

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/16/04052/FPA

FULL APPLICATION DESCRIPTION: Hybrid application for full planning permission for the erection of 123 dwellings and associated access, landscaping and engineering works and outline planning permission (with landscaping matters reserved) for the erection of up to 80 dwellings.

NAME OF APPLICANT: Avant Homes Ltd

ADDRESS: British Oxygen Co
Vigo Lane
Chester-le-Street
DH3 2RD

ELECTORAL DIVISION: North Lodge

CASE OFFICER: Graham Blakey, Senior Planning Officer
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DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located to the south east of the A167, Durham Road and C8, Vigo Lane in Chester-le-Street, and extends to 8.04 hectares of previously developed land. The administrative boundary of Gateshead Council lies along the A167. The site had been occupied by the British Oxygen Company (BOC) since circa late 1920s. It was subsequently closed and demolished by 2013. Sandwiched between road and cycle routes, the site is broadly orientated on an east-west axis and features Durham Road to the western boundary, Vigo Lane to the northern boundary, the C2C cycle route (once a former railway until 1960s) atop a tree-lined embankment to the southern boundary. A further factory site, Arizona Chemicals, lies to the eastern boundary which has also now been demolished. The Durham Road/Vigo Lane roundabout forms a busy road junction to the north west corner of the site. Located part way along the northern boundary of the site is a small number of residential properties (1-6 Vigo Lane) located immediately adjacent to the application site.

2. Within the site the ground is generally level, indicative of the previous built use, but with a gradual somewhat imperceptible slope from east to west. The pre-existing boundary treatments and landscaping features remain, such as the factory access points, gates and posts and high perimeter fencing which encloses the site to all four boundaries. Trees are features of all boundaries to some degree, with dense, mature tree belts to the C2C embankment and Durham Road forming significant screens, with the latter being subject to a Tree Preservation Order. More sporadic, individual trees to the northern boundary exist some of which once formed part of the landscaping scheme to the previous BOC use. Built development surrounds the site, with residential properties of Barley Mow to the north of site across Vigo Lane, and across the C2C line at Picktree Lodge and Sinclair Drive to the south. Park View School's North Lodge campus lies directly to the south of the western portion of the application site, again separated by the C2C line, with mixed residential, industrial and commercial development to the west of Durham Road to the entrance to Drum Industrial Estate.
3. No statutory or locally designated landscape or ecological sites are located within or immediately adjacent to the application site, although Pelaw Hill Railway Local Wildlife Site lies approximately 380m to the south west, beyond the A167 via the C2C route; with Waldrige Fell SSSI a popular and well used public amenity space located to the west of Chester le Street. No recorded public rights of way are contained within the application site. The application site contains no watercourses, with the site lying entirely within Flood Zone 1, which is the zone of lowest risk. The closest heritage asset is Vigo House; the grade II listed structure which lies 350 metres to the east.

The Proposal

4. The application comprises a hybrid application, which seeks full planning permission for 123 dwellings (Phase 1), and outline permission for an additional 80 dwellings (Phase 2), resulting in a total of 203 dwellings across the site. With regard to the outline element of the proposal, only the matter of landscaping is reserved for future consideration following the provision of further details on layout, appearance and scale during the course of the application. Details of vehicular access forms part of the detailed application.
5. Access to the site is proposed from Vigo Lane at two separate points, one existing access to the western portion of the site and one new access point to the eastern portion, with the main access road running west to east through the site linking the two proposed accesses. Pockets of open space would be focused primarily around this main internal road, with a central area of open space located to the central/east of the site, and to the western boundary of the site with Durham Road. A SUDs drainage feature would be located to the north west corner of the site adjacent to the western access and Durham Road/Vigo Lane junction. An informal pathway through the wooded amenity space in the western part of the application area is also proposed. The central part of the site (Phase 1) would be developed first, with a mix of house types and character areas, with two areas of affordable housing located within this phase. Development of the outer eastern and western parts of the site (Phase 2) mirrors the proposed housing layout, house type mix and character areas as defined in the full application. An associated substation forms part of the proposal.
6. The proposed development would feature predominately 3 and 4 bedroomed properties accounting for 185 of the 203 homes proposed (91% of the total housing). 30 affordable homes are proposed and are broken down in to 14 two-bedroomed properties and 16 three-bedroom properties (30 in total) and split across two groupings within the development. Most of the properties are two storeys, with only

the 'Sutton' house type being three storeys (12 units in semi-detached pairs). Properties would all feature off-street parking and rear enclosed gardens.

7. The application also includes offsite highways works to Vigo Lane and also to the junction with A167 Durham Road, including the provision of a bus laybys and protected right hand turns for the new access points and improved pedestrian access to/from the north.
8. This planning application is being reported to County Planning Committee because it is a residential development with a site area in excess of 4 hectares.

PLANNING HISTORY

9. Prior notification of the Local Planning Authority was not required in 2013 for the demolition and removal of the BOC plant and its associated buildings, ground slabs, tanks and associated plant.

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, recognizing the benefits of ecosystem services, minimizing 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:

The Chester-le-Street District Local Plan (2003) (CDLP)

21. *Policy HP6 – Residential development within settlement boundaries* – identifies Chester le Street as a settlement where residential development will be allowed on non-allocated sites that are previously developed land and meet the criteria of Policy HP9.
22. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
23. *Policy HP13 – Affordable Housing* – the Council will seek to negotiate affordable housing within windfall sites, with Chester le Street falling within the Northern Delivery Area where a 15% provision is required.
24. *Policy HP15 – Community Provision* – the Council will seek to negotiate, where appropriate, a contribution to the provision and subsequent maintenance of related social, community, infrastructure and leisure facilities in the locality where such provisions are necessary and directly related to the development being proposed.
25. *Policy T6 – Provision for Public Transport: General* – Development proposals should be designed to encourage use of public transport and reduce reliance upon the private car by locating accesses close to bus routes and footpath links. Where new transport links are required an appropriate contribution will be sought from the developer through a Section 106 obligation.
26. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.
27. *Policy T17 – General Transport Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.
28. *Policy RL5 – Provision in New Developments* – subject to dwelling sizes and types proposed, and the level of local provision, there is a requirement for at least 125m² children's play space and 250m² informal open space to be provided within the site for every 1 hectare of land developed or redeveloped for residential purposes, adjusted pro-rata for smaller sites.
29. *Policy BE2 – Public Art* – Developers of larger schemes will be required to contribute 1% of development costs to the provision of works of art in new projects accessible by the public.
30. *Policy BE22 - Planning Obligations* - Chester le Street Council will enter into legal agreements to either enhance the quality of the proposed development or enable a proposal to go ahead that might otherwise be refused.

RELEVANT EMERGING POLICY:

The County Durham Plan

31. 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. The full text, criteria, and justifications of each may be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Chester le Street Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

32. *North Lodge Parish Council* – advise that its Councillors view the planning proposals as being very positive. Concerns are expressed that existing trees should be retained on the periphery of the site; that there should be sufficient safe play area for children as nearest two play areas are across a busy road, and the amount of unadopted road (shared drive) should be minimised as much as possible.
33. *Gateshead Council* – has issued a holding objection citing concerns over the impact of the development on its highway network.
34. *Highways England* – Raise no objections.
35. *Highway Authority* – Have advised that on the basis of the submitted Transport Assessment, that nearby junctions within the Council's administrative area would operate within their capacity when taking account of the proposed development. Off-site highway works at the A167/Vigo Lane roundabout adjacent the site would seek to mitigate the effects of the development on the operation of the junction.
36. *Northumbrian Water* – Raises no objections, subject to the imposition of a condition to agree the finer detail of the drainage scheme.
37. *Drainage and Coastal Protection* – Raise no objection noting that whilst the proposal fulfils the Source Control element of the management train outlined in the Council's SUDs Adoption Guide 2016, there is a lack of Site Control which would be expect for a new development such as this. Greenfield run-off rate of 35.3 l/s should be achieved by the development at all times.
38. *The Coal Authority* – Raise no objections.

INTERNAL CONSULTEE RESPONSES:

39. *Design and Conservation* – Raise no objections. The site contains no designated or known non-designated heritage assets. The layout of the development offers a mix of house types and materials, with attention paid to the Vigo Lane frontage through regular dwelling heights and linear palette of materials. Tree retention to most boundaries is welcomed and dense tree planting to the C2C embankment is an important feature retained. Further work required in the landscaping to emphasise gateway features. Consideration should be given to not having a through road in the estate to allow separate access to each half of the estate, reducing the longer-distance views of the highway.
40. *Landscape* – Raise no objections subject to the agreement of full landscape details, including how this relates to the proposed SUDs and the 'Sensitive informal footpath'.
41. *Landscape (Arboriculture)* – Raise no objections. Officers consider that the arboricultural report supplied is satisfactory and complies with current standards. Tree Preservation Order CLS 42 covers 70 trees to the western boundary and retention is crucial and welcomed. T71, a mature oak located outside the site but contains some of its root area adjacent to the proposed SUDs basin and needs to be considered.
42. *School Places and Admissions Manager* – Raise no objections. The development is likely to produce 61 primary pupils and 25 secondary pupils. There are sufficient primary places available, but insufficient places at the nearest secondary school. Consequently of £352,550 will be required for the provision of additional teaching accommodation.
43. *Ecology* – Raise no objections. It is noted that some habitat from within the site would be lost as a result of these proposals, with no mitigation proposed on site. This lack of compensation results in the development having a net biodiversity loss and so this should be addressed on site or through off-site delivery, with the nearby Waldrige Fell SSSI requiring works. Concerns over bat flight lines to the western boundary of the site should be reviewed in the detailed landscape proposals. A planning condition to agree proposed lighting scheme is also suggested.
44. *Environment, Health and Consumer Protection (Contaminated Land)* – Raise no objections. A planning condition is suggested requiring the submission of a remediation strategy and subsequent verification report.
45. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections. A planning condition is suggested to ensure that the proposed dwellings are constructed in accordance with the mitigation strategy outlined within the submitted noise assessment. It is considered that impacts upon air quality in regard to the operational phase of the development would be negligible and that controls in relation to the construction phase of the development would be required.
46. *Sustainable Travel* – No objections are raised, although some revisions to the Travel Plan are suggested.
47. *Housing Delivery* – Raise no objections. The 15% affordable housing requirement is proposed by the applicant at a tenure mix of 75% affordable rent and 25% affordable home ownership, which is acceptable.

48. *Access and Public Rights of Way* – Raise no objections, noting that no public rights of way are within or abutting the site.
49. *Durham Constabulary* – No objections are raised noting that the crime risk assessment for this development is low.

PUBLIC RESPONSES:

50. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 6 representations have been received, 5 from local residents and 1 from the Divisional Councillor. 1 related to an objection with the remaining 5 offering general support to the redevelopment of the site. The matters raised in regard to the detail of the scheme are summarised below.
51. Comments were received in regard to the inclusion of three storey homes, in particular to the Vigo Lane frontage, where house type designs should be more in keeping with current houses on the south side of Vigo Lane. Highways issues surrounding Vigo Lane itself were raised and centred around current 40mph speed limit and the stopping of traffic due to bus stops and future traffic waiting to turn right into the estate. Improvements to the Vigo Lane/Durham Road junction and Barley Mow Estate junction were suggested by residents. Visually, several mature trees line the Vigo Lane and Durham Road boundaries and residents believe these should be retained. Finally, concerns over construction times were raised in terms of their impact upon neighbouring residential properties. Access to local GP services was a further issue raised by residents.
52. One objection queried the 'inappropriate' number of dwellings as being too large for the area and again referring to the issues surrounding access to GP services in the area.

APPLICANTS STATEMENT:

53. The application site is in a highly sustainable location and comprises a brownfield site that is readily available for development. Development of this sustainable, brownfield site will reduce pressure for development on greenfield sites within the County.
54. The development proposes a range of family housing which has been informed through discussions with both the Council and local residents. The development will also provide 30 affordable homes, offering a mix of two and three bedroom properties.
55. Avant Homes has engaged with the Council and local residents throughout the design and conception of this scheme. The discussions have led to various amendments to the house types, design and layout in order to arrive at the proposals presented today. The proposed scheme is well-designed and the proposed landscaping secures the retention of protected and important trees, and the creation of areas of public open space and facilities for play.
56. The development will deliver economic, environmental and social benefits, not least the creation of jobs through the construction period, and will provide well-designed homes to improve choice for the community and help Durham County Council in delivering its housing targets. The proposed development also incorporates public open space and play facilities, as well as contributing £577,550 towards ecology, education provision and improvements to local open space which will be secured through a Section 106 Agreement.

57. Avant Homes are firmly committed to delivering homes on this site. Indeed, they have sought to agree as much detail as possible up front in order to avoid as many pre-commencement conditions as possible which could delay a start on site. It is, therefore, our firm view that planning permission should be granted for this application in order that the Council can deliver this important site and in doing so, support the wider regeneration of the County, and deliver the homes that are needed.

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

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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

The Principle of the Development

The Development Plan

59. 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 Chester le Street District Local Plan (CDLP) 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 local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
60. The CDLP was adopted in 2003 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

61. 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.

62. 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.
63. 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 CDLP are out-of-date as outlined below.

Five Year Housing Land Supply

64. 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, then 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.
65. 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)
66. 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.
67. 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.

68. 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 relevant local plan policies may be out of date for other reasons, as discussed below, and will only be rebutted where a proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits, both in the form of a contribution to housing supply and any other benefits, or if specific policies in the NPPF indicate development should be restricted.

Assessment having regards to Development Plan Policies

69. Given the age of the CDLP and housing supply figures that informed it, the housing supply policies therein 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.
70. CDLP Policy HP6 supports the principle of residential development on non-allocated sites within Chester-Le-Street’s settlement boundaries provided the site comprises previously-developed land. As such, the proposals do, in principle, accord with the development plan. However, given the Policy is out-of-date as described above and on the basis of the housing land supply position, the weight to be afforded to the Policy is reduced. That weight is further reduced by the requirement in CDLP Policy HP6 that housing is only permitted on previously-developed sites, something which is not consistent with the NPPF. Consequently, the acceptability of the development largely rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.
71. Remaining policies within the CDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development.

Locational Sustainability of the Site

72. The County Durham Settlement Study (2012) is an evidence based document which categorises Chester le Street as one of the “Main Towns” in the County. These larger towns will have access to all facilities expected within an urban setting such as schools, doctors, community facilities and industrial estates. It is considered likely therefore, that residential development in these settlements would be locationally sustainable, subject to specific site constraints.
73. The site also lies within the settlement boundary identified within the CDLP, to the northern part of the town. Consequently, the site has access to all of the facilities in the town and those nearest to the site (schools and public transport links) with a range of existing services available within Chester le Street and Birtley, with the development providing the potential to strengthen and support for these services.
74. Paragraph 61 of the NPPF sets out that planning decision should address the connections between people and places and the integration of new development into the natural and built environment. CDLP Policy T6 encourages the use of public transport and reduce the reliance upon the motor car, and is consistent with the NPPF. From the application site, Park View (North Lodge) Secondary School is located at a walking distance of approximately 600m, a selection of services

including Barley Mow Public House and Village Hall (150m), garden centre and DIY stores (300m) and local convenience store (550m) are nearby and the nearest doctors surgery is located 1.2km away (Rickleton) with others in Birtley (1.5km) and Chester le Street (2km). The Drum and Durham Road Industrial Estates lie 800m and 270m away respectively; while shops and services within the town centre of Chester le Street are to the south.

75. The proposed development encourages walking through the provision of access links in all directions, including the C2C (via Durham Road) and nearby public transport. For services not available in the vicinity, bus stops are located adjacent to the site providing links to Birtley, Gateshead, Newcastle to the north, Chester le Street and Durham to the south (with buses running every 5-10 minutes in both directions throughout the day), and Washington to the east (buses running every 30 minutes in both directions). A range of transport options would therefore be available for future residents. Access to GP surgeries has been raised by an objector who states that they already have difficulty making appointments at the present time. However several surgeries are available in the area, with Rickleton, Birtley and Chester le Street all providing access to GPs.
76. As a result, it is considered that in the vicinity the site has access to an array of services and facilities, more than adequate to serve the development proposed, and that these are within relatively easy reach of the site. The development would be comfortably assimilated within the built form of the area around Vigo Lane, in keeping with the role of Chester le Street in the settlement hierarchy. No objections are therefore raised having regards to the locational sustainability of the site. The re-use of previously-developed land is encouraged through the NPPF, which this site would achieve and so adds weight in favour of the development in the decision making process.
77. Overall, it is considered the walking distances, improved pedestrian links and the established bus service would give future residents alternative options to the private motor car to access services and amenities, in accordance with core principles of Paragraph 17 and also Paragraph 61 of the NPPF, which encourages the integration of new development into the existing environment; and CDLP Policies HP9, T15 and T17, which are considered consistent the NPPF in this respect.

Landscape Impact, Layout and Design

78. CDLP Policy HP9 requires that developments should be designed and built to a high standard which provides an attractive and efficient residential environment that relates well to the built environment around the site, and which retains existing landscape features of the area. The Policy also gives direction upon housing densities and parking provision. CDLP Policy BE2 seeks a contribution to provide public art in publically accessible spaces, but does not discourage the incorporation of public art within developments where proposed. Parts 7 and 11 of the NPPF also seek to promote good design and sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. However, the somewhat prescriptive nature of the Policy is at odds with the flexible nature of the NPPF.
79. Paragraph 58 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. CDLP Policy HP9 again offers prescriptive guidance limits to specifics of the design and layout which is not consistent with the aims of the NPPF. Similarly, CDLP Policy BE2 has limited support from the NPPF

but public art is supported by the NPPG. Overall, both Policies do broadly build upon the NPPF and NPPG requirements and so can be considered partially consistent as a result. Therefore the key policy consideration in this matter is whether the site is read together well with the built environment and the surrounding landscape features, and represents good design.

80. The application is in hybrid form, with full layout and design details given for the central portion of the development site, with the eastern and western flanks remaining in outline form. However, these outline elements of the application do seek to agree all matters except for landscaping and so the proposed layout can be viewed in its entirety. The applicant has worked with officers to develop and improve the proposed layout and design, including the position of the main spine road through the development, the frontage of the development on to Vigo Lane and overall permeability. The layout is considered to display a clear hierarchy of roads, including shared surfaces and private driveways, and is considered to be legible, and easy to navigate around. Overlooking of pedestrian links east and west are welcomed to improve security but also to provide a more aesthetic appearance to the layout of the housing.
81. In broad landscape terms, the position of the site within the built environment would result in little or no impacts upon the wider landscape as would be expected from development beyond the edge of a settlement. However the application site occupies a visually prominent site at the confluence of two busy roads between Chester le Street and Birtley town centres. This urban location results in no designated landscape restrictions other than a Tree Preservation Order (TPO) to the western boundary. Strong wooded landscape features characterise the western and southern boundaries of the site which would help separate the housing from the busy A167 to the west and also screen users of the rail line C2C path from overlooking into the proposed new properties. Amenity open space forms a large proportion of the western and north-western corner area of the site, which also includes a SUDs drainage feature. CDLP Policy BE2 requires contribution towards publically accessible art provision; however the application proposes a 'Sensitive informal pathway' through the wooded amenity space located in the western part of the application site in lieu of the contribution that is based upon 1% of the development cost. This is considered to be an acceptable and a final design and position can be secured by means of a planning condition.
82. Vigo Lane, to the north of the site, forms the main frontage for the proposed development as the southern and western boundaries offer substantial tree-lined areas and embankments that afford a significant level of screening to the development that links back to the previous uses of both the site and the former railway line. Sitting centrally when viewing the entirety of the northern frontage are 1-6 Vigo Lane, a selection of post-war properties that were located on land that was surrounding by the former oxygen factory. These two storey, red brick with tile roof, semi-detached or detached dwellings offer a lead on the proposed appearance and scale of the development that would sit either side of the existing housing. A mix of housetypes is proposed, enabling character clusters to be established. At key points, following discussion with Design and Conservation Officers, standard housetypes have been improved to prevent the presentation of blank gables at key visual points. Furthermore, an appropriate mix of external material finishes has been proposed, commensurate with the locality and in particular to the Vigo Lane street frontage. Concerns were raised by residents in regard to the inclusion of three storey properties within the development. These are included but a limited in number and to plots within the estate and so would not be considered to have a detrimental impact upon the streetscene of Vigo Lane or Durham Road.

83. The setback of properties to Vigo Lane is also part of the character of the streetscene and would continue as with the new development as a result of the wide highway verge along Vigo Lane. All of the proposed dwellings along this northern boundary would face out onto Vigo Lane, consistent with the existing development on both sides of Vigo Lane. Offering two storey development with a brick, render and dark tiled roofing also reflects the immediate character of the adjacent housing and helps to integrate the development in to the surrounding urban landscape.
84. Housing would be positioned to front on to the A167 (western elevation) in a similar fashion to the northern elevation and so would lift the appearance of the housing when viewed from this location. To the south, the elevated former railway line, part of the C2C cycle route, offers views across the site but these are restricted by the dense vegetation and trees which line the embankments to either side. This forms a green boundary to the southern side of the development which the proposed development has taken advantage of where the levels best allow (to the eastern part of the site). Housing to the western part of the site have their gardens facing south on to the embankment at its steepest point adjacent to the bridge over the A167, with housing to the eastern part of the site having their frontages facing south opening up the development to the former railway. The reduced level differences at the eastern part of the site would allow for a greater visual permeability from the housing to the C2C above. It is likely that further development would be forthcoming on the adjacent former Arizona Chemicals site, which would integrate well with the housing proposed on the current application site.
85. Appropriately designed and thought out street scene elevations to the proposed housing development would ensure that the close distance views of the development would be visually interesting and offer a high quality form of development that has taken into account the different aspects of the surrounding development to each boundary. Retention of existing, mature and substantial tree screening to the west and southern boundaries would assimilate the development in the urban environment with ease and provide a green backdrop to views from within the development. As such, the development would be considered to comply with CDLP Policies HP9 and BE2 and be an appropriately designed and visually interesting development. Compliance with Parts 7 and 11 of the NPPF therefore follows and adds weight in favour of the development in the planning balance.

Affordable Housing

86. In order to widen the choice of high quality homes and widen opportunities for home ownership, Paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need, whilst CDLP Policy HP13 encourages developers to provide an appropriate amount of affordable housing, but is only considered to be partially consistent with the NPPF as issues of viability and housing market area requirements are outdated with the more up-to-date evidence in the Strategic Housing Market Assessment establishing a requirement for 15% provision, amounting to 30 dwellings.
87. The Housing Delivery Team has requested that this be delivered in the form of 75% affordable rent and 25% affordable home ownership (i.e. discounted sale). The applicant has confirmed that this requirement can be met by a planning obligation secured through S106 of the Town and Country Planning Act 1990.

Residential Amenity

88. CDLP Policy HP9 requires that the design and layout of development to have no adverse effect on the amenity of those living or working in the vicinity of the

development site. This aspect of the Policy is 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. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Whilst Part 11 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.

89. The indicative site layout for the housing element of the proposal demonstrates that separation distances in excess of 21m between habitable room windows to neighbouring residential dwellings and between proposed properties can be achieved across the proposed development.
90. In terms of noise, the application is accompanied by a noise survey which identifies that the roadside boundaries of the site has relatively high background noise environment during the day, primarily as a result of the local road network, but reduced during the night when traffic movements would be limited nearby. The Council's Technical Advice Note (TAN) regarding noise outlines thresholds within which living conditions inside dwellings should be maintained.
91. The Council's Environmental Health and Consumer Protection officers have considered the submitted report, and advise that it is of sound methodology. The report concludes that the noise environment of the proposed development would adhere to relevant recommended threshold levels outlined under World Health Organisation (WHO) Guideline Values, and contained within the TANs, of no greater than L_{max} 45 dB(A) at night to the first floor of the proposed properties, subject to suitable mitigation in the form of type of window glazing used. Environmental Health and Consumer Protection officers advise that this arrangement is likely to reduce the likelihood of statutory nuisance. Additionally it is considered that the level of amenity of available to future occupiers would be acceptable in accordance with the Council's TANs, subject to implementation of the mitigation strategy which can be secured by condition.
92. During the construction phase of the development, it is acknowledged that levels of noise may be noticeable by existing residents, and some level of disturbance is almost inevitable with a development of this duration and scale. Residents have raised concerns over the times that construction would take place. It is considered that through the imposition of a condition requiring a Construction Management Plan, such impacts can be minimised, and reduced to such a level that statutory nuisance would be unlikely to occur, and the impact upon residential amenity would be reduced to an acceptable amount. Having regard to these measures, the application is considered to be in accordance with CDLP Policy HP9, and Part 11 of the NPPF in this regard.
93. With regard to air quality, the application is accompanied by an air quality survey which finds that the impact of the development upon air quality once occupied to be negligible, with the predicted amount of air quality pollutants remaining well below the annual mean air quality objective. It is however accepted that the construction phase may give rise to nuisance dust, which can be classed as a medium level of risk. In order to address this, a Dust Management Control Plan (including active monitoring and mitigation), is proposed, and can be secured by means of a planning condition. Environmental Health and Consumer Protection have considered the content of the report and find its methodology and conclusions to be appropriate. The application is therefore considered to be in accordance with CDLP Policy HP9 and T15, and Part 11 of the NPPF in this regard.

Public Open Space

94. CDLP Policy RL5 seeks to ensure adequate provision is provided in new housing development. This Policy is considered only partially NPPF compliant as the evidence base has now been updated within the Open Space Needs Assessment (OSNA). The Council's Open Space Needs Assessment (OSNA) 2010 is considered the most up to date assessment of need for the purposes of Paragraph 73 of the NPPF.
95. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for six typologies, either within the site, or through a financial contribution towards offsite provision, in lieu. Having regard to the proposed layout, it is considered that the development accommodates appropriate levels of Amenity Open Space, Play Space, and Semi-Natural Greenspace within the development. Therefore, improvements to existing areas of open space, sport and recreation spaces in the vicinity would be required by way of an in-lieu financial contribution of £1000 per dwelling, and would be sought through a planning obligation secured through Section 106 agreement of the Town and Country Planning Act 1990.
96. The public open space proposed within the site would take the form of peripheral open space to the A167 and Vigo Lane, with pockets of smaller landscaped areas within the central areas of the development forming focal points within development. The landscaped areas on the periphery of the site would have a lesser functional role in this regard, forming mainly semi-natural greenspace but still accessible by the public.
97. Overall therefore, the application is considered to be in accordance with CDLP Policy RL5 and Paragraph 73 of the NPPF with regards to the provision of public open space.

Highway Safety and Access

98. CDLP Policy T15 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. CDLP Policies T17 and T6 seek to ensure that safe, attractive and convenient footpath links are provided, and where appropriate, to serve new development and provide access to public transport. These Policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application, except for Policy T15 which uses out of date guidance and so is only partially compliant.
99. The NPPF sets out at Paragraph 32 that safe and suitable access can be achieved for all people while setting out that developments that generate a significant amount of traffic should be supported by Transport Assessments or Statements. In addition Paragraph 32 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. Concerns over highway safety, including the capacity of the road network to accommodate additional flows have been raised by local residents.
100. The application is accompanied by a Transport Assessment (TA) which seeks to inform on and assess the key highways related implications of the development. This includes the accessibility of the development; trip generation and traffic

assignment; future year flows; operational assessment of junctions; highway safety; and present highways works necessary to facilitate the development.

101. The TA establishes that the impact of the development upon the highway network would, for a large part be acceptable, and would not result in impacts that could be considered “severe”. The TA takes into account impacts which would occur to the highway network in both Durham and Gateshead Local Authority areas.
102. In Durham, the Highway Authority considers the impact from allowing the proposed development to take access from Vigo Lane to be acceptable and not lead to issues in capacity in the future. However, the initial modelling indicated problems at the A167 (Durham Road) / Vigo Lane roundabout adjacent to the site with traffic generated from the proposed development, which would have caused a significant impact upon the highway network through queuing up to the roundabout.
103. In order to address this impact, a scheme of mitigation is proposed, which remodels the area around the roundabout for traffic approaching from the east along Vigo Lane, the off-set of bus stops into new laybys to Vigo Lane and the provision of protected right-hand turns. The Highway Authority considers that these changes would be sufficient to reduce the impact upon the junction in the future to an acceptable level and accordingly, these matters will be secured by condition.
104. Finally, further to the south, the impacts from the development upon the A167 / A693 signalled junction are again considered to not lead to issues in capacity in the future.
105. In terms of the concerns about the impacts upon the public highway network to the north, and within the Gateshead Local Authority Area, the TA indicates that the development would lead to increased traffic utilising the network in the area. However, many of these junctions already feature high levels of traffic flow and whilst the modelling within the TA indicates there would be an increase as a result of development, this increase is considered to be insignificant in relation to the overall traffic levels in a busy urban area.
106. The proposed development provides pedestrian links to the north and west of the development site, with an option to link eastward to potential future development should this come forward. These links serve to provide access to the predominant sustainable transport option in the area, the bus. CDLP Policy T17 promotes the increased access of new development to sustainable transport links, and with the surrounding bus stops and the C2C route to the south of the site, this proposal is considered to adhere to the requirements of the Policy.
107. As a result, the impacts from the proposed development are, subject to mitigation at the A167/Vigo Lane, considered insignificant and would not lead to a severe residual cumulative impact in the context of Paragraph 32 of the NPPF. The proposals therefore comply with CDLP Policies T17 and T6 in regard to reducing private transport use through improved access to links and safe access to the highway network.

Flood Risk and Drainage

108. National advice within the NPPF 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.

109. The application is accompanied by a Flood Risk Assessment (FRA) and this has been amended during the course of the application. The application site is located within flood zone 1 and is therefore located on land least likely to suffer from tidal or fluvial flooding.
110. The FRA identifies that site is at low risk of flooding from fluvial, groundwater and sewer sources, very low risk from surface water flooding, and with negligible risk from tidal flooding. Overland flows would form the highest potential threat to flood risk for the site and mitigation is proposed to address this within the updated FRA.
111. With regards to how the development would address drainage, the application demonstrates that the previously developed nature of the site and its risk of contaminants precludes the disposal of surface water by infiltration.
112. As a result, it is proposed to dispose of surface water via connection to Northumbrian Water's surface water drain at Vigo Lane as the nearest surface water channel is 0.55km to the south across an urban environment. Discharge of surface water would be at a maximum rate of 35.3l/s, which is reflective of greenfield rates. Surface water attenuation will required to ensure this rate can be achieved and is proposed in the form of a SUDs scheme, which will prevent external flooding for both 1 in 30 year floods and up to 1 in 100 flood events.
113. The Council's Drainage and Coastal Protection officers have indicated that the development would adhere to the surface water management train to some degree by proposing source control (permeable surfacing and hard surface soakaways) and the inclusion of a SUDs basin within the scheme. However, the development does not propose the use of overland water channels to transport surface water across the scheme to the attenuation basin. The applicant has explained that the site requires significant grounds works as a result of its previous industrial use and so the implication of including overland swales and ditches would prove difficult. Officers advise that the SUDs structure would be adopted and maintained by the Council, in accordance with the SUDs Adoption Guide 2016, with costs being met through an estate rent charge.
114. With regards to the disposal of foul waters Northumbrian Water raise no objections. A condition can be added in the event of an approval to ensure a suitable means of connection and rate of discharge.
115. The development, while not securing all aspects of the Council's surface water management train does secure a suitable scheme of surface water drainage overall that would ensure that the development would meet the required greenfield run-off rate. The omission of overland transport of the surface water is a negative against the proposed development and the habitats that could create, however this is balanced against the underlining requirement to ensure suitable and safe surface water run-off and is on balanced considered acceptable and compliant with Part 10 of the NPPF.

Ecology

116. The closest sites of nature conservation interest are Pelaw Hill Railway Local Wildlife Site (LWS) which is located 380m and to the west of the East Coast Mainline, accessed via the C2C route; and the Waldrige Fell SSSI that is located to the north and west of Chester le Street. Part 11 of the NPPF seeks to ensure that

developments protect and mitigate harm to biodiversity interests, and where possible, improve them. An ecology survey and bat survey have been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The reports therefore conclude that the risk of protected species being on the site, with the exception of foraging bats and breeding birds within trees, or the development being a risk to the protected species are low. The County Ecologist has considered the content of the submitted information and has advised that the methodology and findings are sound.

117. The development of a previously-developed site would usually have little or no impacts, however this site has displayed some signs of regeneration having been cleared, and therefore providing some biodiversity value that would be lost through development. The Council's Ecologist has assessed these biodiversity losses as requiring compensation as they are significant at the local and parish level. In the absence of compensation on site, the applicant has agreed to provide a financial contribution of £22,000 (secured by means of planning obligation) towards improvements to the Waldrige Fell SSSI, through the creation of species rich grassland.
118. Mitigation within the submitted ecology survey proposes a 'green buffer' to be created alongside the woodland edge to western part of the site to protect foraging and flightlines for bats. An updated landscape plan has included revisions to include this buffer and Ecology officers are satisfied within the conclusions. Lighting within the scheme would have a potential wildlife impact and no details have been provided of proposed lighting in the development. It would therefore be appropriate to secure details of the proposed lighting scheme by way of condition.
119. Having regard to these proposed mitigation measures, the development would, it is considered, lead to an overall enhancement in biodiversity in accordance with the aims of Paragraph 118 of the NPPF. Accordingly, such enhancement can be considered to be a benefit of the scheme and weigh in favour of the development.

Heritage Impacts

120. The application site does not lie within any designated heritage assets. The closest being Vigo House, grade II listed and situated some 375m away, and with no direct visual relationship with the site as a result of topography and direction of Vigo Lane. Consequently, it is considered that there would be no harm upon the designated heritage asset, Vigo House. In terms of non-designated heritage assets, again none have been identified within the immediate vicinity of the site.
121. Design and Conservation officers raise no objections to the proposal noting the site contains no designated or known non-designated heritage assets nor are there designated close to the application site.
122. Paragraph 134 of the NPPF states that the impact of an application upon the significance of a designated heritage asset should be taken into account in the determination of the application, and that the scale of any harm or loss to significance should be weighed in the balance. In this instance, with there being no impact upon significance, the application is considered to be acceptable in this regard, and in accordance with Part 12 of the NPPF.

Other Issues

123. CDLP Policy HP15 expects developments to make contributions with regard to social, community and infrastructure facilities, and is fully consistent with the requirements of Paragraph 17 of the NPPF and its core principles and the thrust of the Policy is considered to be consistent with Paragraph 72 of the NPPF which attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.
124. The School Places Manager has advised that for September 2017 there was an oversubscription to the nearby Park View Secondary School whereby 286 pupils applied for a place with an intake capacity of 240 pupils, and that the development is likely to generate an additional 25 secondary school pupils. Therefore, as a result of the proposed development, additional school places would be required in order to accommodate the pressure upon school places likely to result from this development.
125. A contribution of £352,550 is required in order to provide the additional capacity and this would be secured by means of a planning obligation. The School Places Manager advises that there is sufficient existing capacity at local primary schools in order to accommodate demand from this development.
126. Being previously-developed in nature, the site has been subject to Phase 1 study to assess the risk of contamination. These reports identify that contamination is clearly present, and a suitable means of remediation identified. Environment, Health and Consumer Protection officers raised no objection to the proposal subject to a planning condition requiring the submission of further survey work to ensure that this contamination is correctly mitigated. The proposed development complies with Paragraphs 109 and 121 of the NPPF which would ensure the site and the surrounding area would be safe and appropriately remediated.
127. Planning plays a key role in helping to reduce greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. Sustainability officers consider that information pertaining to sustainability and energy is lacking and requested that any planning permission be conditional on an embedded sustainability scheme being approved prior to development commencing. This is agreed and subject to an appropriate condition, the proposal would accord with the objectives of Part 10 of the NPPF.

Planning Obligations

128. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. CDLP Policy BE22 encourages the Local Planning Authority to enter into legal agreements to enhance the quality of developments, which is partially consistent with the above requirements of the NPPF. The proposed contributions towards education provision, improvements to biodiversity and offsite open space provision are all considered to be in accordance with these tests, as is the securing of affordable housing.

Planning Balance

129. This proposal is considered to accord with the development plan in principle, through the proposed redevelopment of a brownfield site within the established built environment. However, as a result of the relevant Planning Policies for the supply of housing being out of date (and not up to date in the absence of a 5 year housing land supply), the acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

Benefits

130. The development would assist in maintaining housing land supply at a time when the housing policies for the area are out of date and the Council cannot demonstrate a 5 year housing supply against an objectively assessed need. Recent 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.
131. Given that even in the most exacting scenario, the Council can demonstrate 4.04 years of supply; it is considered reasonable to suppose that any shortfall is likely to be temporary, and that there is likely to be a boost in supply through housing allocations, once the County Durham Plan is adopted. The level of contribution of supply that this development would make is between 1.12 and 1.34 months' worth of supply. Consequently, it is considered that the approval or otherwise of this particular development would not be critical to the overall supply of deliverable housing sites in the County. 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.
132. This boost would extend to the delivery of affordable homes as the development proposes the delivery of 15% affordable housing provision in accordance with the Strategic Housing Market Assessment (SHMA). The provision of the affordable housing can be secured through a planning obligation under S106 of the Town and Country Planning Act 1990.
133. The development is proposed to a previously-developed site that is currently vacant awaiting re-development and within the built envelope of development. Locationally, the development has excellent access to most services and facilities including Chester le Street and Birtley town centres, employment opportunities in these centres and beyond, as well as excellent access to sustainable modes of transport (bus and cycle links). These site characteristics offer substantial benefits in favour of the proposal.
134. Redevelopment of the application site for housing would result in a reduced impact upon the residential amenity of neighbouring properties than that of the previous BOC industrial operation.
135. The site has sufficient amenity open space and play space on site but has an under provision in 3 out of the 6 open space typologies on site and has resulted in the developer contributing £203,000 in lieu of providing these on site giving a neutral gain in open space. Similarly, the contribution of £22,000 in lieu of habitat loss on site would be considered a net biodiversity gain as a result of the development.

136. 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, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area.

Adverse Impacts

137. A shift from the previous industrial type development that once occupied the site would result in some adverse economic impact upon the local area through the loss of an employment site; however this site is not a designated employment site in the CDLP.

CONCLUSION

138. The residential development would draw support from CDLP Policy HP6 in terms of its location and previously-developed nature; however, the NPPF sets out that on the basis of the Council's housing land supply position and the out-of-date nature of its relevant housing land supply policies, that the presumption in favour of sustainable development is engaged. In the context of Paragraph 14, the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
139. As set out above, the proposed development would result in limited adverse impacts, and they do not "significantly or demonstrably" outweigh the substantial benefits identified above, and as a result, the proposed development can be considered to constitute sustainable development for the purposes of Paragraph 14, for which there is a presumption in favour.
140. The proposal has generated limited public interest, with letters of generally in support of the proposals with concerns outlined. 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 is **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- provision of 15% affordable housing units on site
- £352,550 towards the provision of additional capacity at Park View Secondary School
- £203,000 towards the provision or improvements to open space and recreation within North Lodge Electoral Division,
- £22,000 towards biodiversity improvement at Waldridge Fell SSSI,

and subject to the following conditions:

Time Full

1. The development hereby permitted in "Phase 1" as identified on drawing 'Phasing Plan BY_CP_02' 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.

Time Outline

2. No development other than site clearance and remedial works shall take place in Phase 2 as identified on drawing 'Phasing Plan BY_CP_02' until approval of the details of the landscaping of the development (hereinafter called "the reserved matters") has been obtained from the Local Planning Authority in writing before the expiration of three years beginning with the date of this permission. The development must be begun not later than the expiration of two years from the final approval of the reserved matters, or the case of approval on different dates, the approval of the last reserved matters to be approved.

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

No. of Dwellings

3. The development hereby approved on "Phase 2" as identified on shall comprise a maximum of 80 dwellings.

Reason: To define the consent and precise number of dwellings approved.

Plans

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

VL-SL-01 Rev C – Overall Masterplan

VL-SL-02 Rev C – Site Layout

Material Schedule

VIG/ASY/001 – Ashbury

VIG/ASN/001 – Ashton

VIG/CRD/001 – Cranford +

VIG/DAN/001– Dalton Option 1

VIG/DAN2/001– Dalton Option 2

VIG/KIN/001 Rev A – Kilmington

VIG/KIM/001 - Kirkham

VIG/MAN/001 – Malton

VIG/NEN/001 – Newton

VIG/NOY/001 Rev A – Norbury

VIG/NOY/001 Rev A – Norbury (Corner)

VIG/ROY/001– Rosebury

VIG/SUN/001 – Sutton

102513/8007 Rev B – Landscape Proposals Plan

BY_CP_02 – Phasing Plan

VL-EHL-01 rev E – External Hard Landscaping and Boundary Treatments

QD1267-03-01 – Drainage Engineering Layout

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies HP6, HP9, HP13, HP15, T6, T8, T15, T17, RL5, BE2, BE22 of the Chester le Street District Local Plan.

Engineering details of access and highway improvements

5. Prior to the occupation of the first dwelling hereby approved, full engineering details of the access and highway improvement works as detailed on plans 102513/2004 Rev B and 102513/2003 Rev A, together with a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be fully implemented in accordance with agreed details and timings.

Reason: In the interests of highway safety in accordance with Policies T15 and T17 of the Chester le Street District Local Plan and part 4 of the NPPF.

Maintenance of highway

6. Prior to the occupation of the first dwelling hereby approved, full engineering details including a timetable of implementation and future maintenance of the internal highway network layout, including shared surfaces, private shared drives and pedestrian footways shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details and timings.

Reason: In the interests of highway safety in accordance with Policies T15 and T17 of the Chester le Street District Local Plan and Part 4 of the NPPF.

Tree Protection

7. No development work shall take place until all trees and hedges agreed for retention, are protected by the erection of fencing and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Protection measures shall remain in place until the cessation of the development works.

Reason: In the interests of the visual amenity of the area having regards to Policy HP9 of the Chester le Street District Local Plan and Parts 7 and 11 of the NPPF. Required to be pre-commencement as landscape features must be protected prior to works, vehicles and plant entering the site.

Landscape implementation and management and right of public accessibility

8. Notwithstanding the submitted information, prior to the occupation of the 1st dwelling hereby approved, a detailed landscaping scheme in relation to Phase 1, based on the principles set out in the Landscape Proposals Plan, Drwg 102513/8007 Rev B shall be submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

- A plan showing the public/structural landscaping and private/in-curtilage landscaping;
- Any trees, hedges and shrubs scheduled for retention;
- Details soft landscaping including planting species, sizes, layout, densities, numbers;

- Details of planting procedures or specification;
- Finished topsoil levels and depths; -
- Details of temporary topsoil and subsoil storage provision;
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- The timeframe for implementation of the landscaping scheme.
- Full details of the management and maintenance of all areas of open space in perpetuity.
- Details of all means of enclosures.

The approved landscaping scheme shall thereafter be fully implemented in accordance with the approved details and timeframes.

Trees, hedges and shrubs within the area defined as public/structural landscape space planted in accordance with the scheme shall not be removed within five years.

Within the area defined as public/structural landscape space any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements within the area defined as public/structural landscape space will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester le Street Local Plan and Parts 7 and 11 of the NPPF.

9. Notwithstanding the submitted information, prior to the occupation of the 124th dwelling hereby approved, a detailed landscaping scheme in relation to Phase 2 shall be submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

- A plan showing the public/structural landscaping and private/in-curtilage landscaping;
- Any trees, hedges and shrubs scheduled for retention;
- Details soft landscaping including planting species, sizes, layout, densities, numbers;
- Details of planting procedures or specification;
- Finished topsoil levels and depths; -
- Details of temporary topsoil and subsoil storage provision;
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- The timeframe for implementation of the landscaping scheme.
- Full details of the management and maintenance of all areas of open space in perpetuity.
- Details of all means of enclosures.

The approved landscaping scheme shall thereafter be fully implemented in accordance with the approved details and timeframes.

Trees, hedges and shrubs within the area defined as public/structural landscape space planted in accordance with the scheme shall not be removed within five years.

Within the area defined as public/structural landscape space any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements within the area defined as public/structural landscape space will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester le Street Local Plan and Parts 7 and 11 of the NPPF.

Walking Trail

10. Notwithstanding the submitted information, prior to the occupation of the 5th dwelling, full details of the “Sensitive informal pathway” proposed to the west of the site as set out on drawing 102513/8007 Rev B should be submitted to, and approved in writing by the Local Planning Authority. The submitted details shall include, details of equipment to be installed, surfacing of the areas, any boundary treatments, details of a maintenance regime in perpetuity and a timeframe for implementation. The approved pathway shall be fully implemented in accordance with the approved details and timeframes thereafter.

Reason: To ensure that the development provides on-site public art to comply with Policies BE2 and HP9 of the Chester le Street District Local Plan and Parts 7 and 11 of the NPPF.

Site Levels

11. Prior to the commencement of the construction of the first dwelling hereby approved, sections setting out existing and proposed site levels and the finished floor levels of the dwellings in Phase 1 as set out on plan drawing ‘Phasing Plan BY_CP_02’ shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved information thereafter.

Reason: In the interests of the visual amenity in accordance with Policy HP9 of the Chester le Street District Local Plan and parts 7 and 11 of the NPPF.

12. Prior to the commencement of the construction of the 93rd dwelling hereby approved, sections setting out existing and proposed site levels and the finished floor levels of the dwellings in Phase 2 as set out on plan drawing ‘Phasing Plan BY_CP_02’ shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved information thereafter.

Reason: In the interests of the visual amenity in accordance with Policy HP9 of the Chester le Street District Local Plan and parts 7 and 11 of the NPPF.

Travel Plan

13. Within a period of six months of the first occupation of any part of the development of the relevant phase, a final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented thereafter in accordance with the approved timescales.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy T6 of the Chester le Street District Local Plan and Parts 4 and 10 of the NPPF.

Foul and surface water

14. The development hereby approved shall be carried out in strict accordance with the 'Flood Risk Assessment and Drainage Strategy, March 2017' by Fairhurst.

Reason: In the interests of the adequate disposal of foul and surface water in accordance with Parts 10 and 11 of the NPPF.

Public Art

15. Notwithstanding the submitted 'Public Art Strategy 102513-801-Rev C', prior to the occupation of the first dwelling, a scheme for the provision of public art on the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance with Policy BE2 of the Chester le Street District Local Plan and Part 7 of the NPPF.

Embed Sustainability phase 1

16. Prior to the commencement of works on the erection of any dwelling in "Phase 1 as set out on plan drawing ED:SL:01 Rev H" a scheme to minimise energy consumption (adopting a Fabric First Approach) for the dwellings must be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and be retained thereafter.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Part 10 of the National Planning Policy Framework.

Embed Sustainability phase 2

17. Prior to the commencement of works on the erection of any dwelling in "Phase 2 as set out on plan drawing ED:SL:01 Rev H a scheme to minimise energy consumption (adopting a Fabric First Approach) for the dwellings must be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and be retained thereafter.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Part 10 of the National Planning Policy Framework.

Lighting Strategy

18. Notwithstanding the submitted information, prior to the occupation of the first dwelling hereby approved a lighting strategy for the relevant phase shall be submitted to and approved in writing. The approved lighting strategy shall thereafter be incorporated into the development.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the NPPF.

Ecology Mitigation

19. The development shall be carried out in accordance with the mitigation outlined within the "Ecological Impact Assessment, Vigo Lane, December 2016".

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the NPPF.

Working Hours

20. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

Noise Mitigation

21. All dwellings hereby approved shall be constructed in accordance with noise mitigation measures as contained within "Assessment of Noise Levels and Noise Amelioration Measures, Proposed Residential Development at Vigo Lane, Birtley, Avant Homes (North East), December 2016; Ref AH/VL/001" and fully implemented prior to the first occupation of each dwelling and retained in perpetuity thereafter.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework.

Construction Methodology

22. Prior to the commencement of any part of the development or any works of demolition, hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction
- Details of methods and means of noise reduction
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);

- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

Land contamination

23. The development of any phase shall not commence until a scheme to deal with contamination for that phase has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

- (a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out before any development commences to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.
- (b) If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works and timescales.

Completion

- (c) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of

all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

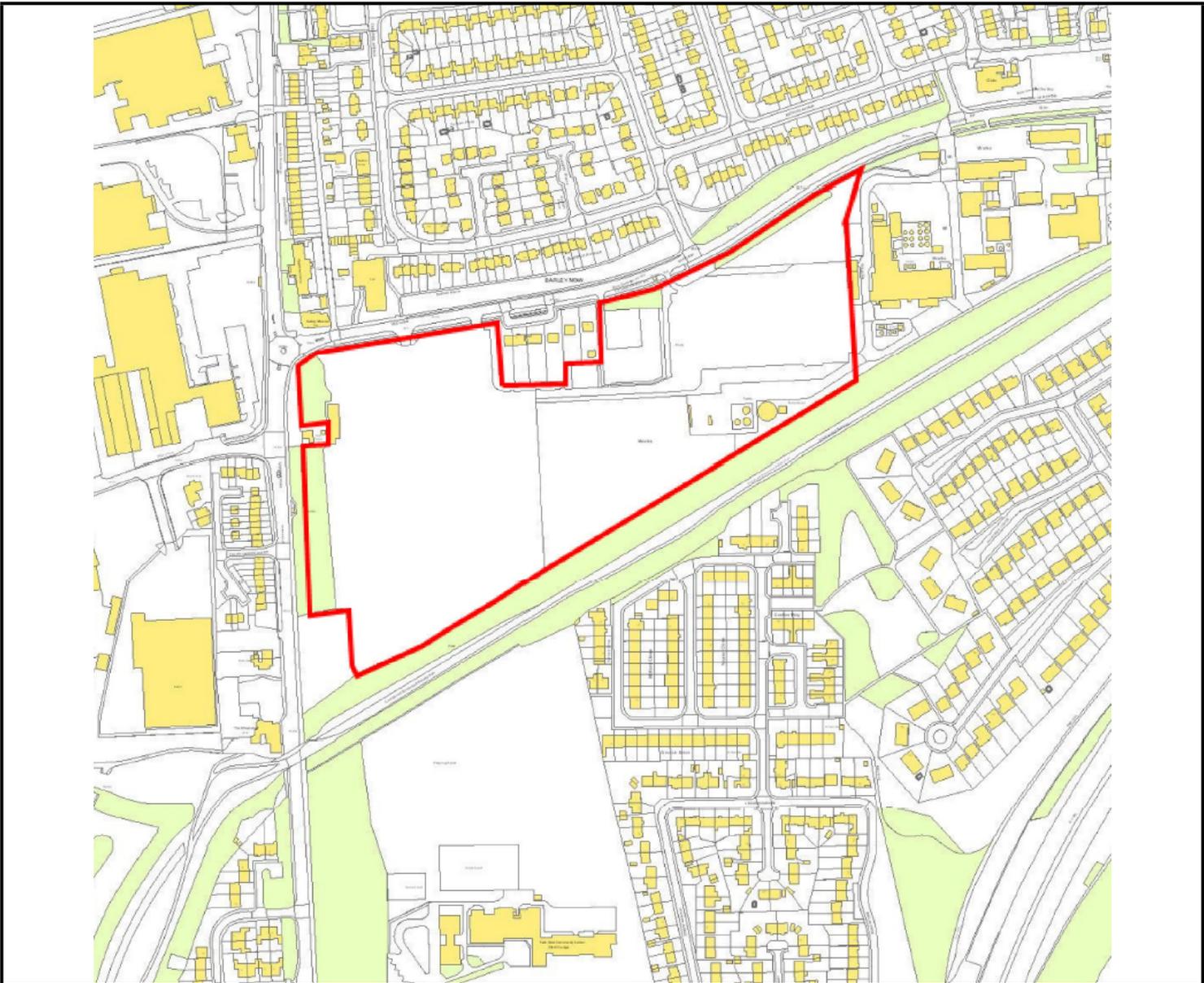
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with Part 11 of the NPPF. This is required as a pre commencement condition in order to consider potential impact of land contamination which may be disturbed by site works.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- County Durham Settlement Study (2012)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- National Planning Practice Guidance
- Chester le Street District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMAA, County Durham Settlement Study and OSNA
- Statutory, internal and public consultation responses



Planning Services

DM/16/04052/FPA

Hybrid application for full planning permission for the erection of 123 dwellings and associated access, landscaping and engineering works and outline planning permission (with landscaping matters reserved) for the erection of up to 80 dwellings.

British Oxygen Co., Vigo Lane, Chester-le-Street, DH3 2RD

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Comments

Date March 2017

Scale Not to scale