

COMMITTEE REPORT

APPLICATION DETAILS

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| APPLICATION NO: | DM/16/00528/FPA |
| FULL APPLICATION DESCRIPTION: | Erection of 56 dwellings with associated infrastructure works and access (resubmission). |
| NAME OF APPLICANT: | Gleeson Developments Ltd |
| ADDRESS: | Dovecot Hill, South Church, Bishop Auckland, County Durham, DL14 6TA |
| ELECTORAL DIVISION: | Shildon and Dene Valley |
| CASE OFFICER: | Steven Pilkington, Senior Planning Officer, 03000 263964 steven.pilkington@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site consists of a 1.57ha rectangular shaped parcel of land located to the south east of Bishop Auckland. The site lies adjacent to South Church Enterprise Park being separated on the western boundary by a Public Right of Way (Dene Valley No.97) and a line of trees/hedge predominantly down the eastern side of the path. The site is bordered to the south by Dovecot Hill a public highway and to the east by terraced dwellings along Bigland Terrace, West View and Rosemount Court. Site levels are relatively flat, although the land falls steeply beyond the northern boundary to the River Gaunless.
2. The site is located approximately 340m to the south of the Grade I Listed Building of the Church of St Andrew and 260m to the south east of the Grade I Listed Buildings of East Deanery. Bishop Auckland Conservation Area lies 1km to the west of the site.

The Proposals

3. The proposal involves amendments to a scheme that was refused planning permission on appeal. Detailed planning permission is now sought for the erection of 56 dwellings a new access and associated infrastructure works. The dwellings would be arranged around a series of cul-de-sacs and private shared drives taken off a main distributor road. The layout has been designed to provide an active frontage onto Dovecot Hill while corner turning units are proposed to be utilised in key locations thought the site. The dwellings would be constructed from brick with pitched roofs 2 storey in nature. There would be a mix of 2 bed semi-detached (14), 3 bed semi-detached (24) 3 bed detached (13) and 4 bed detached dwellings (5).

4. There would be small areas of incidental green open amenity space within the scheme whilst a 3m high acoustic barrier consisting of 2m high fence on top of a 1m high mound would be erected along the western boundary. Existing vegetation would likely need to be removed to facilitate this, however new hedgerow planting is proposed along the fence line.
5. A new vehicular access onto Dovecot Hill is proposed with the existing access stopped. A secondary pedestrian access to the north western corner of the site is proposed to provide a link onto the PROW.
6. This planning application is being reported to South West Planning Committee because it is a residential development over 10 dwellings.

PLANNING HISTORY

7. The site was previously used for private allotments, however this use ceased in approximately 2013 and the site reverted to an agricultural use.
8. Planning permission was refused in 2015 for the erection of 61 dwellings (DM/14/02040/FPA) for the following reasons:-
 1. *The proposed development would result in the loss of an area of open space which contributes to the character and amenity of the area, contrary to saved policy BE14 of the Wear Valley District Local Plan.*
 2. *The development is not considered to represent Sustainable Development when considering all of the elements of the National Planning Policy Framework and would give rise to a development that is poorly related to neighbouring uses and community facilities.*
9. A subsequent appeal was dismissed in 2016. In the planning balance the inspector concluded that the site was an appropriate location for new development and would not have a significant visual impact on the surrounding landscape. However it was concluded that the development did not adequately address the existing noise climate in order to ensure that proposed residents are not adversely affected by the activities at the adjoining industrial premises. As a result, the inspector considered that existing businesses would be likely to be hampered in their ability to carry out their day to day activities and unable to expand without additional burdens, in the form of noise controls being placed upon them. It was also concluded that the proposal would be likely to reduce the attractiveness of the vacant plot of land to the north east of the industrial estate to an inward investor.

PLANNING POLICY

NATIONAL POLICY

10. 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'.

11. 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.
12. *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.
13. *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.
14. *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.
15. *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.
16. *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.
17. *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.
18. *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, recognising 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.

19. *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.

<https://www.gov.uk/guidance/national-planning-policy-framework>

20. 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; land stability; 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.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

Wear Valley District Local Plan (2007) (WVDLP)

21. *Policy BE1 - Protection of Historic Heritage* - Seeks to conserve the historic heritage of the area by the maintenance, protection and enhancement of features and areas of particular historic, architectural or archaeological interest.
22. *Policy BE14 - Open Spaces* - Sets out that open spaces which contribute to the character and amenity of the area within the defined development limits will be protected from development.
23. *Policy BE17 - Areas of Archaeological Interest* - Requires a pre-determination archaeological assessment where development affects areas of archaeological interest. Where possible the remains will be preserved in-situ.
24. *Policy BE23 (Provision of Public Art)*. In appropriate cases, the Council will encourage the provision of works of art as part of development. In considering planning applications the Council will have regard to the contribution which such works make to the appearance of the scheme and to the amenity of the area.
25. *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.
26. *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.
27. *Policy H15 (Affordable Housing)*. The 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

28. *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.
29. *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.
30. *Policy I4 (Prestige Industrial Sites)* – Identifies land including South Church Enterprise Park will be safeguarded for employment land for B1 and B2 uses
31. *Policy RL5 (Sport and Recreation Target)* - For every 1 hectare of land developed or redeveloped for residential purposes, at least 1300 square metres of land should directly be made available on- or off-site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities, including changing rooms, by other agencies. Such land should be located and developed to accord with the provisions of proposal RL1. On sites under 1 hectare (24 dwellings) a proportion of this standard will be expected.
32. *Policy T1 (General Policy – Highways)*. All developments which generate additional traffic will be required to fulfil Policy GD1 and provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/media/3403/Wear-Valley-local-plan-savedpolicies/pdf/WearValleyLocalPlanSavedPolicies.pdf>

RELEVANT EMERGING POLICY:

The County Durham Plan

33. 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.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

34. *Highways Authority* – Advise that the proposed access to the site would be better if it was offset from the opposite industrial access, however overall the submitted scheme is considered acceptable from a highway safety point of view, subject to amendments to the site layout in terms of parking provision. It is also advised that

the surrounding highway network is capable of accommodating the increase traffic flows.

35. *Drainage and Costal Protection* – Advise that a surface water drainage scheme should be developed prior to the commencement of development which utilises sustainable urban drainage techniques where appropriate, limiting discharge from the development to greenfield run off rates.
36. *Northumbrian Water* – Raise no objection subject to a condition requiring the drainage scheme to be implemented in accordance with the submitted details limiting the discharge rate to 7 Litres per second.
37. *Dene Valley Parish Council* – No comments received.

INTERNAL CONSULTEE RESPONSES:

38. *Spatial Policy* – The Wear Valley District Local Plan was only intended to cover the period up to 2006 with the amount of housing land identified as allocations consistent with the assessment of housing need available at that time. That assessment is no longer considered to be up to date and compliant with the NPPF in terms of meeting the full, objectively assessed needs for market and affordable housing in the housing market area. The Plan is therefore out of date in respect of how to appraise housing applications in relation to supply.
39. The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It advises that relevant policies for the supply of housing should not be considered up to date if the local planning authority is unable to demonstrate a five year supply of deliverable housing sites. This is also the case within County Durham, so even had the housing policies not been out of date on the basis of the evidence they would nonetheless be rendered 'not up-to-date' on account that a 5-year housing land supply cannot be demonstrated.
40. In the absence of up to date adopted development plan policies on housing supply the NPPF, and in particular the tests set out within NPPF Paragraph 14, is relevant. As such this proposal should be assessed in the context that 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 and the remaining relevant saved policies of the WVDLP. There are no specific policies from the NPPF which indicate the development of this site should be restricted.
41. On this basis and in line with the original appeal decision the key issue is whether development would be compatible with nearby industrial businesses and whether housing can be developed in this location without future residents suffering from a poor living environment which in turn could curtail future activities at the industrial premises.
42. *Environmental Health and Consumer Protection (Pollution Control)* – Advise that the submitted noise assessment is robust, and currently demonstrates that noise levels would be equal to or close to the levels stated in the Councils Technical Advice Note in relation to noise (TANS), following mitigation works. However it is highlighted that there are a range of uncertainties that the assessment is unable to address, due to the nature of the site. The consultant's has stated a view that at times if significant nighttime working was introduced noise may be significantly above the levels given in the TANS. It is noted that evidence from the previous assessment shows significantly

different results from the most recent survey. Significant concerns are raised in relation to the potential future impact of noise from the commercial premises, especially considering the level of uncertainty. However from a statutory nuisance point of view following due consideration of the assessment and the lack of existing complaints from properties, no objections are raised. This is however based on the current operations identified at the site, should the businesses change operation in the future then this view may alter.

43. *Landscape*– Advise that in order to accommodate the proposed acoustic fence the trees and most of the hedgerow would need to be removed along the route of the public right of way. On the basis of the previous appeal decision the development of the site would not result in significant landscape visual effects, subject to protecting existing vegetation of site and developing a robust landscaping scheme.
44. *Landscape (Arboriculture)* – Raises concerns regarding the proximity of the fence to existing trees on the western boundary and the need to ensure that an adequate green buffer is retained between the industrial units and the development. Suggestions are also made on the type of tree species proposed in the planting schedule.
45. *Education* – Advise that a development of 56 houses could produce 17 additional primary school pupils and 7 additional primary pupils. It is advised that there are sufficient primary and secondary school places in the area to accommodate pupils from this development.
46. *Sustainability* – Offer no objections following the provision of a second pedestrian access onto the PROW, a condition to reduce the scheme energy use is recommended.
47. *Archaeology* – Advise that the applicant has submitted the results of a field evaluation as part of the application, this shows that no archaeological remains were encountered during the fieldwork. No further mitigation is required in this respect.
48. *Design and Conservation* – Advise that the primary heritage consideration in regard to this application is the impact of the proposal on the setting of the grade I listed St Andrews Church. The conclusions of the submitted heritage statement which state that there will be no harm as a result of the development being read within an already developed landscape are considered reasonable. It is therefore advised there is no objection to this proposal on heritage and design grounds.
49. *Housing Delivery* – Advise that there should be a minimum of a 10% provision of affordable housing on site, unless it has been agreed for viability purposes this cannot be achieved.
50. *Public Rights of Way* – Identify the presence of a number a Public Rights of Way in the vicinity of the site (Footpath 97 Bishop Auckland and Shildon). Officers advise that a pedestrian link from the development is encouraged.
51. *Ecology* – Advise that the ecology report/addendum found that there were no ecological constraints to the development, however the site lies adjacent to the river Gaunless green corridor, substantial hedges, and wildlife corridors (potentially for bat foraging/commuting) and breeding birds. A bat survey concludes that although bats are using the site for foraging purposes this is largely confined to the western boundary and any displacement though the development would be unlikely to impact on the local conservation of the species. Mitigation measures are also proposed in terms of controlling lighting to further reduce any potential impact. It is highlighted

that the NPPF requires a net biodiversity gain, given the lack of green space on site and a suitable contribution or condition towards off site green infrastructure and biodiversity enhancements should be secured. It is noted that there is an existing disused railway line within 180m to the south of the site owned by the County Council, there may be opportunities to enhance this feature both for biodiversity gain.

52. *Environmental Health and Consumer Protection (Contaminated Land)* – Following review of a phase 1 contamination report and phase 2 site investigations a conditional approach in relation to validation of the remediation of the site in relation to land contamination is recommended.
53. *Employability* – Request that targeted recruitment and training clauses are included within a S106 legal agreement in the event of approval.

EXTERNAL CONSULTEE RESPONSES:

54. *Police Architectural Liaison Officer* – Concerns are raised regarding the link from the development to the adjacent footpath, as this would provide an effective escape route for anyone committing crime on the development. An alternative location is the road junction between plots 52 and 54 or 46 and 49, lighting columns should be placed adjacent the footpath entrance and the parking bay removed.

PUBLIC RESPONSES:

55. The application has been publicised by way of press notice, site notice and individual notification letters to neighbouring residents. 22 letters of objection have been received from neighbouring residents and businesses in relation to the development as summarised below:
 - The revised layout does not address concerns raised by the planning inspector and the potential conflict of the housing and existing commercial and industrial activities remain. Neighbouring businesses can legitimately operate over a 24 hour period and may do so if their operational demand requires this.
 - Complaints have been made by existing residents regarding odour from current operations who are located a significant distance from the application site. This highlights the potential conflict which would be worse as the proposed dwellings would be closer to the businesses.
 - The proposed 3m acoustic barrier would create unacceptable living conditions for future residents, particularly given the size of the proposed gardens.
 - Land safeguarded for employment uses within the Wear Valley District Local Plan, is in the process of being purchased by business operators. The siting of housing adjacent to this site would have implications on the potential future use of the site.
 - The proposal represents development on a green field site which is protected from development in policies within the Wear Valley Local Plan. The site is currently used as open space and forms part of the Green Belt and should be protected. The need for the development within South Church is questioned, given the withdrawn County Durham Plan. No affordable housing is proposed within the development.

- There are no facilities within the immediate area for future occupants to use while a strain will be placed on existing services by an increase in the population.
 - There is no play provision on the site for future residents to use while existing play areas are only accessed across busy roads.
 - Concerns are raised regarding a loss of residential amenity through a loss of outlook due to the separation distances to the properties and proposed boundary treatments. The development of the open space will impact on the view experienced by properties bordering the site while disruption will be caused through the construction of the dwellings and once they are occupied.
 - The development would result in the loss of value to existing properties while restricting access for maintenance.
 - Concerns are raised regarding the loss of the character of the village and the impact on surrounding historic buildings and potential archaeological interests. The design of the buildings does not relate to existing housing stock.
 - The existing road network cannot accommodate additional traffic while there would be conflict with industrial uses. The poor condition of existing roads in the vicinity of the site is highlighted.
 - The development would have a negative impact the ecological interest of this greenfield site.
56. The Rt. Hon. The Lord Foster of Bishop Auckland DL objects to the application advising that the revised layout does not alleviate concerns for the future protection of businesses on South Church Enterprise Park and the threat of future residents complaining about noise from industrial units which could give rise to restrictions being placed their operations. It is considered that the Local Planning Authority should not planning authority should not place the interests of housing above the interests of business, investment and employment.

APPLICANTS STATEMENT:

57. The Site provides a sustainable development opportunity and would contribute to the provision of a mix of housing size, types and affordability in the area, particularly promoting family housing and appropriate dwellings which allow people to stay in their local community. The site provides ready access to local amenities, schools and employment sites and is considered sustainable.
58. This planning application has considered all relevant planning policy matters in respect of the proposal bringing forward residential development. At a national, regional and local planning policy level, there remains a priority for development in urban areas to which this site would accord. The site lies within a residential area in close proximity to services and facilities including access to sustainable travel options including bus services. The viability of the site has been scrutinised and although affordable housing cannot be provided, contributions are proposed towards open space provision in the locality. The proposal achieves a density level of around 35 dwellings per hectare and is integrated well into the locality through the design proposals which accords with National Planning Policy.

59. All criteria required to be complied with in Policy requirements have been taken into account through the evolution of the scheme, resulting in a well-designed proposal that responds to the specifics of the site, both in terms of layout but also the design of the elevational treatment. It must also be noted that the proposals aim to deliver quality new homes to local people in addition to providing much needed new housing in this location. The applicants have undertaken considerable dialogue with architects, local residents, consultants and relevant officers at the Council to ensure that the scheme not only delivers high quality design, but also responds to the aspirations of the local community. Indeed, the proposals have been amended several times during the planning submission, to take into account the comments made.
60. Development of this site would bring a number of benefits to South church including additional Council Tax of £65,000 and New Homes bonus payments of £392,000 payable over 6 years to the Council. The scheme would also provide a number of jobs and apprenticeships to local people, as well as safeguarding many current jobs.
61. However, despite the above comments this application is recommended for refusal by the Officer. It is noted that the Environmental Health Officer has confirmed that current noise levels would not cause a statutory nuisance, and that mechanical ventilation has been proposed so that sleep would not be disturbed even if the businesses were to change in operation and become noisier during the night. The Noise assessment provided with the application clearly demonstrates that the site can be developed in a way that residents have an appropriate level of amenity. The revised layout submitted with the revised application does indeed reflect this.
62. The proposed development will not preclude future development of the industrial estate or indeed, further noise development on the industrial estate. Of course, new development will have to be designed so as to take account of nearby residential properties, including those to the north and existing residential development to the east, whether or not the proposed new development is carried out. This can be addressed by alignment of buildings to shield residential properties from any potential noise rather than placing noisy activities on open boundaries to the site. If development of housing was prevented on sites near businesses 'just in case' they might change to a noisier use in the future, much of the Country would be unsuitable for development. Future development on the site will not be prevented providing that appropriate measures are taken and these need not be costly.
63. In the light of the recent White Paper with its clear identification of a need to build new homes as soon as possible and widen the opportunities for building homes fast, combined with the previous Inspector's conclusions on the suitability of the site for housing development in terms of its location and design, it is clear that there is a strong presumption in favour of the proposed development from a National Policy standpoint. The proposals will create a development where the residential amenity of the new residents will be of an appropriate level, and measures have been put in place to ensure that, even if there is an increased noise environment during the night, residential amenity can be maintained. There is no evidence that there are plans for any business development that would be likely to impact upon this situation. If the vacant industrial land is to be developed in the future it could clearly be designed in a way to minimise disturbance simply by way of orientation of structures within the site. Given the strong reasons in favour of the site, and the lack of any evidence to suggest that this strong presumption could be outweighed by any other consideration, the proposals should be permitted as soon as possible to allow this site to be brought forward for much needed housing development.

PLANNING CONSIDERATIONS AND ASSESSMENT

64. 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, noise, landscape impact, layout and design, highway safety and access, ecology, heritage and archaeology, residential amenity, flooding/drainage, other issues and planning obligations.

The Principle of Development

The Development Plan

65. 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 Wear Valley District Local Plan (WVDLP) remains the statutory 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 due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.
66. The WVDLP was adopted in 1997 and was intended to cover the period to 2006. However, 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. 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.

The NPPF

67. 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.

68. 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.
69. 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. However, Paragraph 14 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the WVDLP are out-of-date as outlined below.

Five Year Housing Land Supply

70. The NPPF states that housing applications should be considered in the context of a presumption in favour of sustainable development and that if the Council cannot demonstrate a five year housing land supply, housing policies in a Local Plan cannot be considered up to date. The housing trajectory associated with the withdrawn 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.
71. 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)
72. Set against the lowest figure the Council has been able to demonstrate a supply of 4.65 years of deliverable housing land, against the middle figure around about 4.31 years' worth supply and against the highest figure, 4.04 years of supply.
73. Whilst none of the three scenarios within the Issues and Options has been publicly tested, it does serve to demonstrate that set against varying potential figures, one of which may be identified as the OAN following consultation in the Preferred Option Stage Local Plan, the Council has a relatively substantial supply of housing.
74. Nevertheless, the decision-taking requirements of NPPF Paragraph 14 apply, 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. These can 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

75. Given the age of the WVDLP and housing supply figures that informed it, the housing supply policies do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, for the purposes of Paragraph 14 of the NPPF, and the weight to be afforded to the policies reduced as a result. However, 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. 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 advice at Paragraph 215 of the NPPF.
76. WVDLP Policy H3 sets out that new development should be located to the towns and villages best able to support it setting out limits of development providing there is no conflict with other policy of the WVDLP. The approach of directing housing to the most sustainable settlements that can support it while seeking to protect the open countryside is consistent with the NPPF. It is however recognised that the NPPF promotes a more flexible approach to site selection based on the sustainability of the development as a whole. It is considered that moderate weight can be afforded to this Policy in accordance with Paragraph 215 of the NPPF.
77. The site designated under saved Policy BE14 of the Local Plan as an Open Space within a built up area. Policy BE14 sets out that open space that contribute to the character and amenity of the area as designated in the WVLP Proposal map will be protected from development. It is noted that designating large areas of open space is not recognised within the NPPF as a method to safeguard land, however case law indicates that green wedges and other landscape designations may be considered NPPF-compliant. It is considered that moderate weight can be afforded to this Policy in accordance with Paragraph 215 of the NPPF in this respect.
78. Due to the protection of the site as an open space under policy WVDLP BE14 the proposals draw no support from WVDLP H3. However as WVDLP Policy BE14 can be partially regarded as a policy which controls the supply of housing it is also considered out of date for the reasons set out above.
79. Remaining policies within the WVDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development.
80. Overall the development of this site for housing would conflict with local plan policy BE14. However WVDLP policies for the supply of housing and development are not fully NPPF compliant or not up to date. This does not mean that they should be disregarded or be given no weight, but the weight that can be afforded to them is reduced. As a result the acceptability of the development largely rests on whether any adverse impacts of approving the scheme would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Locational Sustainability of the Site

81. The County Durham Settlement Study 2012 is an evidence based document which categorises Bishop Auckland as a Main Town (which includes South Church) with a wide range of services and amenities such as primary and secondary schools, medical provision, community facilities and employment sites with transport hubs. In line with the now withdrawn County Durham Plan Bishop Auckland was considered an appropriate, sustainable place to allocate new housing to meet the identified need and in order to comply with sustainable development objectives in the NPPF. The

erection of 56 dwellings is considered to be proportionate to the role of the town within the settlement hierarchy and the level of services provided.

82. NPPF Paragraph 61 sets out that planning decisions should address the connections between people and places and the integration of new development into the natural and built environment. In this respect, it is considered that the scheme would integrate itself well into the built environment of South Church and wider development of Bishop Auckland by creating a pedestrian connection onto the PROW on the western boundary. Although this Public Right of Way is unlit and is unsurfaced in places it does provide linkages into South Church itself, including the primary school and play facilities.

83. In relation to distances to services and amenities the application is accompanied by a travel plan and this assesses the accessibility of the site to local services and facilities, by foot and bicycle, as well as impacts upon the highway network in terms of vehicular traffic. The Institution of Highways and Transportation (CIHT), in their document "Providing for Journeys" suggest the following walking distances to services:

| | <i>Town Centre</i> | <i>Commuting/School/Sightseeing</i> | <i>Elsewhere</i> |
|-------------------|--------------------|-------------------------------------|------------------|
| Desirable | 200m | 500m | 400m |
| Acceptable | 400m | 1000m | 800m |
| Preferred Maximum | 800m | 2000m | 1200m |

84. In assessing the application against the above distances when measuring centrally to the site a distance of 2100m is evident to the town centre, 200m to South Church Enterprise Park. A distance of 1900m is evident to the nearest secondary school and 724m to the nearest primary school. The nearest local shop/local retail centre is located 1700 away while the nearest GP is located 1800m away. Higher education and hospital facilities are located in Bishop Auckland.

85. When considering these figures, it is noted that the majority of distances are either within 'Preferred Maximum' or 'beyond Preferred Maximum', and are therefore towards the higher end of distances or beyond that residents may reasonably be expected to walk. Whilst recognising the degree of separation provided by the A688 it is noted that Bishop Auckland is one of the largest settlements within the County with the joint highest sustainability score (with Durham City) as set out in the Council's Settlement Study 2012. This is in recognition of the wider range of services and amenities, employment opportunities and transport linking including a town centre train station.

86. In terms of cycle access, the site does perform better, with services in the town centre within a 5 minute cycle ride. Bus stops are located on the north and southbound Rosemount Road a maximum of 350m walk for future residents which would give access to the town centre and connections beyond on a regular basis. A range of transport options would therefore be available for future residents.

87. Overall it is considered the pedestrian links and the established bus service would give future residents alternative options to the private motor car to access to services and amenities. This is in line with the Inspector's conclusions in the appeal where it was deemed that the development would comply with the locational principles set out in the NPPF. The scheme is therefore considered to accord with WVDLP Policies GDP1 and H24 of the WVDLP in this respect which are considered consistent with Paragraphs 30, 34, 35 and 61 of the NPPF.

Noise

88. Wear Valley District Local Plan policy GD1 requires that new developments do not disturb or conflict with adjoining uses. This policy is considered consistent with the NPPF, which at paragraph 109 sets out that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at risk from or be adversely affected by unacceptable levels of noise pollution. Furthermore at paragraph 123 the NPPF sets out that planning policies and decisions should aim to avoid noise that gives rise to significant adverse impacts on health and quality of life. It is also recognised that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. It is also accepted that measures may be put in place to mitigate or minimise the adverse effects of noise including through the use of conditions. Due to its conformity with the NPPF significant weight should be afforded to policy GDP1 in the decision making process in this respect. It is also identified that paragraphs 109 and 123 of the NPPF are policies which indicate development should be restricted if there is conflict for the purposes of paragraph 14 of the NPPF.
89. As set out above the application site is located with close proximity of South Church Enterprise Park, designated a Prestige Industrial Estate within the WVDLP. The Estate has a number of successful businesses and a high occupancy rate in comparison to other industrial estates and employment sites within the local area (approx 90%). The proposed development would be located a minimum distance of 15m away from the nearest industrial units. These units consist of single storey steel clad and framed buildings with large areas of hardstandings utilised for goods deliveries, external storage and manufacturing processes. Activities within these units fall within a B2 planning use class and specifically include a steel machining business and a plastics moulding facility. There are no planning restrictions on the use or nature of these units in terms of operating hours, processes, external operations, vehicular movements and deliveries.
90. The key consideration in the appeal on the original application was the relationship between the potentially conflicting uses of commercial and housing and the potential impact on future residents and the ability of businesses to continue operating without restrictions placed on them. In order to address this potential conflict the applicant proposed mitigation measures to reduce the monitored noise level of these businesses on future residents. The Planning Inspector concluded the noise monitoring had not taken account of all of the noise sources at nearby industrial premises whilst the mitigation proposed was on the cusp of relevant thresholds. It was also noted that other noisy activities at the industrial premises, which may not have been captured in the noise surveys undertaken would result in readings above relevant noise levels. This could impact on the amenity of future residents and the operation of existing business due to potential restrictions through statutory noise nuisance.
91. In this revised planning application, the applicant has revised the site layout, by realigning the internal road layout adjacent the western boundary. This has moved the majority of the dwellings a minimum of 16m away from the boundary fence, however plots 55 and 56 would be in a similar position sited 6.5m from the site boundary. In support of the resubmitted planning application the applicants have undertaken a revised noise impact assessment, the scope of which was agreed with the Council's Environmental Health and Consumer Protection Section (EH) prior to submission. This involved noise monitoring over 2 weeks including some 24hr

periods. In reviewing the submitted assessment EH Officers advise that the methodology undertaken is robust and is appropriate for the nature of the site and existing noise climate. It is advised that the noise assessment demonstrates that the noise levels arising from the monitored industrial operations are in excess of the levels stated in the Council's Technical Advice Note on Noise (TANS). Therefore mitigation has been proposed by the applicant in the form of a 3m high barrier which would reduce noise levels by 7dB at the top floor windows, along with acoustic ventilation incorporated in the building fabric. This would bring noise levels in the round equal or close to the levels set out in the TANS.

92. However, it is highlighted by EH Officers that there are a range of uncertainties that the assessment is unable to address due to the nature of the site and adjacent uses. Evidence from the previous assessment demonstrates significantly different results from the most recent survey which indicate the changing nature of surrounding business and noises generated from a range of activities. Other uncertainties are highlighted by EH Officers include the location of noise sources (a higher level flare burner was previously identified) which would reduce the effectiveness of the acoustic barrier.
93. Due to concerns raised in the appeal the applicant's consultant has modelled what the impact from noise might be should the businesses expand to include significant night-time working. It is advised by EH officers that even with the acoustic barrier in place the noise level would still be significantly above the TANS threshold levels (15db above background as opposed to 5db). The submitted noise report considers potential noise levels including the proposed mitigation against "sleep disturbance levels". It is identified that there could be 6 times per hour where noise may be at such a level so as to disturb sleep (assuming worst case scenario). Whilst many residents might be expected to have their windows closed during these periods the Council's EH Officer has advised in relation to statutory nuisance that people are entitled to have their windows open and not be subjected to excessive noise from a distinct noise source. The Noise Policy Statement for England (referred to in foot note 27 of paragraph 123 of the NPPF and in the NPPG) sets out that the need to close windows for significant periods of time is likely to be considered a significant Observed Adverse Effect that is recommended to be avoided. More generally paragraph 109 also seeks to prevent new and existing development from contributing to or being put at risk from or be adversely affected by unacceptable levels of noise pollution.
94. Although no objections are raised from Environmental Health from a statutory nuisance point of view, based on the current operations of the site it is advised that should businesses change their operation there is the potential that this could lead to a statutory nuisance. This could result in restrictions being placed on neighbouring business on how they operate or their ability to expand. Recognising the important role these business play within the economy of the local area, this is considered a significant adverse impact which need to be weighed in the planning balance. This would be in conflict with Paragraph 123, footnote 28, which references the Environmental Protection Act 1990 and other relevant law when considering this matter.
95. In addition, some of the proposed dwellings would be close to a vacant parcel of land to the north eastern edge of the industrial estate. In accordance with policy I4 of the WVDLP, the industrial estate is classed as a Prestige Industrial Site. The WVDLP states that the area is needed to provide high quality, strategically located major industrial sites for B1 and B2 uses. The lack of current constraints on the type of B2 uses which could locate on that land is likely to be a significant positive factor in

encouraging inward investment. Policy I4, and the protection of the industrial estate, is consistent with the Framework's aims to encourage economic growth.

96. The development would involve the introduction of a noise sensitive use adjacent to an established industrial estate which significantly contributes to the economic output of the local area. Although mitigation measures are proposed there is a significant degree of uncertainty regarding their effectiveness and ability to mitigate future change in business operations and practices without adversely affecting the amenity of adjacent residents. As a result, existing businesses are likely to be hampered in their ability to carry out their day to day activities and to expand without additional burdens, in the form of noise controls, being placed upon them. It is therefore considered that the development conflicts with Wear Valley District Local Plan policy GD1 which requires that new developments do not disturb or conflict with adjoining uses. The development is also considered to conflict with paragraphs 109 and 123 of the NPPF, which are policies which indicate development should be resisted for the purposes of paragraph 14 of the NPPF.

Landscape Impact

97. The site is subject to a protected open space designation in the WVDLP under policy BE14, which seeks to protect areas of open space within built up areas where the land contributes positively to the character or amenity of the area as designated on the proposals map. Policy BE14 is considered a dual purpose policy and although out of date for housing supply purposes it can be considered up to date for other purposes such as landscape impact. It is noted that designating large areas of open space is not recognised within the NPPF as a method to safeguard land, although case law indicates that green wedges and other landscape designations may be considered NPPF compliant. Full weight can therefore be given to this policy in decision making in this respect. WVDLP Policy H3 is also considered a dual purpose policy. Although it relates to housing supply and as above is considered out of date in this respect, the policy justification sets out that it also seeks to protect surrounding landscapes and to ensure that the environmental capacity of the area is sufficient to accommodate new development. These objectives are considered consistent with the NPPF, while recognising that the NPPF promotes a more flexible approach to site selection, moderate weight can be afforded to the policy in this respect. WVDLP Policy GD1 also seeks to ensure that development would not have a detrimental impact on the landscape quality of the area and structural landscaping is provided around the periphery of major sites. This Policy is considered compliant with the NPPF which requires development to integrate well with its surroundings whilst seeking to protect valued landscapes. Full weight can therefore be given to this Policy in the decision making process in this respect.
98. The application site was previously used as private allotments, however this has ceased and the site has reverted to an agricultural use with an undeveloped appearance. The condition of the site has deteriorated since the earlier application and appeal and it is covered in scrub vegetation, with an unkempt nature.
99. The visual impact of the development on the surrounding landscape and the loss of the open space designation was given consideration as part of the appeal. The Planning Inspector considered that the open space on the site was not highly visible from the open land and footpath to the north due to the changes in level and scrub on the northern site boundary. It was also identified that from further north the land is seen as an undeveloped 'gap' site within an otherwise built-up envelope. However it was not viewed as an integral part of the riverside open space. The Inspector also noted that the site was largely screened from Dovecot Hill by a line of trees along the frontage. With the exception of these trees, the inspector considered that the site

does not provide any significant amenity benefit when viewed from the road whilst vegetation screens the site from the industrial estate.

100. The Inspector also concluded that the surrounding area has a mixed residential and industrial character and contained a wide network of informal open space close to the site that was deemed more important to the character and amenity of the area than the appeal site. It was also considered that the site is not particularly attractive in its own right and not highly prominent in its surroundings. Whilst recognising that the land has the appearance of a 'gap' site in an otherwise built-up envelope the Inspector considered that it does not contribute to any meaningful degree to the character or amenity of the area and its loss would not cause harm in these respects, particularly bearing in mind the amount of more valuable open space in close proximity. Overall the inspector concluded that the development of the site would not harm the character or amenity of the area.
101. In relation to this resubmitted scheme, the amount of developed area is largely the same with the site layout revised to provide the distributor road closer to the western boundary. Whilst it is considered that this revision has no greater impact in the wider landscape, the height of the proposed acoustic barrier on the boundary has been increased to 3m from 2.5m. This would to a degree have a greater visual impact on the PROW than the earlier scheme due to the increased height and land take required and it is likely that a significant amount of vegetation including the trees on the western boundary would need to be removed. A scheme of replanting could be undertaken to help mitigate these impacts although in combination these works would result in a residual negative visual impact on the PROW and the local landscape. Nevertheless this visual impact is not considered sufficient to result in a conflict with either policies GDP1 and H3 of the WVDLP.

Layout and Design

102. WVDLP Policies GD1 and H24 require development to be designed and built to a high standard and should contribute to the quality and built of the surrounding area. Furthermore development should be in keeping with the character and appearance of the area, and be appropriate in terms of form, scale, mass, density and layout, to its location. These policies are considered consistent with the NPPF which at Part 7 identifies that good design is indivisible from good planning, highlighting that developments should be visually attractive as a result of good architecture, appropriate landscaping and respond to local character. Full weight can therefore be afforded to these policies in this respect in the decision making process.
103. Furthermore Paragraph 58 of the NPPF sets out that decisions should aim to ensure that developments would function well and add to the overall quality of the area, establish a strong sense of place, use streetscapes and buildings to create attractive places, respond to local character and history, and reflect the identity of local surroundings and materials, create safe and accessible environments and are visually attractive as a result of good architecture and appropriate landscaping. Paragraph 64 of the NPPF also sets out that planning 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.
104. In considering the amended scheme against the above policy criteria, and the opportunities and constraints of the site, it is considered that overall the development would relate reasonably well to the surrounding built environment providing an active frontage onto the highway Dovecot Hill maintaining existing mature vegetation at this point Elsewhere through the development frontages and corner turner units have largely been utilised to maintain an active street scene. The proposed house types

are considered appropriate to the area which does not exhibit a strong local vernacular. The highway layout promotes a hierarchy moving through the site, allowing both pedestrians and vehicles to navigate around the development.

105. No areas of open space are provided within the site, with the exception of an area directly adjacent the proposed acoustic barrier alongside the western boundary. This would not provide an amenity area that could be used by residents but would provide some screening to the acoustic barrier. Without further substantial screening, over and above what is proposed, the barrier would be a dominant feature within the street scene.
106. Overall it is considered that the scheme would deliver an acceptable development and would contribute to the quality of the surrounding area in accordance to policies GP1 and H24 of the WVDLP and policies 58, 61, 62 and 64 of the NPPF.

Highway Safety and Access

107. WVDLP Policies GD1, H24 and T1 set out that developments should be served by a safe means of access and development should not create unacceptable levels of traffic which exceed the capacity of the local road network. These policies are considered consistent with the NPPF in this respect which also sets out at Paragraph 32 that safe and suitable access can be achieved for all people. Full weight should therefore be afforded to these Local Plan policies in the decision making process.
108. It is proposed that the existing access to the site would be stopped up and a new access formed approximately 15m to the east. This would be the only vehicular access into the site, while a secondary pedestrian access would be formed to the North West site boundary adjoining the PROW. In relation to the vehicular access the Highway Authority still favours the location of the existing access, which is off-set from that of an adjacent industrial complex opposite, but has advised that there are not sufficient highway safety grounds to object to the proposal as submitted.
109. In respect of the impact of the development on the local highway capacity, the Highway Authority considers that the surrounding road network is capable of accommodating the additional vehicular flows generated by the development and would not lead to unacceptable conflict with industrial and commercial traffic, particularly considering there are already surrounding residential uses already sharing the road network.
110. The proposed dwellings would provide at least 2 vehicle parking spaces, either through double driveways or through the provision of a garage and driveway. A number of visitor parking bays are also proposed. This would comply with the recently revised County residential car parking standards, subject to minor site layout modification in relation to visitor parking bays which could be secured by condition. There is however mention in the application that not all garages may necessarily be built, which is a concern for the Highway Authority. Accordingly, to ensure compliance with the County parking standards, a condition would be necessary to require hard standings for parking where garages are not built on individual plots.
111. Overall, it is considered that the development would not lead to a severe cumulative highway impact with a satisfactory access and layout could be achieved, the development therefore accords with Wear Valley Local Plan policies GD1, H24 and T1 in this respect as well as NPPF section 4.

Residential Amenity

112. WVDLP Policies GD1 and H24 requires that the design and layout of development to ensure that appropriate relationships remain with existing dwellings and would not conflict or disturb adjoin uses. These Policies are considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Whilst Part 11 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from levels of pollution.
113. At present the site is open and the properties of Bigland Terrace, West View and Rosemount Court have a ready view across the site. The development would therefore reduce this open aspect and the current outlook experienced. However in considering this matter, the site layout would achieve the minimum separation distances of 21m between habitable room windows and 15m between gables and windowed elevations, which are considered acceptable relationships by policy H24 of the Local Plan. Although the relationship between 1 Bigland Terrace and plot no.12 would fall below this recommended distance (13m front to gable) the dwellings are staggered and therefore any impact is considered to be minimal. Therefore it is considered that although there would be a change to views experienced by neighbouring residents, this would not be to the extent that would cause harm to their amenity in respect of overbearing or loss of privacy. Concerns expressed about loss of view and impacts on property values are not planning considerations which can be given any significant weight in the consideration of the application.
114. In order to limit the potential disturbance for existing and future residents during construction, Environmental Health and Consumer Protection officers recommend that a construction management plan be secured to deal with construction related impacts.
115. The development of both sites would increase the comings and goings of vehicles and to a lesser degree pedestrians which would have a limited impact on residential amenity. However, this is not considered to be at a level that would warrant refusal of the application.
116. Overall, notwithstanding considerations around noise impact of existing business as detailed above the scheme would comply with WVDLP Policies GD1 and H24 and paragraph 17 and Part 8 the NPPF and would not lead to a significant reduction in residential amenity.

Ecology

117. Part 11 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests. The presence of protected species is a material consideration, in accordance with Circular 06/2005 (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.
118. The ecology surveys submitted with the application conclude that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations (Amendment) 2012 and/or the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. However the site lies adjacent to the

river Gaunless green corridor, substantial hedges, and wildlife corridors (potentially for bat foraging/commuting and breeding birds). A bat survey concludes that although bats are using the site for foraging purposes this is largely confined to the western boundary and any displacement through the development would be unlikely to impact on the local conservation of the species. Mitigation measures are also proposed in terms of controlling lighting to further reduce any potential impact.

119. The Ecology Section advise that the methodologies and conclusions of the submitted reports are considered sound. However it is identified that no greenspace has been provided within the site as compensation for the loss of the existing habitat. It is highlighted that a suitable contribution towards off site green infrastructure and biodiversity enhancements or a mitigation strategy secured by condition could be agreed to secure a net biodiversity gain as required by part 11 of the NPPF.

Heritage and Archaeology

120. The site is located approximately 340m to the south of the Grade I Listed Building of the Church of St Andrew and 260m to the south east of the Grade I Listed Buildings of East Deanery Farm.
121. The development could therefore be considered as falling within the setting of these heritage assets. However, in having appraised the development in this respect, the Design and Conservation Section advise that there would be a neutral impact on the church due and the farm due to the degree of separation, level changes, proposed planting on the northern boundary and general built up character of the wider area within which the site sits. Accordingly, having regard to section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the development would have a neutral impact on the setting of the Listed Church and East Deanery Farm thereby preserve their setting and any historic significance it possesses. There would be very limited inter visibility between the site and Bishop Auckland Conservation Area
122. In terms of Archaeology, the NPPF sets out the requirements for an appropriate programme of archaeological investigation, recording and publication of results. The applicant has submitted a geophysical survey and has prepared a written scheme of archaeological investigation. In reviewing these documents the Council's Archaeology Officer advises that subject to the investigation works being carried out before ground works commence the development should have a low risk of impacting on anything of archaeological interest.
123. Overall, the setting of the Grade I Listed St Andrews Church and Grade I Listed Buildings of East Deanery Farm would not be negatively affected the proposal therefore accords with Wear Valley Local Plan Policies GD1, H24, BE1 and BE17; and NPPF part 12.

Flooding and Drainage

124. National advice within the NPPF (Paragraph 100) and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment (FRA).

125. The application is accompanied by a FRA which highlights that the application site is within flood zone 1 with a low flood risk probability. The FRA also sets out a drainage strategy including the incorporation of a surface water storage system, within the site to restrict runoff to Green Field rate before being discharged to a water course. Subject to securing the detail of this approach, and incorporating Sustainable Drainage Systems where appropriate the Councils Drainage and Coastal Protection officers offer no objections to the development. Northumbrian Water also advise a conditional approach to managing surface water discharge.
126. In relation to foul water, it is proposed to connect to the existing sewerage network. Northumbrian Water raise no objections subject to detailing the design of the layout.
127. Subject to conditions to resolve the final surface and foul water disposal proposals are recommended no objections to the development on the grounds of flood risk or drainage are raised having regards to Part 10 of the NPPF.

Other Issues

128. NPPF Paragraph 112 states that LPAs should take into account the benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The development would result in the loss of approximately 1.57ha of agricultural land. A site specific investigation into the land classification does not accompany the application. Given the lack of assessment it cannot be determined whether the land is best or most versatile agricultural land. However, even in a circumstance that the land is best and most versatile land this does not preclude the land from development but is a factor to consider in the determination of the application in the planning balance.
129. In this instance it is considered that the amount of agricultural land that would be lost is less than significant. Therefore this should not be considered an adverse impact even in the event it was found to be best and most versatile. i
130. In relation to land contamination the applicant has submitted a phase 1 desk top study report which identifies that there is a low risk of contaminants being present on site but site investigation work is recommended. After reviewing the submitted report Environment, Health and Consumer Protection officers (Contaminated Land) advise that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations. This would satisfy the requirements of paragraph 120 of the NPPF.
131. The development would fall below the thresholds requiring a requirement an assessment on the impact of air quality.

Planning Obligations

132. The NPPF at Paragraph 72 sets out that the Government attaches great importance to ensuring that sufficient school places are available to meet the needs of existing and new communities. The Council's School Organisation Manager highlights that a development of 56 dwellings would likely generate an additional 17 primary and 6 additional secondary pupils. It is advised that sufficient primary and secondary school places exist to accommodate the development within an appropriate distance from the site.

133. WVDLP Policy H15 in accordance with Part 6 of the NPPF sets out where a need has been established an appropriate level of affordable housing should be provided. The identified need in the area is set out in the Strategic Housing Market Assessment and equates to a minimum of a 10% provision.
134. No affordable housing contributions are proposed as part of the scheme, and the applicant has stated that should this be a requirement the development proposed would be economically unviable. Paragraph 173 of the NPPF outlines the importance of viability as a material planning consideration, setting out that developments should not be subject to obligations which threaten their ability to be viably developed. In circumstances where the viability of the scheme is in question, the developer will be required to demonstrate to the Council's satisfaction that this is the case.
135. Advice has been sought on this matter from the Council's Assets and Spatial Policy Sections, which have considered in detail the submitted development appraisal for the site, including baseline costs against industry standards and reviewing the likely income generated from the development. Having tested these assumptions once the amount paid for the site and development costs are taken from expected sale values, excluding any affordable housing provision the viability of the site is considered marginal, well below the 17-20% acceptable return. Having regard to the advice within the NPPF, it is accepted that the development could not deliver affordable housing provision without being unviable. Whilst it is accepted that the scheme does propose a mix of dwellings, including 2 bed semi-detached dwelling which would be expected to be priced at the lower end of the market.
136. WVDLP Policy RL5 sets out targets for sporting and/or recreational land as part of the development or as an alternative developers are expected to make a contribution to the provision of such facilities. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2010 which is considered the most up to date assessment of need for the purposes of Paragraph 73 of the NPPF.
137. The OSNA sets out the requirements for public open space on a population pro rata basis setting minimum requirements for each typology that development should provide for, to serve future residents and to mitigate the extra demand generated by the development. In this instance as the development provides minimal onsite amenity open space with the exception of incidental areas, based on the OSNA calculations an offsite contribution of £122,499 would be required to mitigate the developments impact. A figure of £56,000 is offered in this instance, although this would not fully mitigate the developments impacts particularly in relation to allotment, semi natural green space and parks and gardens typologies, mindful of the site viability position this contribution is considered acceptable.
138. WVDLP Policy BE23 sets out that the Council will encourage the provision of works of art as part of development. This Policy is considered partially compliant with the NPPF which requires development to be well designed and responds to local character, while recognising no specific mention of public art is made within the NPPF. Issues around viability however need to be taken into consideration. No reference to meet the requirements of this policy has been made by the applicant in this instance, however due the viability position of the site this is cost the development is not considered to be able to bear.
139. The Council's Employability officer request that targeted recruitment and training clauses are included within a S106 planning obligation in the event of approval in accordance with Part 1 of the NPPF. The applicant has expressed a willingness to enter into such an agreement.

Planning Balance

140. The development of the site would result in a departure from the WVDLP as the site is designated open space and protected from development under policy BE14 of the WVDLP. However, in circumstances where relevant policies are out of date and in the absence of a five year housing land supply, the NPPF, as a significant material consideration sets out that the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. Paragraph 14 states that permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate development should be restricted. It is identified that the proposed development is considered contrary to Paragraphs 109 and 123 of the NPPF, which are specific policies that indicates that development should be restricted and so negates the presumption in favour. Therefore, there is no requirement for the adverse impacts to significantly and demonstrably outweigh the benefits. However, for clarity the balance test considers the approach where that test would apply.

Benefits

141. The development would assist in maintaining housing land supply at a time the Council cannot demonstrate a 5 year housing supply against an objectively assessed need, although in the light of the supply position, this benefit is a limited one.
142. Recent Planning Case Law, states that the weight given to a proposal's benefits in increasing the supply of housing will vary, depending, amongst other things, on the extent of shortfall, how long a shortfall might persist, and how much of it the development would meet. Given that even in the most exacting scenario, the Council can demonstrate 4.04 years of supply. It also considered reasonable to suppose that any shortfall is likely to be relatively temporary, and that there is likely to be a boost in supply through housing allocations once the County Durham Plan is adopted. As a result, the benefits of this scheme in terms of boosting housing delivery are limited, and 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. The scheme would only provide between 11 and 13 days housing land supply based on indicated OAN figures.
143. 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. This would include the creation of construction jobs.

Adverse Impacts

144. The development would involve the introduction of a noise sensitive use adjacent to an established industrial estate which significantly contributes to the economic output of the local area. Although mitigation measures are proposed there is a significant degree of uncertainty regarding their effectiveness and these would not likely mitigate future change in business operations and practices without adversely affecting the amenity of adjacent residents. As a result, existing businesses are likely to be hampered in their ability to carry out their day to day activities and to expand without additional burdens, in the form of noise controls, being placed upon them.
145. The proposal is likely to reduce the attractiveness of a vacant plot of allocated employment land to an inward investor due to the likely restrictions and controls required to safeguard residential amenity.

Impacts

146. Loss of agricultural land would arise, however given the size of the site (1.57ha) this should not be considered an adverse impact even in the event that the land is best and most versatile.
147. The development would result in a residual visual impact on the public right of way due to the formation of a 3m high acoustic screen, this impact is not considered sufficient to result in a conflict with either policies GDP1 and H3 of the WVDLP.

CONCLUSION

148. The proposed development is considered contrary to Paragraphs 109 and 123 of the NPPF, which are policies that indicate that development should be restricted and displaces the presumption in favour of sustainable development.
149. Notwithstanding this, adverse impacts have been identified, most notably that the development would involve the introduction of a noise sensitive use adjacent to an established industrial estate which significantly contributes to the economic output of the local area. It is likely that future restrictions would be placed on adjacent businesses in the form of noise controls. The development would also reduce the attractiveness of a vacant parcel of allocated employment land to inward investment.
150. Whilst there are some benefits to the proposal, notably the boost to housing supply, direct and indirect economic benefits, these are considered to be of reduced value given the level of housing supply the Council can demonstrate. In this instance these benefits are outweighed by the particular adverse impacts identified. As specific NPPF policies indicate development should be restricted the proposed scheme cannot be considered to be sustainable development. In any event, the adverse impacts of the development would together, be such that they would significantly and demonstrably outweigh the benefits if the presumption in favour of sustainable development balance test was applied.
151. The proposal has generated some public interest, with letters of objection and support having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits.

RECOMMENDATION

That the application be **REFUSED** for the following reason:

1. The Local Planning Authority considers that the introduction of a noise sensitive use adjacent to an established industrial estate is likely to result in future residents being adversely affected by the activities at the adjoining industrial premises and future restrictions being placed on those adjacent and future businesses in the form of noise controls contrary to policy GDP1 of the Wear Valley District Local Plan and Paragraphs 109 and 123 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its recommendation to refuse 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 form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

The Noise Policy Statement for England (2012)

National Planning Practice Guidance Notes

Wear Valley District Local Plan

The County Durham Plan (Submission Draft)

The County Durham Strategic Housing Land Assessment

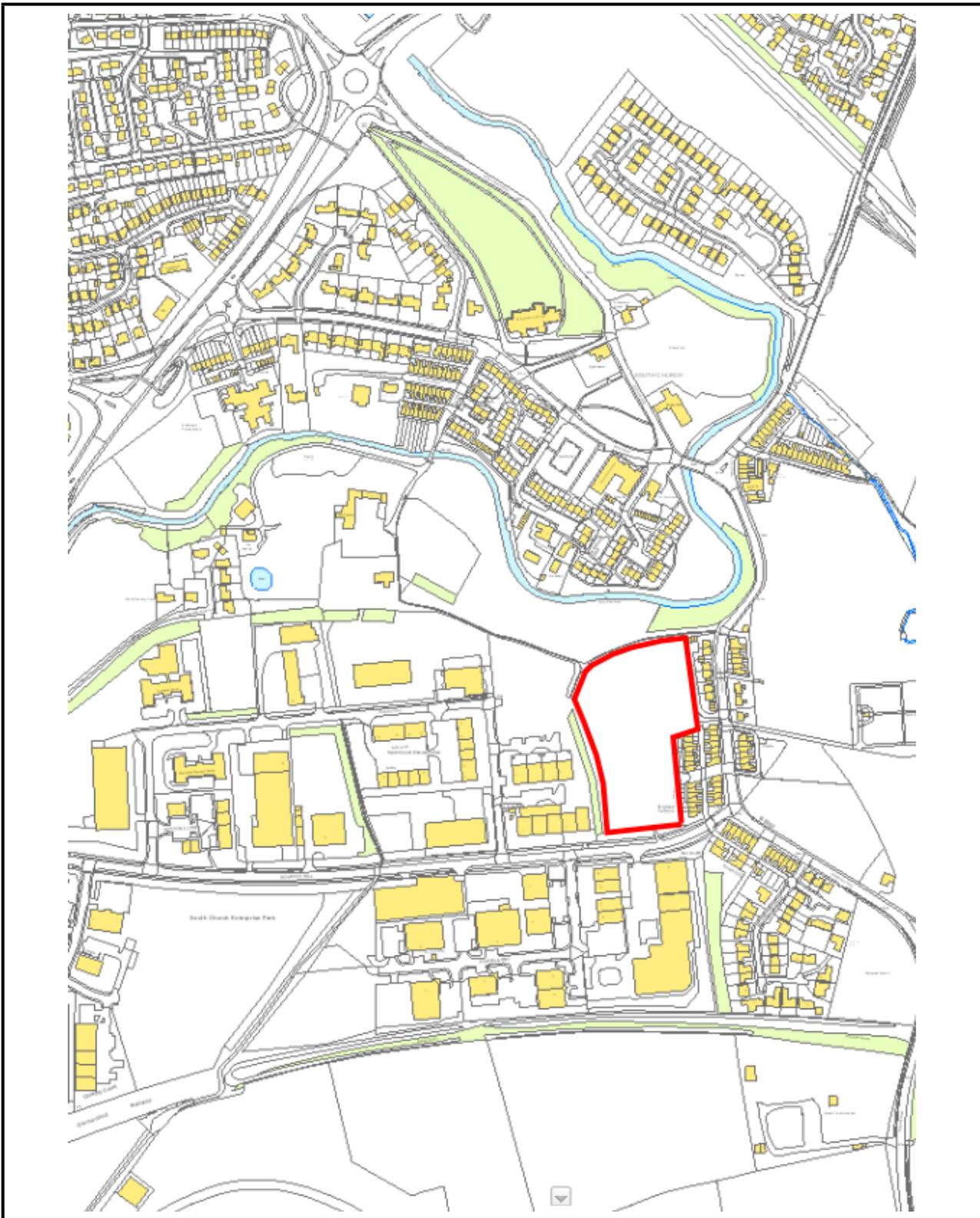
The County Durham Strategic Housing Market Assessment

The County Durham Settlement Study (2012)

Technical Advice Note – Noise

Open Space Needs Assessment 2010

Statutory, internal and public consultation responses.



Planning Services

DM/16/00528/FPA
Erection of 56 dwellings with associated
infrastructure works and access
(resubmission).

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Comments

Date February 2017

Scale 1:5000