

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/17/00097/FPA
FULL APPLICATION DESCRIPTION:	Full planning permission for the erection of 75 houses, including associated access, infrastructure and open space
NAME OF APPLICANT:	Barratt Homes North East
ADDRESS:	Land To The West Of Syke Road Burnopfield
ELECTORAL DIVISION:	Burnopfield and Dipton
CASE OFFICER:	Steve France, Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 2.09 hectares of land to the west of Syke Road, the connecting road between Burnopfield and Pickering Nook. The site is next to the Lintz area of Burnopfield, which is described as a 'local service centre' in the County Durham Settlement Study, 2012. The nearest main towns are Consett, 4.7 miles to the south-west and Stanley 2.6 miles to the south east.
2. The site is located on the south side of the village, where the adjacent housing areas are, with one small exception at the western part of the site, local authority built. The exception is a small development of ten dwellings arranged in two terraces that has been erected by the applicant, incorporating communal parking areas. Mid-linked two story dwellings to the north face away from the site, with-on-street parking along their rear boundaries. A small number of existing properties on the north boundary look across the top part of the site. The existing estate benefits from large areas of open space, including formal play provision, football and cricket pitches.
3. The site itself is an undulating expanse of unimproved grassland and occasional low scrub, the main feature of which is the topography. The site falls sharply away from Syke Road, as the road drops towards the village from Pickering Nook. A shallow valley bisects the site north/south which rises back up to a plateau which is slightly higher than the edge of the settlement. The land is criss-crossed by a network of informal paths. The land has the appearance of reclaimed industrial land, but is in fact a natural feature, known as the 'Boggle Hole' – the only human interventions on the site having been an air shaft and a well. A public footpath runs along the southern boundary of the site.

The Proposal

4. A development of 75 new dwellings is proposed on the land, accessed from a single point by creation of a protected right-hand turn from Syke Road at the southern entrance to Burnopfield. The proposed access road follows the line of the existing depression that runs north/south across the site, from its most northern point, closest to the existing settlement.
5. The site is proposed heavily re-profiled to remove earth from the raised plateau that would lift the height of the depression – the ‘Boggle Hole’.
6. Eight houses are set to the immediate east of the site entrance, with the remainder on the re-profiled plateau to the south of Thornhill Gardens in a cul-de-sac arrangement. A range of detached, semi-detached and mid-linked properties are proposed, each with their own private gardens, and each with off-road parking to the required County Council standard. Two footpath links are provided from the site to the existing settlement, with the pedestrian footway adjacent the main spine road capable of accessing the remaining informal footpaths to the south connecting to the formal public footpath.
7. The application proposes affordable housing within the development at a rate of 15%. A contribution of £333,868 would be included in a legal agreement to address the demand the development would create in the education system. No play space or contribution is proposed, with a dual use approach to open space and ecology provision proposed.
8. An area of land adjacent the site, also served by the proposed access road is included on this agenda as a separate proposal, subject to a separate application by a different applicant.
9. This application is reported to Committee as a ‘major’ application.

PLANNING HISTORY

10. The history of planning applications relates only to an abortive first attempt at the current scheme, withdrawn when complications resulting from the extent of the proposed groundworks became apparent outside the defined planning unit. Site boundaries have been redrawn to address this issue in this resubmitted application. The development potential of the site had been assessed through the SHLAA (Strategic Housing Land Availability) process, where it was concluded ‘green’ in the traffic-light system.

PLANNING POLICY

NATIONAL POLICY

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that

is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

12. 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'.
13. 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 below.

The following elements of the NPPF are considered relevant to this proposal;

14. *NPPF Part 4 – Promoting Sustainable Transport.* Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
15. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
16. *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 policies and 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.
17. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. 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.
18. *NPPF Part 10 - Meeting the challenge of climate change, flooding and coastal change* – Advises on managing flood-risk, taking into account the impacts of climate change through use of the sequential test, ensuring flood risk is not displaced and informing proposals through a site specific Flood Risk Assessment.
19. *NPPF Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from

unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

21. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
22. *Design -The importance of good design*. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
23. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
24. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.
25. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.
26. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
27. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.

28. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

29. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:

30. *Policy GDP1 – General Development Principles* – is an overarching policy which aims to ensure that all developments incorporate a high standard of design, conserve energy and are energy efficient, protect the existing landscape and natural and historic features, protect and manage the ecology of the area, protect valuable open land, provide adequate landscaping, incorporate crime prevention measures and improve personal safety, protect amenity, provide adequate drainage, protect flood risk areas and protect the water resource from pollution.

31. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.

32. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.

33. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.

34. *Policy TR3 – Cycling* – Requires cyclists' needs to be taken into account when considering proposals for new traffic management, road improvements and new developments. Permission will only be granted if safe and convenient access and cycle parking facilities such as racks or wall bars are provided.

RELEVANT EMERGING POLICY:

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

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. *Highways* – The scheme has been redesigned to incorporate a protected right-hand-turn and alterations to the highway to match on the site access on Syke Road at the request of County Highways Engineers. The internal layout of the scheme has been confirmed as acceptable, having been redesigned to incorporate additional on-street parking.
37. *Northumbrian Water* – Have ‘no issues’ with the proposal and request a condition to ensure compliance with the submitted Flood Risk Assessment, and the detailed flows and discharges contained therein.

EXTERNAL CONSULTEE RESPONSES:

38. *The Coal Authority* – The Coal Authority is satisfied in principle with the remedial measures proposed, subject to the nature and extent of these works being agreed with the Permitting Section of the Coal Authority. They recommend a Planning Condition should planning permission be granted for the proposed development, to ensure that these remedial works are undertaken on site prior to commencement of development.

INTERNAL CONSULTEE RESPONSES:

39. *Spatial Policy* - The starting point for considering this proposal is the relevant development plan - the Derwentside Local Plan. The proposal conflicts with Policies EN1 and EN2 of the Local Plan. While these policies have been upheld in recent appeal decisions, they nonetheless impact on housing supply and their weight is therefore reduced in accordance with Paragraph 49 of the NPPF. Policy GDP1 and TR2 also apply and achieve some consistency with national planning objectives - they can therefore be considered in the balance.
40. In accordance with the NPPF the proposal must be considered in the context of Paragraph 14 of NPPF in order to determine the acceptability of the proposal for the reasons set out above. The adverse impacts of approving the scheme must significantly and demonstrably outweigh the benefits of the scheme.
41. The Framework identifies a number of material considerations, which include the need to have an up-to-date 5 year supply of housing land sufficient to meet the identified need and to “boost significantly” the supply of housing. While these are matters to put into the planning balance, they must be balanced against the Framework as whole to ensure good quality new development.
42. *Landscape* – advise that the depression through the site, known as ‘the Boggle Hole’ is part of a ‘notable’ natural drainage feature. There are no landscape designations affecting the site. The proposals would entail heavy modification of the natural topography, raising the floor of the valley and creating a shallower feature, with the effect ‘on the local landscape of development in that area as being of a high magnitude/moderate-substantial significance’. Potential conflict with Policy GDP1 is identified as the site is not sensitive to the existing landscape and natural features.
43. *Archaeology* - initial comments requesting implementation of the physical investigation of the site in line with the applicant’s submitted report led to a site

investigation with evidence of prehistoric remains on the site. A condition is suggested to ensure the additional actions required as a result of this.

44. *Drainage and Coastal Protection* – requested additional details of the scheme and proof of its sustainable credentials, to include details of: Greenfield run-off rates, Intercepting surface water from The Meadows, Overland Flows, Future Development ‘proofing’. These were provided to Engineer’s satisfaction, with the details of the proposed provision set out below, in the main body of this report.
45. *Public Rights of Way* – There are no public Rights of Way on the site, a designated footpath runs across countryside to the south of the site.
46. *Education* - Officers advise the nearby Primary School is full and therefore to accommodate the 23 pupils likely to be generated by the development, a contribution of £333,686 would be required to make provision for additional teaching accommodation.
47. *Ecology* – Whilst the Protected species survey submitted are acceptable, the development as submitted would lead to a net bio-diversity loss, and is therefore advised as contrary to the NPPF.
48. *Trees* – None of the trees within the site justify Preservation Orders. Trees to be retained should be protected during construction.
49. *Sustainable Travel* – The site is well served with frequent buses. Good pedestrian permeability to bus stops should be ensured.
50. *Environmental Protection (Contamination)* – raise no objection subject to a condition to ensure that contaminated land issues are properly addressed on the site.
51. *Environmental Protection (Noise)* – a condition is requested to mitigate potential noise issues during the construction phase of the development. In terms of the lifetime of the development, the submitted methodology is convincing and acceptable providing the mitigation measures specified are included in the development.

PUBLIC RESPONSES:

52. Neighbours have been consulted, a site notice was posted on Front Street, and a press notice was published in The Northern Echo. Representations have been received from three residents. One correspondent’s objections include that the site is greenfield, that there are existing dwellings for sale in the village, a concern at the potential for flooding from the site, increased pressure on local services and facilities, a concern for the highway safety implications of the scheme along with the detriment to local ecology. One resident is concerned at potential rear access from new dwellings gardens onto Thornhill Gardens. One resident is concerned at potential height differences between his property and the site detrimentally affecting outlook and privacy. The design of the western part of the site is criticised in terms of the proposed separation distances.

APPLICANTS STATEMENT:

53. The proposed application seeks to deliver a range of family housing within Burnopfield. The delivery of the homes would contribute to the Council’s Five-Year housing supply. The council is currently unable to demonstrate a five year housing supply, therefore there is a strong ‘presumption in favour of sustainable

development'. This site is considered to be sustainable and the scheme will make a positive contribution to the supply of housing in County Durham. The supporting technical reports demonstrate the proposal is deliverable.

54. The scheme is well considered and has taken account of the needs of local residents who have made comment. For a scheme of this size it has generated very few concerns and will bring a number of benefits to Burnopfield. Including, a mix of market family housing, 31 construction jobs, opportunities for apprenticeships, £14 million total economic output from the site, £660,442 New Homes bonus and £110,074 Council Tax revenue per year.
55. The scheme has been submitted with an Economic Viability Appraisal which Council officers have considered but do not agree with the clear outcomes put forward. The site has a number of abnormal costs associated with its development which means that it is not viable to meet the policy requirements of the site. Our Economic Viability Assessment demonstrates that in accordance with national guidance the site should be considered from both Affordable Housing and a financial contribution to Education.
56. Reluctantly due to contractual time constraints the applicant has agreed to the Section 106 contributions to provide 15% Affordable Housing on the site and Education contribution of £341,000 to ensure that officers recommend granting planning permission. The proposal is at risk of not being developed due to the Section 106 requirements, without the proposal being built out the all the benefits as set out above will not come forward.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

57. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, layout and design, impact upon its surroundings, landscape and ecology, and highway safety and drainage.

Principle of the Development

58. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant Development Plan is the Derwentside District Local Plan adopted in 1997 and remains 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.
59. There are no relevant housing policies saved in the Local Plan which is therefore 'silent' in respect of housing policy and determination must revert to paragraph 14 of the NPPF. Paragraph 14 sets out a presumption in favour of sustainable development and for decision making means, 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.
60. There are no specific policies which cannot be mitigated against which indicate that development should be restricted and the proposal therefore needs to be considered against the first bullet point of the paragraph.
61. This report will identify relevant benefits and adverse impacts that will be attributed appropriate weight in the concluding 'planning balance' leading to the recommendation:
62. The application proposes residential development on the edge of settlement at Burnopfield at Lintz, which is considered locationally 'sustainable' in terms of the services and facilities available in that settlement, and the availability of connections to nearby settlements with complimentary or larger facilities. Burnopfield sits between the A692 and A694 which connect Consett to the Tyneside conurbation. Burnopfield and Lintz offer a wide range of facilities including a Primary School, Community Centre, Social Clubs, Medical facilities and small shops. Supermarkets are available in surrounding settlements at Stanley, 2.7 miles distant, Annfield Plain, 3.1 miles and at Consett, 5.0 miles. There are 8 bus stops within 120m of the site. There are formal footpaths around the site accessing both the settlement and the nearby countryside. These facts are reflected in Burnopfield's classification as a 'local service centre' in the County Durham Settlement Study, 2012.
63. 75 new dwellings are proposed on 'greenfield' land, and whilst the Framework directs as a core principle Local Planning Authorities to encourage developers in the first instance to previously developed, or 'brownfield', albeit it does not restrict development of Greenfield sites. Further, that the Council has a lack of formally identified housing supply outweighs this issue – paragraph 49 of the Framework advising that,
- 'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'.*
64. The site has been identified as having residential development potential in the Strategic Housing Land Availability Assessment, being the only site within a 4.7 mile radius to receive a positive assessment for such.
65. In terms of the principle of development, this is considered in further detail in the planning balance at the end of this report.

Highways

66. The principle concerns arising from the consultation/publicity are highways and drainage issues, with the first of the highways implications that of introducing a new vehicular access to a significant development at the entrance to the village. This was highlighted pre-submission, and there have been extensive discussions and design work during the course of the application, to ensure the impacts have been addressed to the satisfaction of the Council as Highways Authority.
67. The site entrance is proposed at the bottom of a long steep incline at the village entrance that exacerbates vehicular speeds and the relationship to the existing and

wider highways network – i.e. the flows through the complex traffic-light controlled staggered junction at Pickering Nook, the positioning of the village entrance speed restriction signs and street lighting, were all areas of particular concern. Despite a lack of agreement between the applicant's Engineers and the County's on the form of the junction required to address these issues, a design of road-widening and protected right-hand turn has been submitted to the satisfaction of the Highway Authority that has removed this objection to the proposals. Implementation of this specific design and its timing would be conditioned through a planning approval and the powers under the Highways Acts controlled by the Council as Highway Authority.

68. The internal road layout and parking space provision, both for residents and visitors, along with the 'swept path analysis' ensuring the safe and easy passage of service and emergency vehicles through the proposed layout is considered acceptable.

69. Whilst the development is served by a single vehicular access, there are proposed footpath links north from the development into the existing settlement, giving pedestrian access to both the bus route and the open space, play and leisure opportunities available to existing residents – including a Cricket Club, football pitch and toddlers play equipment. Sustainable Travel Officers confirm the site is well served with frequent buses, requesting good pedestrian permeability to bus stops should be ensured. This has been achieved.

70. Both in terms of the advice at paragraph 32 in the NPPF, that,

'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe',

and with the relevant Local Plan policy, TR2's criteria considered met, the proposals are concluded acceptable against the highways requirements.

71. The layout of the houses is such that access to secure gardens for cycle storage is easily possible, meeting the proportionate requirements of Policy TR3 of the Plan.

Drainage

72. Drainage and flooding have been a significant concern for residents in this area with historic flooding. The applicants have again worked to provide additional and amended information to meet the requirements of Council Drainage Engineers to ensure that a 'sustainable drainage' scheme that both meets the implications of the development and ensures that any existing problems will at worst not be exacerbated, and preferably improved - although they cannot be expected to address existing problems.. The County Drainage Engineer's comments are quoted verbatim, with the headline results – for residents – at bullet points 3 and 4;

- *'Sustainable drainage – The proposed surface water management for the site complies with the national standards and council policies with regard to SuDS. The design incorporates a surface water management train throughout the site including Source, Site and Regional controls.*
- *Greenfield run-off rates – The proposal has been designed to control all surface water run-off from the development for up to a 1 in 100 year storm event to a limited discharge rate equivalent to the greenfield rate.*
- *Intercepting surface water from The Meadows – The design has taken into account the surface water runoff from The Meadows housing development by diverting the flow through the new site to alleviate the volume within the existing public surface water sewerage system, thus preventing flooding downstream.*

- *Overland Flows – Surface water overland flow from the south of the site causes flooding problems at Thornhill Gardens. The proposal captures the overland flow and incorporates it within the piped system to prevent surcharge and flooding.*
- *Future Development – The drainage design has taken into account the proposed future development on the land to the east of the site; again the flow will be restricted to greenfield runoff rate to reduce the risk of flooding’.*

73. The proposals in this regard are concluded compliant with both Policy GDP1(i) of the Local Plan, and part 10 of the NPPF.

Impact upon the Surrounding Area

74. The proposals involve significant land-forming of the site to level it to a point where the resultant gradients are acceptable for both residential curtilage use, and for slopes on the vehicular and pedestrian highways. That there is precedent for this evidenced by the extent to which the recent development at Albion Court (by the applicants), and the local authority built dwellings at Thornhill Gardens are ‘cut’ into the landform.

75. Landscape and Ecology Officers have raised concern at the loss of the landform feature that reflects not the industrial past of the village, as it may at first appear, but the glacial forming of the landscape. Policy GDP1 expects development to, ‘take into account the site’s natural ...features’, with the Framework advising the planning system, at paragraph 109, to protect, ‘*geological conservation interests*’ and at paragraph 117, ‘*aim to prevent harm to geological conservation interests*’, through the plan-making process. That the Government advice sets the protection of geological conservation through the plan-making process, with no advice for decision making is relevant, putting the onus on Local Authorities to identify and designate resources requiring protection, with said designation then applied relevant weight in the decision making process. The feature is not and has not been identified or designated in the past.

76. The loss of the ‘Boggle-hole’ feature must be considered in the planning balance but the weight that can be given to it is severely compromised by its lack of formal designation or protection. Furthermore, there is already evidence at the recent development at Albion Court and the local authority built dwellings at Thornhill gardens where the landform has been modified through ‘cut and fill’.

Affordable housing

77. The application was submitted with a detailed economic case that sought to prove that the development was unviable if usual expectations for provision of affordable housing – with Burnopfield in the Northern Housing Delivery Area – at a rate of 15% were provided. Council Viability Officers have challenged the figures, and the applicant, has now offered the full requirement, albeit making it clear that this is for contractual reasons with the landowner.

78. The nature of the affordable housing is to be confirmed, but can be ensured through a legal agreement. That the development includes such is of significant weight in its determination, bringing the proposals in line with paragraph 50 of the Framework, which seeks;

‘To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities’.

79. Officers consider the inclusion of this requirement in a legal agreement meets the tests of being; necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind, in line with the advice and legislation set out in the Policy Summary Section of this report, as above.

Education Provision

80. Likewise, justified by viability arguments, the application was submitted without a contribution to any shortfall in education provision in the area that may result from the development. The Education department has indicated that there is insufficient capacity in the area's education system to accommodate the demand that 75 new dwellings is likely to generate, requesting a revised sum of £333,868 against a national based formula. Government advice is clear, and at paragraph 72 of the Framework, specifically 'weighted' for this issue;

The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should: give great weight to the need to create, expand or alter schools...'

81. Again, Officers consider the inclusion of this requirement in a legal agreement meets the tests of being; necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind, in line with the advice and legislation set out in the Policy Summary Section of this report, as above.

82. Inclusion of this provision within the scheme is considered of great material weight and had it not been provided then potentially the second limb of paragraph 14 of the NPPF would have been invoked as a specific policy that may indicate development should be restricted.

Neighbouring Amenity

83. The proposed facing distances to existing dwellings on the northern boundary of the site to Thornhill Gardens, at 26 metres exceeds the suggested 21 metre guideline. The three dwellings proposed facing Friar's Row face at a 20 metre distance – close enough to the recommendation to be acceptable. One specific amenity relationship had been queried by a local resident, with a specific concern at the effect of site levels in the north-west corner of the site opposite Albion Court. The site is proposed lowered in this location by 0.8 metre, resulting in the new dwellings being 1.1 metre higher than those existing – but with the existing dwellings looking along the rear gardens of the new – rather than directly facing. The additional detailed information provided for this relationship indicates that the development will maintain satisfactory levels of privacy and outlook between the existing and new dwellings. Further separation is given from a new footpath link connecting the new estate to the existing runs between these properties.

84. Within the proposed development all proposed houses have private rear gardens, and dwellings meet the suggested separation distances. Where there are differences in levels across the new build retaining structures are kept to around 1 metre in height ensuring height differences between dwellings do not become over-dominant.

85. In terms of both the effects on existing residents, and the relationships newly proposed on the site, the proposals are considered to meet the Policy requirements of GDP1(h).

Other considerations

Economic Benefits

86. Positive weight should be attributed to the economic benefits set out within the application's supporting documents, that during the construction process the development will bring 31 temporary construction jobs for each year of the build, 47 indirect and induced jobs – i.e. in the supply chain – elsewhere in the economy for each year of the build, £1.7million economic output per build year, and £2.4million indirect economic output per build year. Estimated expenditure impacts include £378,000 from residents moving and furnishing a property as a 'one off' impact, with residents likely generating around £2.4million per year in the economy year on year.

Archaeology

87. County Archaeologists noted that the reports submitted with the application concluded that physical investigation of the site was required. This exercise has been undertaken by the applicant during the course of the application, finding,

'A curvilinear ditch, containing large stones and burnt deposits, was identified at the western edge of the site, in Trenches 7 and 16. Palaeo-environmental evidence and small pot sherds indicate that is prehistoric, relating to domestic habitation'.

This led to the recommendation that,

'A programme of archaeological excavation and recording is recommended on the high ground at the western part of the site in order to mitigate the impact of the development in this area'.

88. The County Archaeologist concurs, and suggests a condition to ensure the required works in the event of an approval. This is considered to meet the requirements for the site of Part 12 of the NPPF - Conserving and Enhancing the Historic Environment.

Ecology

89. Whilst satisfied that the development would not directly affect species protected by law, the County Ecologist is concerned that the scheme as submitted resulted in a net bio-diversity loss, contrary to the advice in Part 11 of the NPPF. Mitigation for this should ideally be provided on site or an off-site contribution to enhance habitats in the immediate locale – estimated at £60,000. Indicating the contribution would make the scheme further unviable, the applicant has provided a scheme for the open areas of the site to be provided with a species mix wildflower maintenance regime. Whilst this does not satisfy the Ecologists' full requirements, the on-site provision of this mitigation in open space areas is such that Planning Officers acknowledge the value of the proposals in bringing this issue closer to being acceptable in the planning balance exercise.

Open Space and Play Space / Layout

90. Presented with a case arguing no viability for 'add-ons', the development does not provide for play space within its layout, nor monies in lieu to provide or upgrade such off-site, as would usually be expected on a 'major' housing development. Provision of such is argued by the developer to undermine the viability of the development. As noted elsewhere in this report, the applicant's viability case was not accepted, and whilst the significant required elements were latterly offered – i.e. the Affordable Housing and the Education contribution – no provision is proposed for play space. The availability of a range of formal and informal opportunities for play and sport is noted above. The development will increase demand for these facilities without mitigating it. This issue must be considered within the 'planning balance'.
91. There are areas of open space within and around the layout. Some of these are functional, for example on the no-build zone above the water pipe that runs alongside Syke Road, and some, alongside the proposed spine road and the electricity sub-station are better placed in the proposed public domain. Whilst falling below expectations of formal open space within the layout in line with best practice for such set out in the likes of 'Building for Life' (BfL12), and further noting the dual use proposed for the available areas as open space in an ecology maintenance regime, as above, this issue has been negotiated to a best attempt, with again must be considered in the planning balance – potentially as a negative.

Coal Mining Legacy

92. Supplied with additional information following an initial objection, the Coal Authority raise no objection to the scheme subject to the imposition of a condition ensuring remedial works for the mine entry recorded as on the site. This condition would ensure compliance with paragraph 109 of the NPPF which requires;

'remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate'.

Public Rights of Way

93. Are not detrimentally affected by the proposals.

Contaminated Land

94. Environmental Health Officers recommend a condition to require and ensure appropriate remediation of any issues identified on the land with a standard planning condition, ensuring compliance with the further requirement of paragraph 109 of the Framework, as above. The nature of this matter is such that the suggested condition is required addressed 'pre-commencement', the advice on when to impose conditions in this matter contained in the Development Management Procedure Order 2015, Part 6, s.35 having been taken into account.

Noise

95. The implications for noise from the development affecting existing residents' reasonable expectations of privacy and amenity are considered in the assessment of an application of this size, both in terms of the implications of the build process, and for the 'lifetime' of the development. The supporting documentation submitted in support of the application for these issues has been assessed by Environmental Protection Officers, who suggest a condition to ensure the proposals are carried out in the manner described.

96. In conjunction with the Council's standard construction operations condition that sets hours and days of use to protect residential amenity through the build process, the implications for noise and disruption from the development are considered appropriately addressed.

The Planning Balance

97. The application proposes a new housing development on an area of land identified as appropriate for development on the edge of a settlement classified as a 'local service centre', therefore intrinsically sustainable. In the absence of a County Plan as an up-to-date planning policy document, the Council cannot formally identify the required 5 year housing land supply, and therefore there is a presumption in favour of granting planning permission unless the harm of so doing significantly and demonstrably outweigh the benefits.

98. The demonstrated benefits in this case are; the boost to housing land supply and the economic benefits of the scheme in terms of jobs, with the scheme's lifetime benefits of sustaining community facilities. The proposals include for the 'headline' requirements of housing development of the required level of 'Affordable Housing' and a financial sum to ensure that the demand the development will generate in the education system is met by the developer, and existing residents are not disadvantaged. A lack of either of these two requirements would result in a level of 'harm' that would significantly and demonstrably outweigh the benefits.

99. The proposals do not include for usual expectations of Play Space and Open Space / provision of ecology mitigation. The first is not provided – the latter is offered through a dual use approach that is a compromise, but one that Planning Officers are prepared to accept. The layout and amenity and privacy implications of the scheme are considered acceptable. The significant areas of interest to local Members and residents, i.e. the Highways and Drainage Issues have been comprehensively addressed to the satisfaction of the relevant specialist consultees.

100. The 'harms' that must be assessed within the planning balance include the loss of the 'Boggle Hole' landscape feature, the pressures the development would bring on existing play provision and open space, and that the proposals provide for, but fall short of full expectations for biodiversity mitigation.

101. The significant elements of the proposals are acceptable, meet required standards or can be secured by condition. Where elements of the proposals do not meet expected standards, the shortfall is not such that it could be argued to 'significantly and demonstrably' outweigh the benefits of the contributions to the County's housing supply and economic activity that would result.

CONCLUSION

102. The application proposes a new housing development on the edge of Burnopfield that will contribute to the Council's Housing supply and generate economic activity. These are both intentions of the Government's planning advice, and imperatives of the County Council's own corporate vision of 'Altogether Better'.

103. Whilst elements of the scheme could be improved, they are not considered such that they outweigh the benefits and the scheme is therefore recommended positively

subject to the imposition of conditions to secure the details of the proposals, and a legal agreement to ensure provision of the affordable housing and education provision offered.

RECOMMENDATION

104. That the application be **APPROVED** subject to the following conditions/reasons and the offered s.106 agreement to ensure delivery of 15% Affordable Housing and an Education contribution of £333,686:

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

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

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

Materials and Enclosures layout 13034/P(06) rev.d

Preliminary site levels 001/1 rev.c (Datum)

Preliminary site levels 001/2 (Datum)

Preliminary site sections 001/2 rev.b (Datum)

Site layout Planning Drawing 13034 P(05) rev.r

Housetypes:

BH_M_2016_H_ALDERNEY PLANNING DETACHED

BH_M_2016_H_CHESTER PLANNING DETACHED

BH_M_2016_H_DERWENT PLANNING DETACHED

BH_M_2016_H_ENNERDALE PLANNING DETACHED

BH_M_2016_H_ENNERDALE PLANNING TERRACE

BH_M_2016_H_FOLKESTONE PLANNING

BH_M_2016_H_FOLKESTONE PLANNING DETACHED

BH_M_2016_H_FOLKESTONE PLANNING TERRACE

BH_M_2016_H_FOLKESTONE PLANNING TERRACE

BH_M_2016_H_RADLEIGH PLANNING DETACHED

BH_M_2016_H_ROSEBERRY PLANNING TERRACE

BH_M_2016_H_ROSEBERRY ROOF PLAN - 2016 RANGE TERRACE MID

BH_M_2016_H_WINDERMERE PLANNING DETACHED

BH_M_2016_H_WOODCOTE PLANNING TERRACE END

BH_M_2016_H_WOODCOTE PLANNING TERRACE MID

Site Access Junction A073902-1/37/18/C001/rev.b

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1, EN1, EN2, TR2 and TR3 of the Derwentside District Local Plan, 1997 (saved 2009).

3. The development must be accessed from Syke Road by a new road junction and access road as shown on submitted Plan A073902-1/37/18/C001/rev.b. Said junction must be implemented in full and available for public use before occupation of the first dwelling hereby approved.

Reason: In the interests of Highways safety in accordance with Policy TR2 of the Derwentside District Local Plan, 1997 (saved 2009).

4. Development shall be only carried out in full accordance with the details of the revised Surface Water Drainage Strategy' issue No. 5 dated 30th May 2017, File Note 8, Surface Water Flooding 30 May 2017, Flood Risk Assessment (by Datum, 18.06.16) and as shown on plan AL(0)04b, including adherence to the run-off rates and proposed mitigations set out therein.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

5. For foul drainage, development shall be implemented in line with the drainage scheme contained within the submitted document entitled "Flood Risk Assessment" dated "18 August 2016". The drainage scheme shall ensure that foul flows discharge to the combined sewer at manhole 7604, and ensure that surface water discharges to the surface water sewer at manhole 7518 at a maximum restricted rate of 32 l/sec.

Reason: To prevent the increased risk of flooding from any sources in accordance with the part 11 of the NPPF.

6. For Archaeology, no development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:
 - i; Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
 - ii; Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
 - iii; Post-fieldwork methodologies for assessment and analyses.
 - iv; Report content and arrangements for dissemination, and publication proposals.
 - v; Archive preparation and deposition with recognised repositories.
 - vi; A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
 - vii; Monitoring arrangements, including the notification in writing to the Local Planning Authority of the commencement of archaeological works and the opportunity to monitor such works.
 - viii; A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

Reason: To comply with para 135 & 141 of the NPPF because the site is of archaeological interest.

7. For Archaeology, prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with para. 141 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.

8. For Coal Mining legacy, prior to the commencement of development the developer must, in writing: submit a scheme of remedial works for the mine entry

for approval, including details of foundation solutions for those properties closest to this feature; implementation of those remedial works; and submission of a Validation Report to confirm that the approved remedial works have been carried out on site.

Reason: in order to ensure the implications of the areas coal mining past on land stability are fully addressed in the development as required by part 11 of the NPPF.

9. For Contaminated Land, the development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a, b or c are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 3 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

(a) A Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

(a) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.

(b) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 11.

10. Before development of the residential dwellings hereby approved is commenced a scheme of proposed landscaping to compliment that shown on plans C-1430-

01 and C-1430-02 to include added biodiversity planting in areas of open space must be submitted to and approved in writing by the local planning authority. Said scheme must include a maintenance schedule for the proposed planting for a minimum period of 5 years.

Reason: to ensure an appropriate form of development as required by part 11 of the NPPF.

11. For Noise implications during the construction phase of development, the applicant must ensure all sound attenuation measures detailed in the noise assessment; LA Environmental Assessment of Noise Levels and Noise Amelioration Measures report dated 21st September 2016 (Reference BH/SR/002), are fully implemented prior to the beneficial occupation of the development and permanently retained thereafter. The applicant must prepare and submit a Construction Management Plan (CMP) to the local planning authority for approval in writing. The CMP shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall include:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014
- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 'Code of practice for noise and vibration control on construction sites' 2014.
- Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.
- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council's accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

No works, other than site investigation works, shall be permitted to start on site until the CMP has been submitted and approved in writing by the local planning authority. Once approved the development of the site shall be carried out in accordance with the plan.

Reason: To ensure that new and existing development is not put at unacceptable risk of noise pollution in line with Part 11 of the NPPF.

12. For Noise implications during the lifetime of the development, the submitted Environmental Assessment of Noise Levels and Noise Amelioration Measures report dated 21st September 2016 (Reference BH/SR/002) and the additional information provided by the noise consultant on night time noise levels proposes amelioration measures to ensure that daytime internal noise levels are in line with BS8233:2014. To ensure the noise amelioration measures are attained, the glazing and ventilation specifications that are contained within the report must be implemented in full as described therein.

Reason: To ensure that new and existing development is not put at unacceptable risk of noise pollution in line with Part 11 of the NPPF.

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

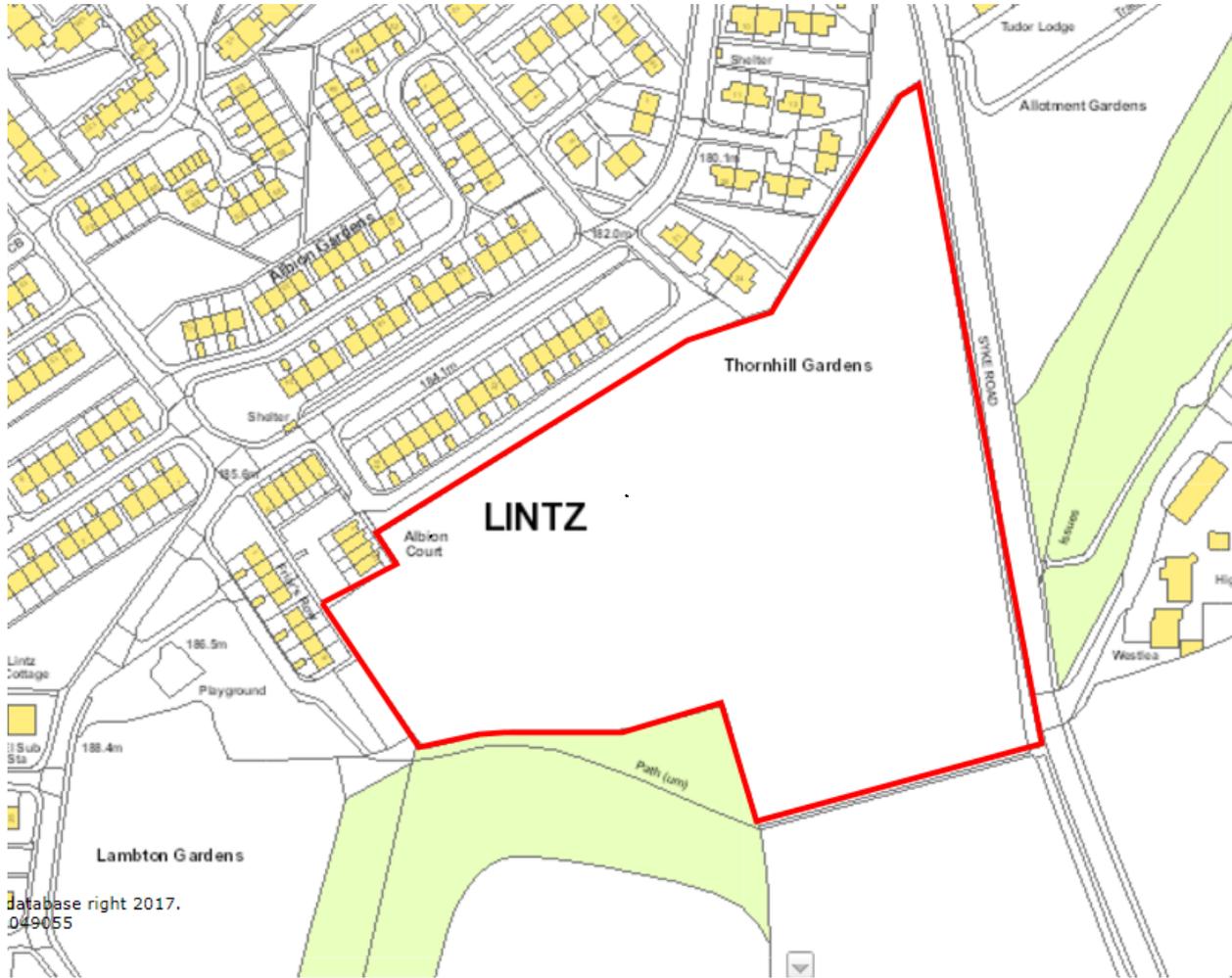
Reason: to protect the reasonable expectations of residential amenity from surrounding dwellings as required by Policy GDP1(h) of the Derwentside District Local Plan, 1997 (saved 2009).

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Derwentside District Local Plan (saved policies 2009)
- The County Durham Strategic Housing Land Assessment
- The County Durham Strategic Housing Market Assessment
- Statutory, internal and public consultation responses



Planning Services

Land to the west of Syke Road, Burnopfield

Application Number DM/17/00097/FPA

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Comments

Date 29th June 2017

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