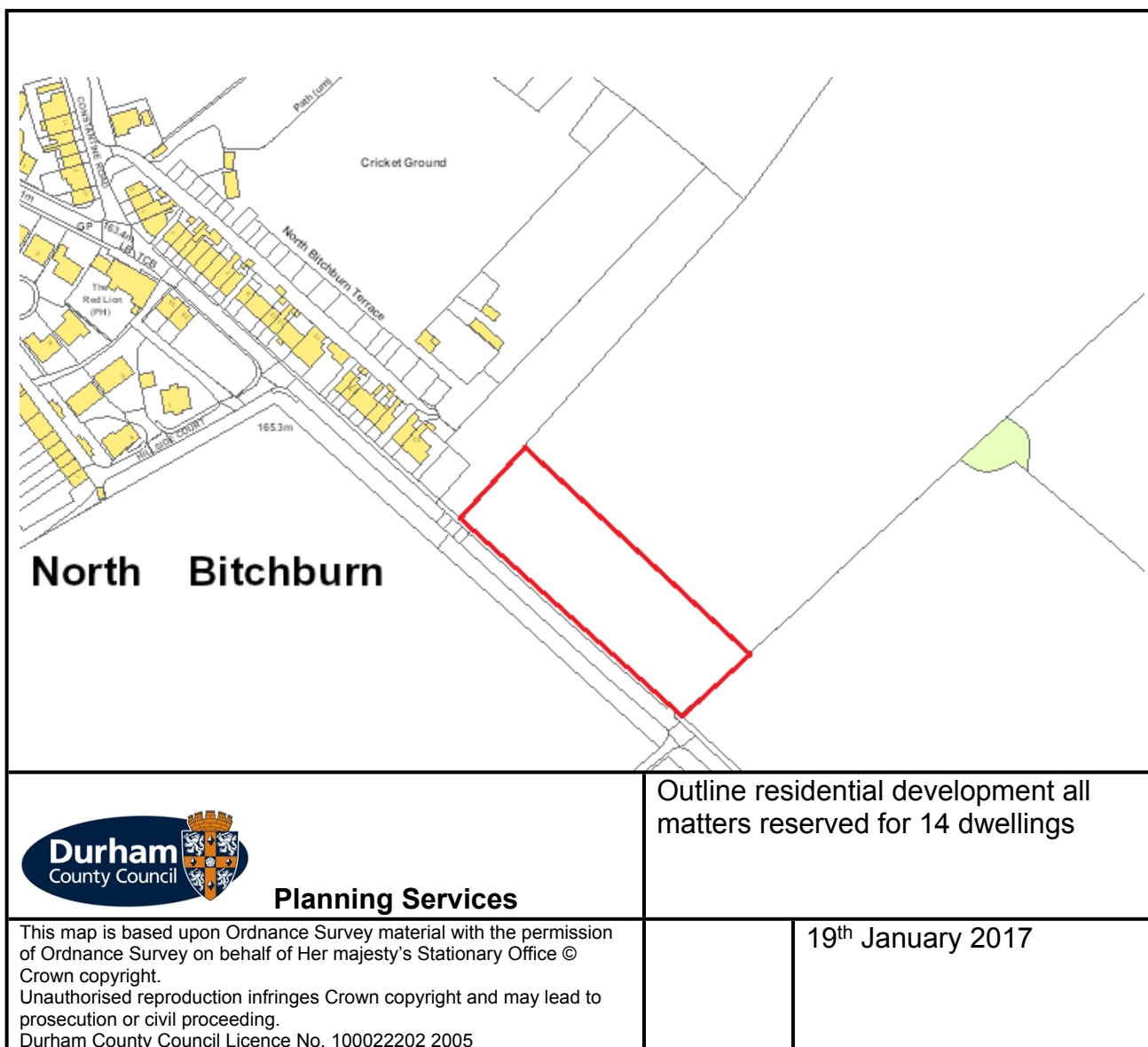
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That the application be **REFUSED** for the following reasons;

1. The development would be viewed as an intrusion beyond the existing settlement into open countryside causing harm to the character and appearance of the area and local landscape. This conflicts with the objectives of Wear Valley Local Plan Policies ENV1 and GD1(xi), which among other things seek to protect and enhance the countryside and ensure that new development does not have a detrimental impact on the landscape quality of the surrounding area. There is also conflict with the fifth core planning principle set out in paragraph 17, which, amongst other things, advises that planning should recognise '... the intrinsic character and beauty of the countryside ...', and paragraph 56 "Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."
  2. The proposal does not demonstrate that safe and suitable access to the development can be achieved, which would be likely to give rise to conditions prejudicial to highway safety and road user amenity. The proposal therefore conflicts with Wear Valley Local Plan Policies GD1(xx) and T1, as well as NPPF paragraph 32 which requires safe and suitable access to the site.
  3. The proposal would not make adequate open space provision or off site contribution and therefore conflicts with Wear Valley local Plan Policy H22 and NPPF paragraph 73 which seeks to promote healthy communities.
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# BACKGROUND PAPERS

- Submitted application form, plans supporting documents
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Wear Valley Local Plan
- The County Durham Plan (Submission Draft)
- County Durham Settlement Study 2012
- The County Durham Landscape Character Assessment
- County Durham OSNA
- All consultation responses and representations received



**North Bitchburn**



**Planning Services**

Outline residential development all matters reserved for 14 dwellings

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