

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/16/03168/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of Detached Dwelling House
<b>NAME OF APPLICANT:</b>	Mrs Catherine Dean
<b>ADDRESS:</b>	Land to the North of Rectory View, Crime Rigg Bank, Shadforth DH6 1LF
<b>ELECTORAL DIVISION:</b>	Sherburn
<b>CASE OFFICER:</b>	Paul Hopper (Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises a parcel of land situated immediately to the north of a linear group of semi-detached properties at Rectory View, Shadforth. The site currently forms part of an agricultural field which extends to the west and provides a means of access to the field from Crime Rigg Bank. The site is bounded by agricultural land to the north and west and by residential properties to the south and east although a small electricity sub-station is also present to the northwest. The site is also partially located within the Shadforth Conservation Area and within close proximity to a Grade II listed building at St Cuthbert's Church.

#### The Proposal

2. Planning permission is sought for the erection of a single dwelling on land immediately to the north of Rectory View, Shadforth. Submitted information shows a dwelling with integrated double garage comprising a lounge/diner, kitchen, study and garage to the ground floor and 4 bedrooms and family bathroom to the first floor. The dwelling and attached garage would cover a footprint of approximately 107 sq m, (13 metres wide by 10 metres deep), with an overall height of 9.4 metres to the ridgeline of a dual pitched roof.
3. Whilst precise details of external materials have not been submitted the applicant has confirmed an intention to use facing brick to the walls, concrete interlocking tiles to the roof and soft wood windows and doors. Amenity space would be provided to the front and rear of the property and vehicular access would be taken via the C60 to the east which would be served by an area of block paving.
4. This application is being reported to Planning Committee at the request of Cllr Hall who considers the potential impact upon the wider area to be such that the application should be discussed by the Planning Committee.

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## **PLANNING HISTORY**

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5. Whilst there is no planning history relating specifically to this site, members may recall that outline planning permission for 10 dwellings relating to a site to the south of Rectory View was refused in 2014 as the committee considered the development to be contrary to policies H3, H4 and H5 of the City of Durham Local Plan being located outside the defined settlement boundaries of Shadforth. Members will also be aware that an appeal against that decision was dismissed by the Planning Inspectorate 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), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
8. *NPPF Part 1 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
9. *NPPF Part 4 Promoting Sustainable Transport*: Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. *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.
11. *NPPF Part 8 Promoting Healthy Communities*: The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted
12. *NPPF Part 11 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

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

## **LOCAL PLAN POLICY:**

### **City of Durham Local Plan**

14. Policy E7 (Development Outside Settlement Boundaries) advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
15. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
16. Policy H3 (New Housing Development within the Villages) allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.
17. Policy H4 (Villages with no Settlement Boundary, Ribbon Development and Sporadic Groups of Houses) the extension or redevelopment of villages with no settlement boundary, of ribbons of development, or sporadic groups of houses will not be permitted. Infill housing at these locations will only be permitted if the development: comprises no more than a single dwelling infilling a small gap between existing buildings; and does not involve the development of an open space that is important to the street scene, and is appropriate in scale, form and materials to the character of its surroundings.
18. Policy H5 (New Housing the Countryside) sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
19. 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.
20. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
21. 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.

22. 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.
23. 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.
24. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

#### **EMERGING COUNTY DURHAM PLAN:**

##### The County Durham Plan

25. 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.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

26. Shadforth Parish Council objects to the application as it would result in the sterilisation of the existing field access leaving only an unauthorised access to the south of Rectory View to service the remaining agricultural field and that to grant permission would set an unwelcomed precedent given the recent refusal of an application for 10 dwellings to the south of Rectory View. It is noted that subsequently planning permission for a second access to the agricultural field has been granted planning permission.
27. Highway Authority has no objection to the application subject to the removal of a metre long length of hedgerow to both the north and south of the proposed access.
28. Northumbrian Water Limited confirms that a public sewer crosses the site and that this may be affected by the proposal. In response the applicant has confirmed the position of the sewer and this has informed the layout of the building.

29. Northern Power Grid (NPG) has been invited to comment on the access arrangements for their substation at the rear of the site on three separate occasions but has failed to respond.
30. Northern Gas Networks has no objection to the application

**INTERNAL CONSULTEE RESPONSES:**

31. Spatial Policy Section offers no objection to the application noting that the proposal must be considered in the context of the presumption in favour of sustainable development, which requires that LPAs grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or the specific policies in the NPPF that indicate the development should be restricted. In this respect the site is not isolated nor is it restricted in terms of paragraph 55 of the NPPF.
32. Design and Conservation Section offers no objection to the application after the scheme was amended to reflect design advice provided in relation to the appearance of the dwelling and subject to conditions requiring the submission and agreement of precise details of external materials including garage doors.
33. Tree Section has no objection to the application subject to a condition requiring the submission and agreement of appropriate means of protecting the existing hedgerow which delineates the sites northern boundary.
34. Noise Action Section has no objection to the application subject to the inclusion of a planning condition requiring the completion of an acoustic report to assess the current noise climate, taking particular account of the noise generated by the adjacent substation, and identifying sound attenuation measures as appropriate. In addition, conditions are advised with regard to restricting hours of operation during the construction phase and the use of best practicable means to minimise noise, vibration, light and dust.
35. Contaminated Land Section has no objection to the application subject to the inclusion of a planning condition which requires a phase 1 preliminary risk assessment to be undertaken and intrusive investigation, remediation and verification to be carried out where identified as appropriate.
36. Public Rights of Way confirmed that to date no claim forms have been submitted to the Council for claiming a path as a public right of way either across this application site or by the boundary of the site.

**PUBLIC RESPONSES:**

37. The application has been publicised by way of site notice, individual notification letters to neighbouring properties and by local press advertisement. At the time of writing the report, 23 letters/emails of objection have been received including a response from the Shadforth Community Association. The reasons for objection are summarised as;
  - a) Development within the Countryside: The proposal would represent development on a greenfield site which lies beyond the settlement boundary of Shadforth and is within the countryside for planning purposes, contrary to guidance contained within policy E7 and H5 of the City of Durham Local Plan and paragraph 55 of the NPPF.
  - b) Sustainability: Shadforth has only limited services and residents would rely upon trips by private vehicle to access shops, services and employment opportunities in Durham City.

- c) Precedent: The development would represent a precedent which would allow future residential development across the remainder of the agricultural field.
- d) Previous Appeal Decision: The reasons cited in the Planning Inspectorate decision to dismiss an appeal for 10 units to the south remain valid and relevant to the current application.
- e) Need: There is no identified need for new housing within the area demonstrated by several properties within Shadforth having been on the market unsuccessfully for several months and the recent Strategic Housing Land Availability Assessment identifies a suitable site of strategic importance within 3-5 miles of the application site.
- f) Impact upon Shadforth Conservation Area: The development would have an adverse impact upon the adjacent conservation area and Grade II Listed Building.
- g) Sterilisation of Substation Access: The proposal would lead to the sterilisation of the current access to the substation for which a second access off the C60 would be required which would be unsafe.
- h) Access and Highway Safety: The proposal would lead to the sterilisation of the existing field access and as such would require the formation of a replacement access to the south of Rectory View, which would not be safe and have an adverse impact upon highway safety.
- i) Applicant Details: The applicant is not the landowner; is one acting on the others behalf following the 2 failed applications previously.
- j) Loss of View: The application would result in the loss of stunning views from an adjacent property across the countryside.
- k) Landscape Impact: The proposal would completely spoil the landscape.

Objection has also been received from both ward councillors who raise concerns regarding the impact of the development upon the conservation area, residential amenity and highway safety

#### **APPLICANTS STATEMENT:**

- 38. I am surprised at the concerted opposition and, indeed, acrimony and hostility to this proposal. All that is being requested is a single dwelling to which I am advised there are no significant planning objections such as to warrant refusal. Yet objectors are seeking to muddy the waters by comparing this application with a previously refused scheme for 10 dwellings further down the road. They seem oblivious to the fact that this is a totally different site and planning law requires each proposal to be considered on its merits.
- 39. What is fundamental is that NOT ONE of the objectors will be adversely impacted by the proposal, and there will be no affect on the village, the church or any other environmental considerations. Indeed, I understand that all the specific objections raised are negated by the responses of the statutory consultees.
- 40. A separate application for improvement of the existing access to the agricultural land to the south and west of this site is nearing determination. This involves widening and insertion of a dropped kerb, and I understand it will be approved before the proposal for a single dwelling is considered. That existing access currently serving the agricultural field has been used for well over twenty years, and following approval of the detailed improvements will allow a formal right of access to the Electricity Board to serve the sub-station. Consequently, any objections to the current application for a single dwelling that are based upon access will effectively be negated.
- 41. In these circumstances, I put my faith in the probity and integrity of the Members of the Planning Committee, and let common sense and justice in the planning system prevail.

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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42. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact of the proposal upon the character and appearance of the surrounding conservation area, access and highway safety, residential amenity and contaminated land.

### Principle of Development

43. The application proposes a single dwelling on greenfield land located beyond the settlement limits of Shadforth as defined by the City of Durham Local Plan. New sites located outside defined settlement limits are considered in the context of a general presumption in the Local Plan against new development and this is reflected in policy E7 which permits development only in such circumstances where it accords with other policies of the plan, including policies H3, H4 and H5. In this regard, the proposal is therefore contrary to the Development Plan. However, these policies must be considered to be out of date and therefore, in accordance with paragraph 49 of the NPPF, the presumption in favour of sustainable development is to be applied. Accordingly, reduced weight can be afforded to saved policies E7, H3, H4 & H5.

44. Several residents have raised objection to the application citing current saved policies of the local plan particularly those which relate to new housing beyond existing settlement limits.

45. Whilst current policies are considered to be out of date they can nevertheless still be afforded some weight (for example those policies which seek to protect the countryside) albeit reduced. As such, weight should still be afforded to saved policies E7 and H5 of the Local Plan which display a broad level of consistency with the general aims of the NPPF in directing new development to more sustainable locations, although it is noted that the NPPF takes a more permissive approach to new development which places less emphasis on settlement limits and whether a site is greenfield or brownfield, and greater emphasis on sustainable development. Paragraph 7 of the NPPF identifies that there are 3 dimensions to sustainable development in this regard: economic, social and environmental and at paragraph 49 confirms that housing applications should be considered in the context of the presumption in favour of sustainable development. At paragraph 55 the NPPF notes that where there are groups of smaller settlements, residential development in one village may support services in a village nearby.

46. Shadforth is recognised as a small village by the most recent County Durham Settlement Study in recognition that it has relatively few facilities (village hall and public house) and residents commonly need to travel to larger settlements to service day to day needs, including access to employment, education and other services and in this regard the ability of the village to sustain new development has been raised as an objection by local residents. Notwithstanding these concerns it is noted that a local bus service operates through the village and provides a good level of public transport access to surrounding villages and larger settlements including Durham City.

47. A single dwelling in this location would help support existing facilities both within Shadforth and nearby villages in accordance with the economic and social dimensions of sustainable development as outlined in paragraph 7 of the NPPF, in addition to creating some additional short term economic benefits during the construction phase.
48. Whilst the proposal would display some degree of conflict with policy H5 of the City of Durham Local Plan in that it proposes new development beyond the settlement limits of any town or village, it should nevertheless be considered in the context of a presumption in favour of sustainable development as required by the NPPF. On balance, and for the reasons described, the proposal is considered to accord with sustainable principles of development contained within the NPPF and is therefore considered acceptable in principle.
49. Several residents have raised objection to the application on the grounds that there is no identified need for additional housing within Shadforth, and particularly that the Council's Strategic Housing Land Availability Assessment (SHLAA) identifies a suitable site within 3-5 miles which would satisfy any requirement for additional housing within the area. However, there is no requirement to demonstrate need in this regard as a single dwelling is unlikely to prejudice the strategic aims of the Council's Emerging Housing Strategy or the viability of sites identified within the current SHLAA.

Design, appearance and the impact upon the character and appearance of Shadforth Conservation Area and adjacent Grade II Listed Building

50. The proposal relates to the erection of a single detached dwelling on land to the north of Rectory View which is partially located within Shadforth Conservation Area. Several local residents, Shadforth Parish Council and Shadforth Residents Association have all raised objection to the application and consider that the proposal would have an adverse impact upon the character and appearance of the Shadforth Conservation Area resulting in an unacceptable level of encroachment into the open countryside. In this regard a previous decision of the Planning Inspectorate to dismiss an appeal against refusal of 10 units to the south of Rectory View is highlighted.
51. With regard to the impact upon Shadforth Conservation Area and an adjacent Grade II Listed Building, it is noted that the village originally extended north in the later part of the 19<sup>th</sup> Century with the establishment of Church Villas and latterly in the mid 20<sup>th</sup> Century in the form of Rectory View. The application site is located in this later outer area partially within the conservation area and opposite the Grade II listed building at St Cuthbert's Church. As such the impact of the proposal on the conservation area and setting of the listed building are material considerations in determination of the application, in accordance with sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
52. Part 12 of the NPPF highlights the importance of sustaining and enhancing the significance of heritage assets. It explains how Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, giving great weight to the asset's conservation and noting that the more important the asset, the greater the weight should be and that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Policies E22 and E23 of the Local Plan are considered relevant and display a broad level of accordance with the aims of Section 12 of the NPPF in that they seek to preserve or enhance the character or appearance of the conservation area and preserve the building or any features of special architectural/historical interest or its setting including listed buildings respectively.

53. The plot is visually prominent by virtue of its roadside position on the main approach into the village. It has remained undeveloped and forms the north east corner of the substantial agricultural field to the rear of Rectory View and makes no significant physical contribution to the conservation area in its own right, although its open aspect provides wide vistas out to the surrounding countryside.
54. A new dwelling in this location would naturally have an impact by changing the nature of the land use and in-filling the gap between Rectory View and the hawthorn hedge which delineates a large agricultural field to the north. However, the site appears as a natural end plot to existing housing and the overall sense of space, openness and separation along this key approach would not be lost given the specific location and limited physical quantity of development. In this respect the Council's Design and Conservation Section offers no objection to the application subject to minor design amendments which have been reflected in revised drawings and comprise the inclusion of a chimney, changes to the window design and the inclusion of brick on edge projecting heads and cills.
55. With regard to encroachment, it is noted that the site occupies a position between the most northerly dwelling at Rectory View and the southern boundary hedge of an adjacent agricultural field. Whilst for the purposes of policy H4 of the Local Plan the development is not considered infill, it is nevertheless considered that this would not result in an unacceptable level of encroachment within the open countryside, naturally completing the linear ribbon of existing dwellings to the south as noted by the Council's Design and Conservation Officer.
56. In objecting to the application residents have noted the decision of the Planning Inspector to dismiss an appeal against refusal of 10 residential units on land to the south of Rectory View and drawn direct comparisons with the current proposal. However, it is not considered that the two applications are similar as the former related to 10 dwellings and occupied a considerable footprint within a large agricultural field to the south. The Planning Inspector's refusal reason in this regard related to an unacceptable coalescence of two distinct parts of the village. The current proposal is not considered comparable as it relates to a single dwelling to the north of Rectory View in a narrow undeveloped parcel of land between the most northerly dwelling and the boundary hedge of an adjacent agricultural field. The current gap between the two parts of the village would, therefore, be maintained.
57. With regards to soft landscaping the development proposes the retention of the hedgerow which currently delineates the northern boundary of the site and the Council's Tree Officer has no objection to the application in this regard, but nevertheless advises the inclusion of a planning condition requiring the submission and agreement of precise details of the means of protecting this hedge during the construction phase.
58. Subject to the inclusion of planning conditions to control external materials and tree/hedgerow protection measures, the proposal would satisfy the environmental role of sustainable development and comply with the aims of Part 12 of the NPPF in that it would preserve the character and appearance of the surrounding conservation area and would not have any unacceptable impact upon the setting of the adjacent Grade II Listed Building. The proposal would also accord with policies E22, E23 and H13 of the Local Plan and Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that it preserves the character and appearance of the surrounding conservation area.

## Parking, Access and Highway Safety

59. The application proposes a new access from the C60 in the position of an existing field access which already benefits from a dropped kerb and would serve a double width drive and associated integrated garage. The level of proposed parking meets the Council's current residential parking standards and subject to the removal of a small section of existing hedgerow (approximately 1 metre) to both the north and south of the access adequate sight visibility splays would be achieved. The Highway Authority offers no objection to the application subject to a condition securing the removal of the section of hedge as described.
60. Concern has been raised by local residents that the access to the remaining agricultural field would be sterilised by the proposed development and that the alternative access proposed by the applicant to the south of Rectory View would have an adverse impact upon highway safety. Members should note that during the course of dealing with this application, planning permission has since been granted under delegated powers for the creation of a replacement field access to the south of Rectory View which would maintain an adequate level of access to the field in question if permission is granted for the proposed dwelling. Highway officers considered the proposed access to be safe and acceptable.
61. Whilst it would have been preferable to include a planning condition ensuring the formation of the replacement access prior to the construction of the dwelling, this is not considered possible as the land is not under the control of the applicant. However, as the application site and that of the replacement access are both within the same ownership it is entirely reasonable to expect that this will be provided without delay to maintain access, and as such the land owner has provided precise assurances in this regard. Matters relating to the sterilisation of the existing field access are not therefore considered sufficient to sustain refusal of the application.
62. Overall, it is considered that the proposal would include sufficient parking provision and provide safe and adequate access to ensure that highway safety would not be compromised. The proposal is therefore considered to accord with policies T1 and T10 of the City of Durham Local Plan.

## Impact upon residential amenity

63. Policy Q8 of the City of Durham Local Plan requires new development to provide adequate amenity and privacy for each dwelling and minimise the impact of the proposal upon the occupants of existing nearby properties. This approach is considered to display a broad level of accord with guidance contained in paragraph 123 of the NPPF which requires that planning decisions avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
64. With regard to privacy it is noted that the proposed dwelling would achieve separation distances of approximately 26 metres between elevations containing windows to habitable rooms in relation to neighbouring property, and this exceeds the 21 metre minimum stated in Policy Q8 of the Local Plan. The relationship with the gable elevation at The Rectory is also considered acceptable in that it would not result in any unacceptable overbearing or overshadowing of this property. In relation to private amenity space the area to the front and rear of the property is considered adequate to serve a dwelling of the type proposed. The development would accord with policy Q8 in this regard.

65. The dwelling would be situated approximately 6 metres from a small compound containing plant and equipment operated by Northern Powergrid and is a feature which can emit low frequency noise. The Council's Environmental Health Section, although offering no objection to the application, has advised that a condition be included requiring the submission of an acoustic report and details of sound attenuation measures as appropriate. The inclusion of a condition restricting the working hours and ensuring the use of best practicable means to minimise noise, vibration, light and dust during the construction phase is also advised and subject to the inclusion of appropriate conditions the proposal would accord with the requirements of policy Q8 of the Local Plan and paragraph 123 of the NPPF.

#### Contaminated Land

66. As the proposed use is considered a more sensitive receptor the Council's Contaminated Land Section has advised the inclusion of a planning condition requiring the completion of a contaminated land risk assessment and appropriate intrusive investigation, remediation and verification where required.

#### Other Matters

67. There is some concern from local residents that should this application for a single dwelling be granted planning permission, it would set a precedent which would allow further residential development across the remainder of the agricultural field. This application relates solely to the erection of a single dwelling and any future development to the south or west of Rectory View would be subject of a separate planning application which would be assessed on its merits. Furthermore, the hedge line along the northern edge of the site is considered to form a natural and logical limit to development of this part of Shadforth, and approval would not be considered to establish any precedent for extending development further in a northerly direction.
68. Several residents have raised concern regarding the sterilisation of the Northern Powergrid compound to the north west of the site. In this regard it is noted that Northern Powergrid has been consulted, provided with details of the application and afforded considerable opportunity to comment on the impact of the proposal upon their assets. As no response has been received it is not considered appropriate to further delay determination of the application, particularly as the issue is a civil matter between the parties involved. Nevertheless, the applicant has advised that should access be required this can be provided via the alternative field access for which planning permission exists to the south.
69. One resident has cited the loss of a particularly attractive view as reason for objection although it is noted that this is not a material planning consideration in determination of the planning application.

Objection is raised to the application noting that the site is a public right of way, having been used unrestricted for in excess of 30 years. It is understood that in May 2010 the Council's Public Rights of Way Section received a request from a member of the public to look at an unregistered path that crossed the application site adjacent to its boundary which appeared to be prompted by the blocking of the path. To date no claim forms have been submitted to the Council for claiming a path as a public right of way either across this application site or by the boundary of the site. There is therefore a separate statutory process for resolving the status of any claimed public footpath.

70. Respondents have also noted that the site owner is not the applicant and queried whether or not the application has been submitted in this way given that the two previous applications for residential development submitted by the land owner were refused. In response it is noted that this situation is not unusual and that the applicant has served the requisite notice on the site owner as required.

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## CONCLUSION

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71. Whilst the proposal displays some level of conflict with policies H5 and E7 of the City of Durham Local Plan in that it relates to new development located beyond the settlement boundaries of Shadforth, there is a clear requirement through the more up to date NPPF to consider the proposal in the context of a presumption in favour of sustainable development, and in this regard it would satisfy the social, economic and environmental roles of sustainable development as contained in paragraph 7 of the NPPF.

72. The development would not result in an unacceptable level of encroachment into the open countryside and would occupy a narrow parcel of undeveloped land between the most northerly dwelling at Rectory View and the boundary hedge of an adjacent agricultural field.

73. In all other respects the proposal would, by virtue of its siting, scale, layout and design, have no adverse impact upon the character and appearance of the surrounding area, residential amenity or highway safety in accordance with the aims of policy E7, Q8, H13, T1 and T10 of the City of Durham Local Plan and would preserve the character and appearance of Shadforth Conservation Area and the setting of the adjacent Grade II Listed building in accordance with the aims of policy E22 of the Local Plan and Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

74. Whilst the objections and concerns raised by local residents are noted and have been taken into account they are not considered sufficient in this instance to sustain refusal of the application.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions:

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

Drawing No.	Description	Date Received
	Location Plan	01/12/2016
5035 Rev 1A	Proposed Plans	01/12/2016

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

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials and details of garage doors have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: To protect the character and appearance of the surrounding area in accordance with the requirements of Policy E22 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

4. No development shall take place until a detailed acoustic report assessing the existing noise climate at the development site, particularly with regard to noise from the adjacent substation, has been submitted to and approved in writing by the Local Planning Authority. In the event that the acoustic report finds that sound attenuation measures are required, a noise insulation scheme shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby approved.

Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

5. No construction work shall take place, nor any site cabins, materials or machinery be brought onto site until the hedgerow to be retained, as indicated on Approved Drawing No. 5035 Rev A1 entitled 'Proposed Plans, Elevations, Site and Location Plan received 22 December 2016, is protected by the erection of fencing comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting by temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree. The fences shall remain in place throughout the construction period.

No underground services trenches or service runs shall be laid out in root protection areas of those trees to be retained as shown on the approved plan.

Reason: To protect the character and appearance of the surrounding area in accordance with the requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

6. No development shall commence until details of the surface treatment and construction of all hardsurfaced areas has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policy E22 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

7. Prior to the first occupation of the development hereby approved the 1 metre long sections of hedge to the north and south of the access as shown on Drawing No. 5035 Rev A1 shall be removed and thereafter the sight visibility splays shall be kept free from obstruction.

Reason: In the interests of Highway Safety in accordance with the aims of policy T1 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

8. The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

#### Pre-Commencement

- (a) A Phase 1 Preliminary Risk Assessment (Desk Top Study) is required to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.
- (b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (c) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

#### Completion

- (d) 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.
- (e) 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. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes 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 in accordance with NPPF Part 11.

9. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to approve the 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) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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## **BACKGROUND PAPERS**

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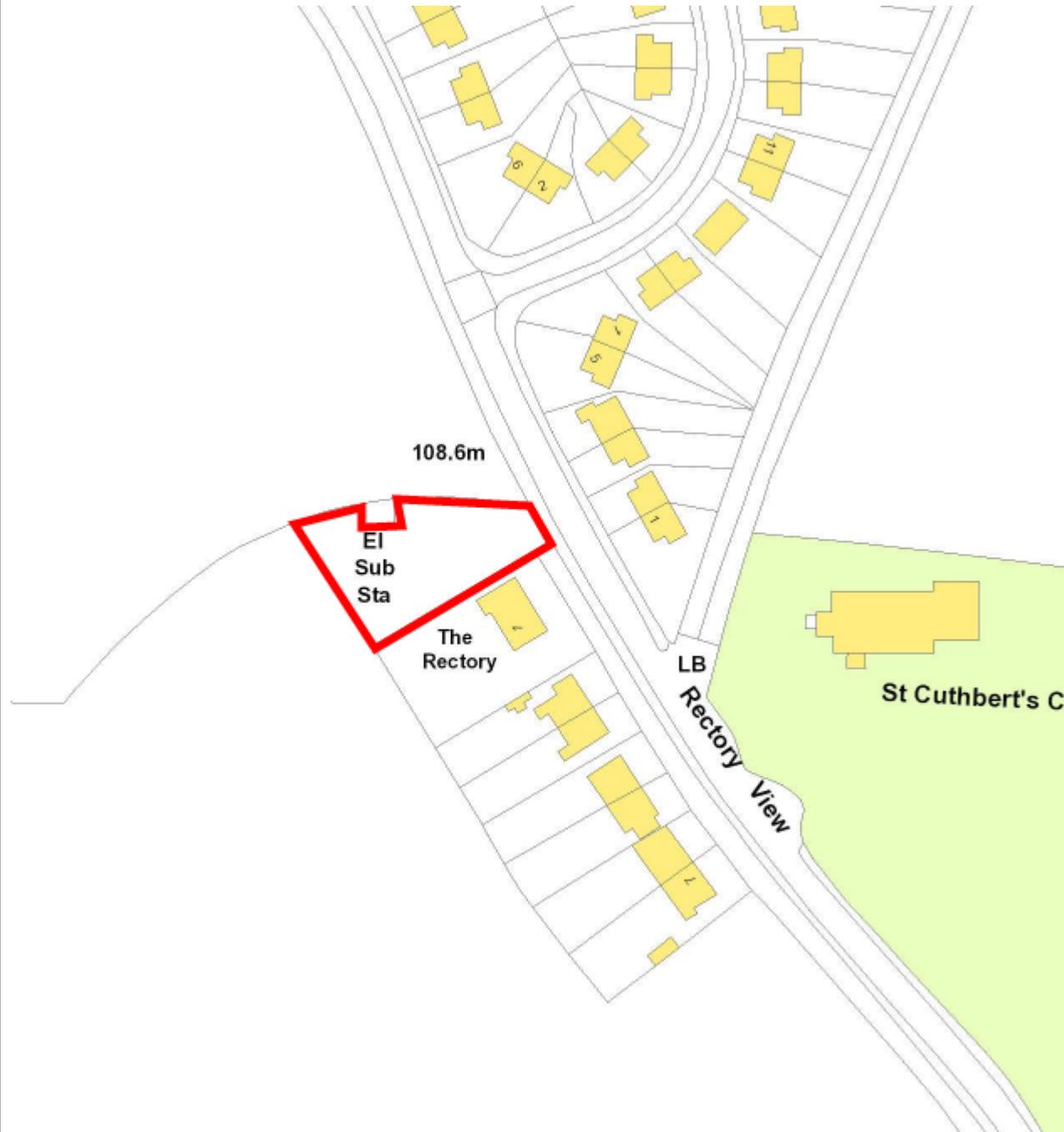
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



**Planning Services**

Erection of Detached Dwelling House

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**Comments**

**Date** 14 February 2017