

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	1/2013/0173
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 56 dwellings including landscaping and infrastructure - amended scheme proposing omission of affordable housing provision and schools contribution.
<b>NAME OF APPLICANT:</b>	Keepmoat Ltd
<b>ADDRESS:</b>	Land To The South Of Palmer Road Dipton
<b>ELECTORAL DIVISION:</b>	Burnopfield and Dipton
<b>CASE OFFICER:</b>	Steve France, Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is 2.4ha of land at Dipton, a village north-east of Consett, sited between the A692 Gateshead Road, and the B6168. The village is of linear form in that it follows the lines of those two roads, being infilled at the apex of the junction. Surrounded by a mix of house types, ages and styles that reflect the development of the settlement, on three sides, and Bone Lane (originally Boney Lane), the land is green-field, never having been developed. A tunnel serving Lily Colliery crossed the western part of the site, reflected by the current landform in this part of the site.
2. The site has been in two land uses, with the larger, eastern part of the site, as overlooked by Palmer Road and Plunkett Road, fenced and used as a paddock. This area is now unused and covered in low scrub and grasses. The smaller, western part of the site includes a small football pitch with metal goalposts, and is part mown, part left as tussocked unimproved grassland. There are a number of pedestrian access points to this land, from Palmer Road, Meadow View and Bone Lane, these last two accesses being Public Rights of Way. The site slopes from east to west, Dipton being on the upper slopes of the Derwent Valley, with the site undulating across its area.
3. Landform aside, there are no features of note on the site, its two components being separated by a simple field boundary. Bone Lane is bounded by established hedging and a few mature trees. Informal access to the south of this footpath – also defined on Ordnance Survey Plans as an off-road cycle path which leads to further open land, used by the local community for informal recreation and as a wildlife area.
4. The site has no formal designation within the Derwentside District Local Plan.

## The Proposal

5. The application seeks detailed planning permission for the development of 56 houses.
6. This application has been lodged with the Council since April 2013, as a proposal for 54 houses. The application was reported to Committee in September 2013, recommended for approval subject to a s.106 legal agreement to secure the provision of 8 affordable housing units offered, along with a financial contribution to the Council for provision of an additional classroom at St. Patricks RC Primary School, 500m from the site, to meet an identified shortfall. Members resolved to approve the scheme subject to the necessary legal agreement being signed.
7. Despite the approval in principle, the applicants have been reluctant to progress the application or withdraw it for a variety reasons including, they state, the rising costs of materials and that market conditions made the scheme unviable. The application has therefore effectively been on hold awaiting further instruction from the applicant. More recently, the applicants have expressed a desire to proceed with the development subject to a number of revisions.
8. The application has therefore been amended to remove the affordable housing element and the schools payment. The scheme itself remains very much the same as that originally presented to committee but there have been minor amendments to the layout to suit the applicant's current house-types, which has resulted in two additional units being proposed.
9. The proposed dwellings are a mix of two, three and four bed-roomed units, in detached, semi-detached and mid-linked form. The main part of the site, being a cul-de-sac of 41 dwellings is accessed from Palmer Road. The 15 remaining dwellings are served from an extension of the end of Plunkett Road, six from the adopted highway, nine from shared drives.
10. The western part of the site remains open, with the small football pitch moved, and the unimproved grassland developed to increase its wildlife potential. This area of the site is accessible from Palmer Road through the site giving access to public right of way on Bone Lane and the Nature Reserve beyond.
11. The application is reported to back to Committee, again as a 'major' application and also to give Members the opportunity to consider those changes to the proposal described above.

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## **PLANNING HISTORY**

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12. Prior to the receipt of the current application there was no previous planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

13. 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.

14. 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'.
15. 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.
16. The following elements of the NPPF are considered relevant to this proposal;
17. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – 'significant weight' is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
18. 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.
19. *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.
20. *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.
21. *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.

22. *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.
23. *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.
24. *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:**

25. 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.
26. *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.
27. *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.
28. *Conserving and Enhancing the Historic Environment* – Explores the terms 'significance' and 'special architectural or historic interest' and 'harm', noting assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.
29. *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.
30. *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.

31. *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.
32. *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.

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

33. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
34. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
35. *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.
36. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible. Consideration will be given to the effect of development on any affected trees, taking into account; landscape diversity, the setting of existing or proposed buildings, wildlife habitat and visual amenity.
37. *Policy HO22 – Recreational Public Open Space within Housing Sites* – states planning permission for new housing developments will be granted if they include sufficient open space and play areas to meet the demands of the residents of the development
38. *Policy RE4 – Protection of public footpaths* – Development should facilitate the incorporation rather than the diversion of public rights of way and other recreational footpaths.
39. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

#### **RELEVANT EMERGING POLICY:**

40. 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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

41. *Highways* – County Highways Engineers have requested additional visitor parking places and more detail regarding the main site visibility splay onto Palmer Road during the course of the application. These issues have been resolved to the Engineer's satisfaction, with the proposed road meeting their requirements and being to full adoptable standard.
42. *Northumbrian Water* – confirm they have no issues to raise subject to specified restricted surface water discharge rates, proposed secured by a suggested condition.

### **INTERNAL CONSULTEE RESPONSES:**

43. *Spatial Policy* – have provided a detailed policy assessment, noting the principle Local Plan policies retain weight in the decision making process. The Strategic Housing Land Availability Assessment (SHLAA) 2013 is noted as having assessed the site, within which, 'overall, it has previously been deemed to be potentially 'suitable' in principle for housing development. Whilst this does not necessarily mean that a scheme should be approved, it does indicate whether there are any material issues that a planning proposal would need to address and overcome'.
44. The SHMA (2016) identifies a need for affordable housing provision across County Durham. This is a relevant material consideration in conjunction with paragraph 50 of NPPF. In considering the effect of paragraph 14 of the Framework and the 'planning balance' Spatial Policy officers note the potential benefits offered by the scheme as including the contribution to housing supply, 'although the proposed development will provide some benefit to the supply of housing, the weight to be given to that benefit should be reduced on the basis that a significant undersupply does not exist. This boost to housing supply should only be considered to be an overriding benefit if it is concluded that *'any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole: or specific policies in NPPF indicate the development should be restricted.'*
45. In terms of the NPPF's aim of 'broadening housing choice', 'in carry out the required planning balance, NPPF core planning principles (paragraph 17) include the requirement to meet housing need for the area and expand the range and choice of housing in the area. Given that the scheme does not propose any affordable provision there are only limited benefits on offer in terms of satisfying local housing need'.

46. Spatial Policy Officers conclude, 'on the balance...., and subject to the considerations of specialist colleagues, I am of the view that the potential dis-benefits can be mitigated and would not outweigh (significantly and demonstrably) the benefits to housing supply in accordance with the NPPF'.
47. *Drainage and Coastal Protection* – The Senior Area Drainage Engineer confirms the developer has liaised with the Council from an early date to ensure provision of a drainage scheme based on sustainable drainage principles. He writes, 'It is possible through good design to reduce existing greenfield surface water flows from a site, which in turn would go towards reducing flood risk downstream, in Durham we restrict major developments to what is known as the Qbar rate which is the calculated mean average flood-flow from a rural catchment, this can be a reduction on runoff by up to 90% in large storm events. Designs must demonstrate that no property or neighbouring land is at risk of flooding from the site in all storms up to 1 in 100 year events plus a climate change allowance'. The submitted scheme, subject to confirmation of additional detail that can be secured by condition, 'greatly reduces' any threat of flooding from the site and represents a best practice sustainable drainage scheme in line with national and local guidance.
48. *Ecology* – The ecological implications of the proposals have been of particular concern, the proposals being adjacent to a local nature reserve that includes newt supporting ponds. County Ecologists have agreed site specific mitigation consisting species-rich wildflower planting around the public open space / playing field, and a sum of £8,500 to be spent on upgrading existing wildlife areas within influencing distance of the site.
49. *Education* – Education Officers have confirmed that the shortfall in Education provision has now been met, and there is no requirement from the current proposals
50. *County Archaeologists* – ask for a condition, consistent with their advice in 2013, secured the implementation of a programme of archaeological work.
51. *Landscape* – The scheme is criticised in detail, with issues raised including the length of paths to allow rear bin access, the potential appearance of the retaining structure which runs across the site, and the lack of pedestrian links between the top and bottom of the site.

#### **PUBLIC RESPONSES:**

52. Neighbours have been re-consulted, a site notice was posted on Front Street, and a press notice was published in The Northern Echo. All residents consulted on the original application were attempted re-consulted (some email addresses were not contactable), along with all properties overlooking the site. 184 direct mail letters were sent.
53. When the application was reported to Committee in 2013 there was a strong and well-coordinated public campaign of objection to the planning application. This consisted of objection from the Dipton Community Partnership, 206 individual letters of objection from 128 households, and a petition of 283 names. Many correspondents wrote individual letters and sent in a standard pro-forma objection letter which was widely circulated. The petition did not set out reasons for objection.
54. Issues raised, and considered by Councillors in coming to their decision at that time included: a lack of need for new housing, loss of valued green space, poor highways

access and existing on-street parking issues, compromising the amenities of dog-walkers and children playing in the street, poor design, loss of view, influx of 'unpredictable tenants' and change of the social make-up of the area. Reduction of property values, the commercial motivations of the Council, the Greenfield nature of the site, covenants and effect of the build process were all offered among objections considered by Members when the proposals were considered by Committee in 2013.

55. In response to the current re-consultation exercise, 12 objections have been received, with the majority of concerns previously raised referred to again.
56. Historical flooding issues are a concern, particularly in respect of overland flows and the relationship to dwellings below the site facing the A692.
57. Highways concerns refer both to the capacity and design of the roads leading to the site, along with safety concerns for children playing in the street, and worries that construction access would be dangerous and compromise amenity. The influx of strangers into the area is contented likely to result in anti-social behaviour, with the omission of affordable units of detriment to the local community for other correspondents. The need for the units is questioned, with the loss of public open space of detriment to existing local amenity. Pressure on the wildlife area adjacent the site is an objection as is the effect on garden wildlife in surrounding properties. Pressure on local shops and services is a worry for correspondents. The design of the development is considered poor, particularly in including three storey units.
58. Reference is made to a restrictive covenant affecting the land, with the Council considered compromised for decision making, as landowner,
59. There is a specific relationship between new dwellings at plots 14/15 and the existing dwelling at 14 Plunkett Road, where loss of view, overshadowing, loss of sunlight and devaluation of property are concerns for the resident.

*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>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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60. 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, drainage, highway safety, wildlife impacts and residential amenity.
61. The context for consideration of this application is somewhat unusual, in that it already has a Committee resolution for approval. Given the passage of time and the evolution of some aspects of planning policy, and changes to the scheme it was decided that the best way to ensure the planning decision is arrived at transparently was with a further public consultation exercise despite the overall layout of the scheme remaining unaltered. The application is therefore reported to Committee for a decision on the basis of the amended scheme, once again subject to a s.106 legal agreement, which this time would secure monies for off-site bio-diversity works.

## Principle of the Development

62. 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.
63. There are no relevant saved Housing policies in the Local Plan and therefore the Development Plan is seen as being '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.
- If there are no specific policies which indicate that development should be restricted and the proposal therefore needs to be considered against the first bullet point of paragraph 14.
64. That the Council cannot demonstrate a five year housing land supply and Council's policies for housing supply are therefore 'out-of-date'. Although the proposed development will provide some benefit to the supply of housing, the weight to be given to that benefit should be reduced on the basis that a significant undersupply does not exist. On this basis, paragraph 14 therefore sets a high bar for resisting the proposal.
65. The application site is 'greenfield' land. Whilst the NPPF asks Local Authorities to direct developers in the first instance to 'brown-field', this does not preclude the development of sites not previously developed.
66. Officers' conclusion on the principle of development is that it is acceptable subject to an assessment of the benefits and disbenefits of the scheme.

## Impact upon the Surrounding Area

67. The two main areas of contention to local residents are drainage issues and highways issues, with residents whose dwellings sit below the site, and have suffered from overland flows and flooding from the site concerned with the former, and residents in Palmer Rd and Plunkett Rd which are proposed to access the development focussed on the latter.
68. Advice and Policy on flooding and drainage is set out in the Framework, the NPPG and within Policy GDP1 (i) and (j). The details of the proposals submitted are considered both by the 'statutory undertaker', Northumbrian Water, and The Council's Drainage and Coastal Protection Team, the Council having the role as Strategic Flood Risk Authority (SFRA). Northumbrian Water have indicated no issues with the proposals subject to a condition controlling the detailed flows into its formal drainage system, in accordance with the submitted documents (with some additional details required).
69. Council Drainage Engineers have worked to achieve a detailed scheme with the applicants using the best principles of sustainable drainage – effectively using

natural techniques to slow, capture and percolate water before it reaches the piped network. To this end the proposals now include for a SuDS basin and a swale across the lower part of the built development, designed to control and greatly reduce potential for overland flows to below what would occur naturally on the site now. Council Engineers confirm the proposals are in line with National and Local Advice, and the proposals are concluded to meet the requirements of Policy GDP1.

70. With little change in the highways layout since the resolution to approve in 2013, the resubmitted layout was directly comparable to its forerunner. However Council parking standards have been reviewed in the interim, with the proposals having to be revised to incorporate additional visitor spaces. Highways Engineers also sought additional clarity on the site visibility splay opposite the existing dwellings in Palmer Road to ensure it could be constructed to adoptable standards. This was confirmed, and with the previous assessment having confirmed that the effect of the development on the capacity of the surrounding highways network was acceptable still valid, Highways matters are considered acceptable in the proposals. Policy TR2 of the development plan is considered satisfied, with it noted for the planning balance that the NPPF advises that, *'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*.

### Affordable Housing

71. One of the two significant differences with the scheme as originally considered by Members is the omission of the proposed affordable housing element – 8 units. The units proposed met the definition of affordable housing set out in the Framework and were to be operated by a Registered Social Landlord. The inclusion of this was given significant material weight in the September 2013 Committee Report. The applicants are now contending that the inclusion of the affordable units makes the development unviable and prevents them from proceeding with the scheme. As part of the application they have submitted a detailed financial appraisal to support this contention. The omission of the affordable units significantly lessens the benefits that can be attributed to the proposal in the planning balance.
72. Assessment of the viability figures submitted to justify the lack of provision has been carried out with regard to probity – the Council being the landowner and, as Local Planning Authority the arbiter of the proposals. This apparent conflict of interests has been raised as an issue by objectors, but is not an unusual circumstance, with the procedures of the Council as Local Planning Authority, and the Professional conduct of Planning Officers following strict guidelines and procedures.
73. Following a detailed assessment of the financial appraisal by The Viability Officer in the Spatial Policy Team, the conclusion has been that the provision of affordable housing would render the scheme unviable, to the standard expectations of profit margins developers may expect.
74. A different aspect to this part of the proposals is a divergence of opinion from local residents. Some see the omission as restricting the housing opportunities available to local residents – others, whilst not setting it out as a benefit have raised an alleged policing issue with the potential residents of such properties.

### Education Provision

75. The previous scheme had been recommended approved subject to the signing of a s.106 agreement to ensure a financial provision to deliver an additional classroom in the immediate locale to address an identified need. With the passage of time

circumstances have changed with the County Education Department confirming that this provision has been secured from elsewhere. As a consequence, a financial contribution is no longer required from this development, with capacity in the system to accommodate the educational needs of the children the development is likely to generate. As the identified 'need' no longer exists, and request for monies for further education provision would fail the requirements as needing to be necessary to make the development acceptable in planning terms and directly related to the development,

#### Neighbouring Amenity

76. One specific relationship of residential amenity impact has been identified, that between plots 14/15 and the existing dwelling at 14 Plunkett Road, where loss of view, overshadowing, loss of sunlight and devaluation of property are concerns for the resident. 25 metres separates the existing dwelling from the proposed gable end of the new, with the latter set lower on the slope of the hill. With the suggested guideline for such a relationship 12.5 metres, the separation is wholly compliant with Policy GDP1 (h) of the Development Plan, and not one that could form the basis of any sustainable refusal reason. That residents further concerns on loss of view and potential devaluation of property are no of material weight in the planning process.
77. Construction traffic will cause disruption during the build process as a fact of life. The balance between protecting existing residents' reasonable expectations for such and allowing the development to progress efficiently can be controlled through a standard working hours condition and an agreed construction management plan.

#### Other considerations

78. That the development will contribute to the local economy with jobs and investment in the supply chain through the development process, and further from expenditure from residents once the development is complete is of positive material weight in the planning decision. Also relevant is that fact that encouraging economic regeneration is one of the core objectives of Durham County Council – in the 'Altogether Betters'.
79. Archaeological issues can be dealt with to the satisfaction of the County Archaeologist by way of a standard condition.
80. Whilst the Coal Authority had not responded to the consultation request sent them as this report was written, the condition previously requested by them is considered a valid approach to the coal mining legacy issues the site presents.
81. The County Ecologist has negotiated with the developers to ensure in the first instance that an on-site scheme of bio-diversity mitigation be provided in the form of planting around the open space. Further it is proposed that a sum of £8,500 be ensured through legal agreement to mitigate the direct effect of the development on the adjacent and nearby ecology areas maintained by the Council. This requirement is considered to meet the 'tests' for imposition of legal agreements, in: 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 (as required by the Community Infrastructure Levy 2010 and as tests set out in the NPPF).
82. The comments of the Council's Landscape Team addressed detailed issues. It is acknowledged that the urban development of a 'greenfield' site will incur some adverse residual landscape and visual impact. That the land is not designated is relevant, as is the fact that public access was, and is restricted from the majority of the land to be developed. The development will incur a loss of some Amenity Open

Space, with the Open Space Needs Assessment (OSNA) having identified a shortfall of parks and gardens, outdoor sports space and play space within the wider ward. That the remaining open space is to be improved mitigates this matter by degree. Overall however this is a shortfall from the development that must be considered in the planning balance. Landscape Officers are concerned at the length of some bin accesses to rear gardens. This to some degree could be argued to reflect the fact that the proposed dwellings have reasonable sized rear gardens – and that this provision is made rather than residents having to take garden waste through dwellings or having to rely on bin stores in front gardens counts in favour of the layout. The large retaining structure through the middle of the site would be a feature apparent to potential buyers, taking out morning light at some times of year, with planting the only mitigating device. The feature is not unacceptable, generally separated by a distance of around 10 metres from the rear of the lower dwellings.

83. The SHLAA assessment has concluded that while the site is not considered to be close to a broad range of services and facilities, this is not considered to be problematic as it is well provided for in terms of bus services and links to other main settlements. The site is well contained within the built up area. Paragraph 35 of the NPPF advises that developments should be located and designed, where practical, to give priority to pedestrian and cycle movements, and to have access to high quality public transport facilities. The site scores reasonably well in relation to this.
84. The response from the Council's Environmental Protection Officers was outstanding as this report is written. However, as the land is proposed brought into use from a more 'sensitive receptor', i.e. housing, a standard condition is suggested appended as a reasonable response to this issue.
85. Whilst the previous consent required submission of a detailed 'Sustainability Statement' these issues are now addressed through the Building Regulation process – the condition being now redundant.

### The Planning Balance

86. As the development plan is 'out-of-date' as regards housing land supply policies and no specific policies have been identified that would indicate that development should be restricted, the NPPF advises that permission should be granted if it can be concluded 'sustainable' and unless, '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'.
87. The site will provide a contribution to housing supply, which is material in the planning balance, with a Planning Inspector in recently considering the housing land supply position having confirmed that it does not amount to a significant shortfall. Therefore, although the proposed development will provide some benefit to the supply of housing, the weight to be given to that benefit should be limited on the basis that a significant undersupply does not exist.
88. In terms of broadening housing choice in the planning balance, NPPF core planning principles (paragraph 17) include the requirement to meet housing need for the area and expand the range and choice of housing in the area. Given that the scheme does not propose any affordable provision there are only limited benefits on offer in terms of satisfying local housing need.
89. Setting the weight to be attached to the scheme's contribution to the local economy, paragraph 7 of the framework considers the three dimensions of sustainability and in this application - the development of the site would contribute to the economy

through the delivery of houses, both during their construction but also via new residents supporting local services. This may be considered as a benefit.

90. Supporting sustainable patterns of growth, core planning principle 11 (NPPF) seeks to ensure patterns of growth are managed to ensure the fullest use of sustainable modes of transport. The location of this site is such that it provides opportunities for residents to travel by modes other than the private car thereby contributing positively to the locational sustainability of the scheme. This can be considered as a benefit.
91. The adverse impacts of the development attributed by the local community have been examined in detail by the specialist consultees who advise on those areas. Of principal concern, issues of drainage and highways have been redesigned to meet national and local guidance and policies, where, subject to being ensured in detail through conditions, have been found acceptable.
92. Likewise, the implications from development for biodiversity and archaeology are considered capable of mitigation to an acceptable degree.
93. That the scheme results in the loss of some publically accessible open space does not make provision for the full expectations of replacement open space and expectations of play provision is considered in the balance to count against it, but not to such degree where it fails the paragraph 14 test. The applicant's justification for this lies in their expectations for viability from the development.
94. Officer's assessment of the planning balance is that the development does constitute 'sustainable development', and therefore benefits from the presumption in favour of such, with no issues identified that, 'significantly and demonstrably' outweigh the contribution it would make to housing supply and economic regeneration.

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## **CONCLUSION**

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95. The Northern Area Planning Committee in 2013 resolved the proposals were acceptable, subject to a legal agreement to secure specific needs. This application considers of the current proposals in so far as they have been revised. Where different, the issues raised have been considered and addressed in detail.
96. Application of the planning balance has concluded that the development is 'sustainable', and benefits from the 'presumption in favour' of such.
97. Taking advice from the Spatial Policy Viability Officer, it is accepted that the inclusion of affordable housing within the scheme would render it unviable, and the County must add to its housing supply. With no formal identified need for education provision, the formerly identified shortfall having been met, there is no basis to ask for a sum towards education. This alters the planning balance, but it has been concluded that assessing the application, 'against the Policies in this (the) Framework as a whole', still leads to the conclusion that the scheme is acceptable, there being no policies that indicate development should be restricted, and where 'adverse impacts' have been identified, they do not, 'significantly and demonstrably' outweigh the benefits of the contribution to housing supply and economic activity.
98. On this basis Officers conclude that the revised scheme, considered against the planning policy context in 2017 is acceptable.

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## RECOMMENDATION

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99. That the application be APPROVED subject to the developer entering into a legal agreement to secure a financial contribution of £8,500 to mitigate the effects on the natural environment from development works and ensure the proposals result in a net bio-diversity gain, and subject to the following conditions:

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:

External Materials: Dipton QDL 000 XX DR D 744-300-01

Enclosures: Dipton QDL 000 XX DR A 744-300-02

Garage Plans and elevations QDL 000 XX DR D 744-399-01

Planning Drawing QDL 000 XX A 744-1054-01 – 1054HT

Planning Drawing QDL 000 XX A 744-1178-01 – 1178HT

Planning Drawing QDL 000 XX A 744-651-01 – 651HT

Planning Drawing QDL 000 XX A 744-851-01 – 851HT

Planning Drawing QDL 000 XX A 744-867-01 – 867HT

Planning Drawing QDL 000 XX A 744-955-01 – 955HT

Updated Site layout reflecting drainage changes

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

3. The development must be completed in full and detailed compliance with the 'Flood Risk Assessment and Drainage Strategy' QD744, Feb 2013, submitted in support of the application, including in particular the stated restricted foul and surface discharge rates into the existing formal drainage network. Prior to the commencement of development specific written confirmation that the restricted surface water discharge of 10l/sec will be achieved at the connection to the surface water sewer at manhole 8108 must be submitted to, and approved in writing by the Local planning authority, thereafter implemented in full accordance with said approval.

Reason: In order that the drainage implications of the development are properly addressed, in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

4. Before development is commenced an appropriate programme of further intrusive site investigation works must be undertaken to confirm coal mining conditions at the application site prior to the commencement of development. This document must ensure that in the event that the site investigation works confirm the need for the treatment of any areas of shallow mine workings and/or the mine entry for stability purposes, and/or any other mitigation measures (e.g. foundation precautions, gas protection measures etc.) to ensure the safety and stability of the proposed development, these works are undertaken prior to commencement of development. The document must include details and timings for these additional identified works, and an assessment of the effect of the works on site drainage. The site must be developed wholly in accordance with said document with confirmation of its completion in full being provided at the completion of the development.

Reason: To protect the development against potential Coal Mining legacy issues that may affect the site.

5. No development shall take place until the applicant, or their agent or successor in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document to be approved in writing by the LPA, with the investigation and development carried out in full accordance with the approved details.

Reason: To comply with paras 135 and 141 of the NPPF as the site and remains upon it are of historic interest.

6. Prior to any of the 54no. units on the development being 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 ensures information gathered becomes publically accessible.

7. In the areas of the site surrounding the playing pitch, the developer must provide a detailed specification of planting, management and maintenance for the creation of high quality biodiversity areas that complement and enhance the adjacent Local Wildlife Site. This document must be submitted to, and approved in writing by the Local Planning Authority before the commencement of development. Said specification must include details of planting species and specification and timing. Planting must be carried out in the first available identified period following the commencement of the development.

Reason: In the interests of the amenity of the area in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009) and part 11 of the NPPF

8. For the full course of development works on the site, site works, deliveries and the operation of materials, plant and machinery (including generators) must be carried out only during the following hours: Monday - Friday 08:00 to 18:00 hours inclusive, Saturday 09:00 to 14:00 hours inclusive, with no works on Sundays and Bank Holidays

Reason: In the interests of the amenity of the area in accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009)

9. 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 County Durham Principal Archaeologist 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.

In relation to the scheme of Archaeological work, 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 ensures information gathered becomes publicly accessible.

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, c, d or e are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 1 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 1 Preliminary Risk Assessment (Desk Top Study) is required to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.

(b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.

(c) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

#### Completion

(d) 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.

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

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

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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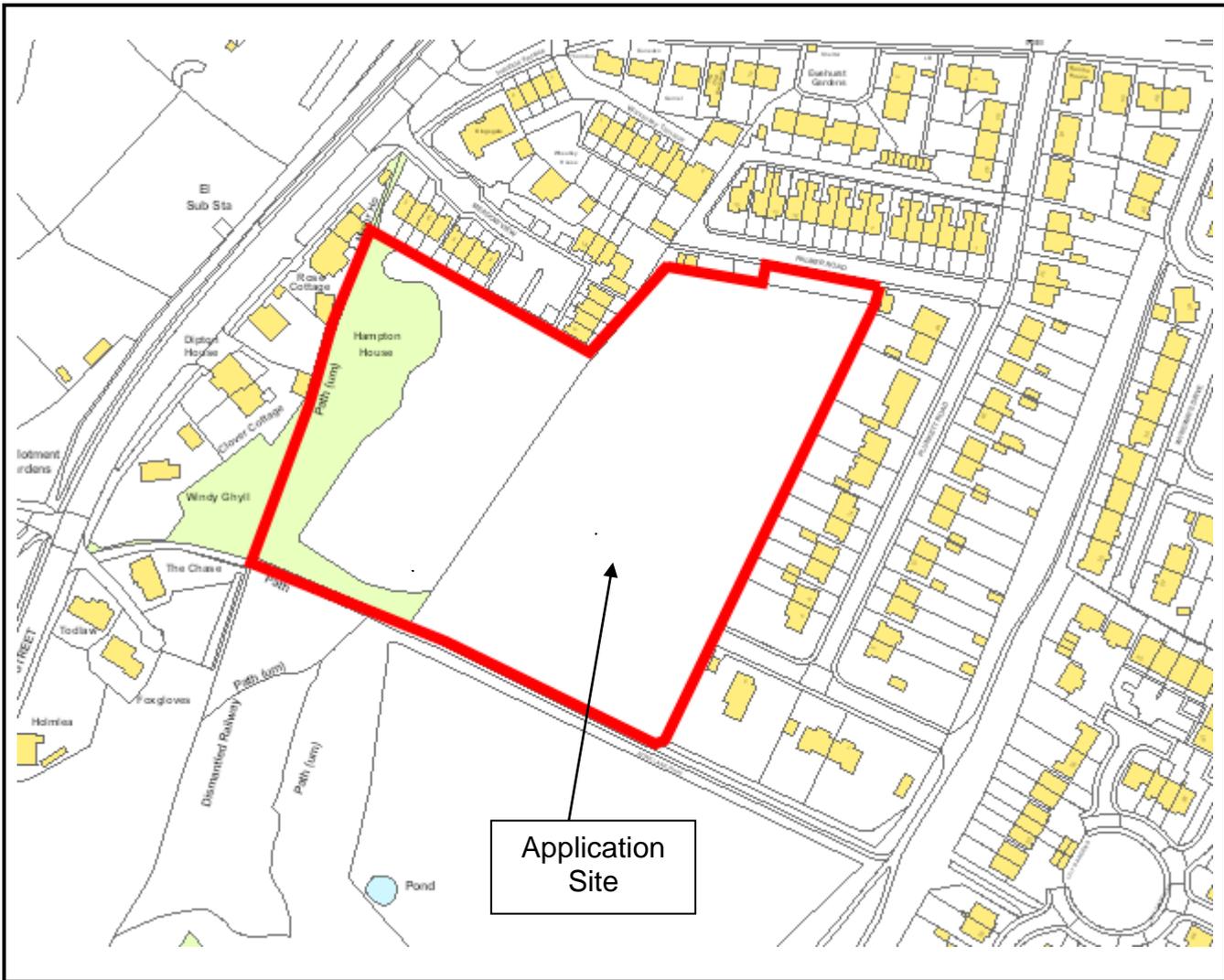
100. The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Derwentside District Local Plan 1997 (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**

Erection of 56 dwellings including landscaping and infrastructure - reconsultation of 2013 scheme on amended plans and scheme proposing omission of affordable housing provision

Application Number 1/2013/0173

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**Comments**

**Date** 27<sup>th</sup> July 2017

**Scale** NTS