

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/00641/OUT
FULL APPLICATION DESCRIPTION:	Residential development of up to 66 dwellings with details of access (outline)
NAME OF APPLICANT:	Blake Hopkinson Architecture
ADDRESS:	Land to the south of South Terrace, Esh Winning
ELECTORAL DIVISION:	Deerness Barry Gavillet
CASE OFFICER:	Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This application site is approximately 2.4 hectares and is located to the east of Esh Winning, just outside of but directly adjoining the settlement boundary as defined in the City of Durham Local Plan. It is a greenfield site, owned by the applicant, which is bound to the north and west by other residential developments, to the south is open space with the Deerness River and walkway beyond whilst to the east is open space with along with a sewerage works. The site is also located between public bridleways 25 to the west and 115 to the east and is approximately 5 miles from Durham City Centre. The main B6302 road through the village which runs east to west is located just to the north of the site and has several bus stops, the village itself has provision for education, shops and other community facilities.

The Proposal

2. Outline planning permission is sought for the erection of up to 66 dwellings, details of the proposed access have also been submitted. The access would be off the B6302 and via the existing modern housing estate called Castlefields to the north. An indicative layout has been submitted showing 66 dwellings which would be a mix of detached and semi-detached 2, 3, 4 and 5 bedroomed dwellings with associated parking, however the layout, appearance, landscaping and scale of development would be reserved matters should this outline application be approved. A drainage basin would also be located near the entrance to the site to accommodate any surface water drainage.
3. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

4. No relevant recent planning history.

PLANNING POLICY

NATIONAL POLICY:

5. 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.
6. 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’.
7. The following elements are considered relevant to this proposal;
8. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
9. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
10. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
11. *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.
12. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

LOCAL PLAN POLICY:

City of Durham Local Plan

14. *Policy E14 (Trees and Hedgerows)* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
15. *Policy E7 (Development in the Countryside)* advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
16. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
17. *Policy E16 (Protection and Promotion of Nature Conservation)* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
18. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
19. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
20. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
21. *Policy R2 (Provision of Open Space – New Residential Development)* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.

22. Policy T21 (Safeguarding the Needs of Walkers) states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
23. Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.
24. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
25. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
26. Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
27. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
28. *Policy U8a (Disposal of Foul and Surface Water)* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
29. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

EMERGING POLICY:

County Durham Plan

30. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

- 31. Durham County Highways Authority state that the access to the site is acceptable and the indicative parking areas would satisfy the County Durham Highways standards.
- 32. Drainage Section have no objections to the proposals.
- 33. Coal Authority have requested a condition relating to site investigation.

INTERNAL CONSULTEE RESPONSES:

- 34. Education Section have indicated that no contributions would be required towards educational facilities and that there are sufficient primary and secondary school places.
- 35. Public Rights of Way Section have not raised any objections but have indicated that the proposal should contribute to the enhancement of surrounding public rights of ways and that the footpath running east to west across the site should be formally adopted as a public footpath.
- 36. Tree Section has not raised any objections to the proposed scheme subject to a condition requiring the appropriate tree protection.
- 37. Environmental Management (Contamination) has not raised any objections but has indicated that further contamination investigation works are undertaken prior to development commencing.
- 38. Archaeology Section has not raised any objections to the scheme subject to a condition requiring a written scheme of investigation and subsequent reporting.
- 39. Ecology Section has not raised any objections to the proposed scheme subject to the mitigation in the submitted ecology survey

40. Spatial Planning Policy Section have not objected to the application and have confirmed that a contribution of £113,825 would be required towards open space and recreational facilities in the area in addition to 20% of dwellings being affordable.
41. Landscape officers raise no objections stating that the site is not covered by any landscape designations. The proposed 20m and 10m wide buffer zones are a welcome feature of the design and the SUDS feature and associated native species tree and hedge planting, near the site entrance and Priest Burn, could contribute to the existing attractive green edge to the village. It is noted that landscaping is not part of this application and would be part of a future reserved matters application if this outline application is approved.

PUBLIC RESPONSES:

42. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. 75 letters of objection have been received from members of the public including the Parish Council.
43. The Parish Council object to the proposals stating that the proposals would have an inadequate access and would lead to highway safety issues, that the site is outside of the settlement boundary, there would be a loss of wildlife and an increase in flooding.
44. Members of the public have raised many reasons for objection including that the proposals are outside of the settlement boundary, the site is greenfield and that there are other brownfield sites within the village which should be developed first, there is no need for further housing, the Strategic Housing Land Availability Assessment identified the site as being unsuitable, there would be harm to landscape character, the development would be harmful to ecology, the access is not suitable and there would be an increase in traffic, there would be drainage problems caused by the additional development, that the land has been used for many years for informal amenity by local residents and that there are issues related to coal mining. These issues have been assessed by officers during the consultation process and discussed in this report.

APPLICANTS STATEMENT:

45. We have worked with the Finley's to produce outline planning proposals for up to 66 dwellings at the land south of South Terrace, Esh Winning. The proposals have been through several development changes that incorporate the results of extensive site investigations and reports including:
- Ground investigations
 - Ecological impact assessment
 - Flood risk assessment and proposed drainage strategy
 - Tree survey
 - Great crested newt survey
 - Archaeological survey

46. The proposal seeks to provide a high quality housing development which integrates with the adjacent existing and proposed housing developments. The proposal seeks to utilise the existing site features and constraints to generate positive design themes which shape the proposals and provide a bespoke solution to this site. By using constraints as positive design tools the proposal generates a character and identity which is site specific creating a far more sustainable form of development which integrates with its setting. The proposals show the following key features:-
47. The site access point has been designed to provide safe and suitable ingress and egress into the site for vehicles and pedestrians from Castlefields. This access has been approved by the Council's Highway Department as being suitable for the number of houses proposed within the development.
48. Surrounded by existing development to the north and west, the site is not within a green belt, and provides the potential for the natural extension to the village.
49. Ecological concerns have been addressed with the established wildlife corridors to the east and west of the site are to be retained and protected. A 10m deep buffer strip to the west is proposed with a larger buffer circa. 30 to 35m deep to the east proposed between the development and these wildlife routes. This has been suggested by E3 ecology in order to create a suitable transition area between the two areas to reduce noise and light spill into the woodland. In addition, a 20m landscape buffer to the south of the site has been proposed to establish a link between the eastern and western wildlife routes. At the site entrance the landscape and drainage buffer will provide a welcoming feature enhancing the gateway to the Deerness Valley.
50. The scheme is designed to have a rural edge and suburban character feel and includes a range of 2, 3, 4 and 5 bedroom properties which will reflect the typology of the surrounding area with both semi-detached and larger detached properties. The granting of outline planning permission would set the maximum number of houses for this site and could therefore be reduced to meet any future developer's aspirations. The housing will be two storey and traditional in style and form, taking inspiration from the high quality houses of Castlefield to the north. The size and mix of properties has been established through reflecting the typology of the surrounding area.
51. The proposals meet the Local Authority's affordable housing policy of 20% across new developments, here 13no. of the units across the site will be classified for affordable housing.
52. Required separation distances from existing properties are met throughout the development.
53. The applicants have worked with the Council and listened to local concerns regarding the loss of a desired footpath through the site. This is currently private land with no public right of way in place. As part of the development the applicants would look to formalise this route to create a route connecting Esh Winning to the wildlife corridor to the east. In addition, the proposal seeks to integrate with its setting by providing links to existing and proposed developments via existing and new pedestrian routes. This includes the formation of a new dedicated footpath link to the residential development Coppice Hill at the south west of the site to ensure safe access to and from the site to local services, amenities, public transport and adjacent housing developments.

54. In conclusion, the applicants have carried out all required reports to mitigate potential concerns for the site. These have now been addressed with a high quality development proposed as a natural extension to the village whilst enhancing and protecting the qualities of the local area.

PLANNING CONSIDERATIONS AND ASSESSMENT

55. 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 residential development of the site; 5 year land supply; highway and access issues; section 106 contributions; and impacts on surrounding area.

Principle of residential development

56. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that the weight to be afforded to existing Local Plan policy should depend upon consistency with policies of the NPPF.

57. The CDLP was adopted in 2004 and was intended to cover the period to 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.

The NPPF

58. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii) specific policies in this Framework indicate development should be restricted.

59. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.
60. Paragraph 49 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 14 of the NPPF is engaged, and an application is to be assessed in this context. However, Paragraph 14 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the CDLP are out-of-date where outlined below.

Five Year Housing Land Supply

61. The NPPF states that housing applications should be considered in the context of a presumption in favour of sustainable development and that if the Council cannot demonstrate a five year housing land supply, then housing policies in a Local Plan cannot be considered up to date. The housing trajectory associated with the withdrawn County Durham Plan (CDP) is no longer relevant and similarly the CDP Objectively Assessed Need (OAN) for housing figure no longer exists. This raises the issue of what is the requirement against which the supply is to be measured in order to calculate whether or not a 5 year housing supply exists.
62. On 15 June 2016 a report into the County Durham Plan Issues and Options (the first stage of the re-emerging plan process) was presented at Cabinet. The report was approved at Cabinet and consultation on the CDP Issues and Options commenced on 24 June. In relation to housing, the Issues and Options present three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the CDP plan period). The three alternatives are:
- 1,533 houses per year (29,127 houses by 2033)
 - 1,629 houses per year (30,951 houses by 2033)
 - 1,717 houses per year (32,623 houses by 2033)
63. As of April 2017 the Council considers that it has a deliverable supply of 10,231 (net) new dwellings for the next 5-year period. Set against the lowest figure the Council can demonstrate a supply of 4.91 years of deliverable housing land, against the middle figure around about 4.51 years' worth supply and against the highest figure, 4.20 years of supply.
64. The above figures serve to demonstrate that when set against varying potential figures, one of which may be identified as the OAN following consultation in the Preferred Option Stage Local Plan, the Council has a relatively substantial supply of housing.
65. Nevertheless, the decision-taking requirements of NPPF Paragraph 14 apply, as the Council does not have a five-year supply in the terms of the NPPF requirements and additionally the relevant local plan policies may be out of date for other reasons, as discussed below, and will only be rebutted where a proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits, both in the form of a contribution to housing supply and any other benefits, or if specific policies in the NPPF indicate development should be restricted.

66. However, on 14 September 2017, the Government published a consultation document entitled "Planning for the Right Homes in the Right Places". That consultation introduced a standard methodology for calculating housing need. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum. On that basis, the Council would therefore be able to establish a supply of housing land in excess of 5 years.
67. Case law indicates that the boost to housing supply is a material planning consideration which should be factored into the planning balance test under Paragraph 14.
68. Given that the most up to date OAN methodology is contained within a consultation draft only and the very recent publication of that document, the Council is yet to formalise its position on the issue of 5 year land supply. In the interim period until it does so, it is considered that the three scenarios identified in the Issues and Options stage can no longer be relied upon and accordingly, the weight to be given to any benefits a housing proposal might have in terms of the boost to housing supply ought to be less than if the Council were to continue to rely upon the Issues and Options scenarios where a 5 year supply could not be demonstrated.

Assessment having regards to Development Plan Policies

Location of the site

69. The application site is within a sustainable location within close walking distance to shops, services, public transport, schools and public facilities. The site is vacant and the redevelopment of the site would contribute to the surrounding area. It is acknowledged that the site lies outside of the settlement boundary as defined in the City of Durham Local Plan, The Housing policy in the Local Plan is Policy E7 (Development in the Countryside) which advises that new development outside existing settlement boundaries will not normally be allowed. This site falls outside of the Durham City settlement boundary as defined in the local plan and is therefore not in accordance with Policy E7. However, the out of date evidence base which underpins this policy means that it must be regarded as out of date for the purposes of paragraph 14 of the NPPF. Consequently, and as there are no restrictive policies which would indicate that the development should be restricted, it is considered in this instance, the proposal should be subject to the planning balance test as contained within Paragraph 14 of the NPPF, and specifically, whether any adverse effects would significantly and demonstrably outweigh the benefits. This is considered in more detail later in this report.
70. Furthermore, only limited weight should be afforded to this policy as it does not accord with the aims of the NPPF and the impact of the proposal in locational terms should be determined as part of the proposal rather than relying upon the boundary delineated on the Local Plan Proposals Map. It is also noted that the site is greenfield and not previously developed. Although the development of brownfield sites is preferable, the NPPF does not rule out the development of greenfield sites and notwithstanding that there may be brownfield sites elsewhere in the village, all applications must be dealt with on their own merits.

Residential amenity

71. In terms of separation distance of new properties in relation to existing properties, guidance within the local plan indicates that separation distances of 21 metres should be achieved between windows of habitable windows and 13 metres between gable elevations and windows to habitable windows. The proposed scheme demonstrates that these standards can be achieved in terms of separation distances between the proposed houses and existing properties surrounding the site, although this would be subject to a detailed reserved matters application and such detail is not part of the consideration of this proposal at this stage. On this basis, it is not considered that the proposal would have an adverse impact in terms of loss of privacy and it is not considered that existing residential amenity would be adversely compromised in terms of loss of light or overbearing or overshadowing impacts.
72. Overall, it is considered that the proposed development would not have an adverse impact on the residential amenities of existing and future occupiers of neighbouring properties and the proposed dwellings. The proposal would be in accordance with policies H13 and Q8 of the local plan.

Visual impacts on surrounding area

73. The area surrounding the site is predominantly residential and an edge of settlement location with the majority of existing properties being two storey houses, there is open space to the south and it is bounded further to the east by a sewerage works. It appears a natural extension to the settlement from which no further urban development could be assessed as being so given its surrounding built and natural constraints, therefore no precedent is being set for further future development in this vicinity. Landscape officers do not object and welcome the significant landscaping buffers around the site along with the formalisation and upgrading of surrounding footpaths.
74. Given the above, it is not considered that the proposed development would have an adverse impact on the visual appearance of the surrounding area and would therefore be in accordance with policy H13 of the local plan.

Highway and access issues

75. A new access is proposed taken directly from off the B6302 and via the existing modern housing estate called Castlefields to the north. Highways officers have advised that this access is acceptable, with good visibility in either direction. It should be noted that this application is in outline with only the detail of the access being considered as part of this application, however the indicative layout plans show that adequate parking for the number of dwellings proposed is achievable.
76. Given the above it is considered that the proposed development would not have an adverse impact on highway safety and the proposal would be in accordance with policies T1 and T10 of the City of Durham Local Plan.

Impacts on surrounding area

77. A drainage arrangement scheme along with a surface water drainage strategy has been submitted with the application which details the proposed drainage measures and sustainable principles. The Council's Drainage Team have assessed the drainage details and they have raised no objections indicating that the proposed development would be safeguarded from flood risk whilst not increasing flood risk elsewhere. No objections are raised by the Environment Agency with regard to any flood risk.

78. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2017 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
79. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
80. An ecological survey has been submitted with the application which concludes that given the low value of the habitats and species identified as being potentially affected by the proposed development there would be no significant adverse effect on notable species or habitats. The Council's Ecologist has assessed the submitted information and has agreed that the site has low ecological value and it has been identified that there are no Great Crested Newts present on the site. A condition is recommended for the mitigation section of the ecological section to be adhered to. This mitigation will ensure that wildlife is not adversely affected during construction phase of the development. A condition is recommended accordingly. Subsequently it is not considered that the proposed development would have an adverse impact on protected species or their habitats and would be in accordance with part 11 of the NPPF.
81. Overall it is considered that the proposed development would not have an adverse impact on drainage and flooding in and around the site; and protected species or habitats would not be compromised. The proposal would be in accordance with part 11 of the NPPF.
82. One of the main objections from the local community is that the open site is currently used as a recreational space by children, dog walkers etc. Whilst this is not disputed, it is noted that the land is not specifically allocated in the local plan as open space for recreational purposes and is privately owned. Notwithstanding this, the applicant has proposed to formalise a well-used path running east to west across the southern boundary of the site as a designated public footpath in addition to financial contributions which would see existing bridleways to the east and west of the site being upgraded to the satisfaction of Public Rights of Way Officers. One final point which is yet to be covered in the report is that which relates to the site being unsuitable for development in the Strategic Housing Land Availability Assessment. This assessment was based on a larger site which extended further south toward the Deerness River and does not relate to this smaller site as proposed. The larger site was considered to have greater landscape impact and was in a higher flood risk zone and was therefore considered unsuitable.
83. All other concerns raised by the public have been either assessed as part of the planning application consultation process or are detailed in this report, the issues raised are not considered to outweigh the benefits of the development and give rise to grounds for refusal of planning permission.

Section 106 contributions

84. Policy R2 of the local plan seeks to encourage the provision of open space and recreational facilities in new development. On smaller schemes where it is not viable to provide open space or recreational areas within the development site, financial contributions can be secured towards other open space and recreational facilities in the area. Given the provision of existing open space and recreational facilities in the area and the size of the proposed development, the Council's Open Space Needs Assessment would require a contribution of £113,825. This contribution would be secured by a section 106 legal agreement and would be ring fenced to the Deerness Electoral Division.
85. In addition to the above there would be contributions toward the upgrading of existing bridleways and the commitment to designate a well used path across the southern boundary of the site as a formal public footpath.
86. Finally, there would be an agreement to secure 20% affordable housing on site in accordance with the requirements of the strategic housing market availability assessment.
87. The above contributions would help to support and improve facilities within the surrounding locality for the benefit of occupiers of the additional properties and also existing residents of the local community. The contributions would be in accordance with policies in the local plan and the NPPF and are considered to be compliant with the legal tests contained in the Community Infrastructure Levy Regulations 2010.

Other issues

88. The County Archaeologist has been consulted on the proposed scheme and no objections have been raised therefore it is not considered that the proposed development would compromise any heritage assets.
89. The Council's Educational Services have been consulted on the proposals and they have confirmed that given the current provision in the locality and scale of the proposed development, that a financial contribution towards education would not be required.

CONCLUSION

90. The application is subject to the planning balance test contained in paragraph 14 of the NPPF. Accordingly, planning permission should be granted unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

The Benefits of the scheme are as follows:

91. The application site is within a highly sustainable location within close walking distance to shops, services, schools, public transport and other community facilities. The proposal would provide new housing which would contribute towards housing supply, including affordable housing, new and upgraded designated public rights of way and contributions toward recreation in the Deerness area. The principle of development is considered acceptable and in accordance with the sustainable aims of the NPPF

The Adverse impacts of the scheme are as follows:

92. There would be a loss of an existing open space area which currently provides an area for recreation and also informal footway links, albeit on private land. This open space is not specifically allocated as open space in the local plan and there are no recorded public rights of way across the site.
93. It is considered that the adverse impacts of the development do not significantly and demonstrably outweigh the benefits, and accordingly planning permission should be granted.
94. Although layout would be a reserved matter, adequate separation distances can be achieved between properties and existing neighbouring dwellings, ensuring that there would be no loss of privacy or outlook and no adverse overbearing or overshadowing concerns would be created. Overall, the proposed development site indicates that it would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies H13 and Q8 of City of Durham Local Plan.
95. The Highways Authority has confirmed that the proposed access and parking arrangements would be acceptable. It is not considered that the proposed development would compromise highway safety. The proposal therefore accords with policies T1 and T10 of the City of Durham Local Plan.
96. The Council's Drainage Officer have been consulted and they have not raised any objections to the proposed development. It is not considered that the proposal would create any flooding or drainage issues in the near locality.
97. Detailed ecology surveys have been submitted with the application and these surveys have found that no protected species would be adversely affected by the proposals, and ecology officers concur with this conclusion. The development would be in accordance with part 11 of the NPPF.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure a financial contribution of £113,825 towards open space and recreational facilities in the locality, 20% affordable housing on site, a financial contribution of £ for the upgrading of bridleways 25 and 115, and the requirement to formally dedicate the footpath to the south of the site as a public footpath under the Highways Act; and subject to the following conditions;

1. Approval of the details of the appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be obtained in writing from the Local planning authority before any development is commenced.

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

2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of four years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.
3. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Proposed Site Plan 100-30 (Rev 8)

Proposed Layout of Access 100-31 (Rev 5)

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

4. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Ecological Impact Assessment 'Coppice Hill, Esh Winning' by E3 Ecology Ltd dated October 2016.

Reason: To conserve protected species and their habitat in accordance with the objectives of part 11 of the NPPF.

5. Prior to the submission of reserved matters the applicant must secure the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been approved in writing by the Local Planning Authority. The Scheme shall provide for:

i), the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area by means of trial trench evaluation to inform the reserved matters application(s);

ii), an assessment of the impact of the proposed development on any archaeological remains identified in the evaluation phase;

iii), proposals for a mitigation strategy for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible, should features be identified in the trenching phase (i);

iv), sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and

v), notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

The development shall then be carried out in full accordance with the approved details.

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

6. 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.

7. No development works (including demolition) shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am and 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to policy H13 of the City of Durham Local Plan.

8. 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 or d are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 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 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.
- (b) 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

- (c) 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.

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

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

9. Prior to the commencement of development, a protection plan the trees and hedgerows shall be submitted to and approved in writing by the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved protection plan as to be retained, are protected by the erection of fencing in accordance with BS.5837:2012.

Reason: In the interests of the visual amenity of the area and to comply with part 11 of the National Planning Policy Framework saved Policy E14 of the City of Durham Local Plan.

10. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by Coast Consulting Engineers Ltd dated 21st April 2017 – A – 14/07/17.

Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site in accordance with part 10 of the National Planning Policy Framework and saved Policy U8a of the City of Durham Local Plan.

11. No development shall commence until a scheme is submitted which details:

The submission of a scheme of intrusive site investigations/gas monitoring for approval;
The undertaking of that scheme of intrusive site investigations/gas monitoring;
The submission of a report of findings arising from the intrusive site investigations/gas monitoring;
The submission of a scheme of remedial works/mitigation for approval; and
Implementation of that remedial work/mitigation.

Reason: In the interests of land stability in accordance with part 11 of the NPPF.

12. Development shall not commence until a scheme for the disposal of foul and surface water from the development hereby approved has been submitted and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of foul and surface water from the site and in accordance with part 10 of the NPPF.

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

A Dust Action Plan including measures to control the emission of dust and dirt during construction

Details of methods and means of noise reduction

Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;

Designation, layout and design of construction access and egress points;

Details for the provision of directional signage (on and off site);

Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;

Details of provision for all site operatives for the loading and unloading of plant, machinery and materials

Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;

Routing agreements for construction traffic.

Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

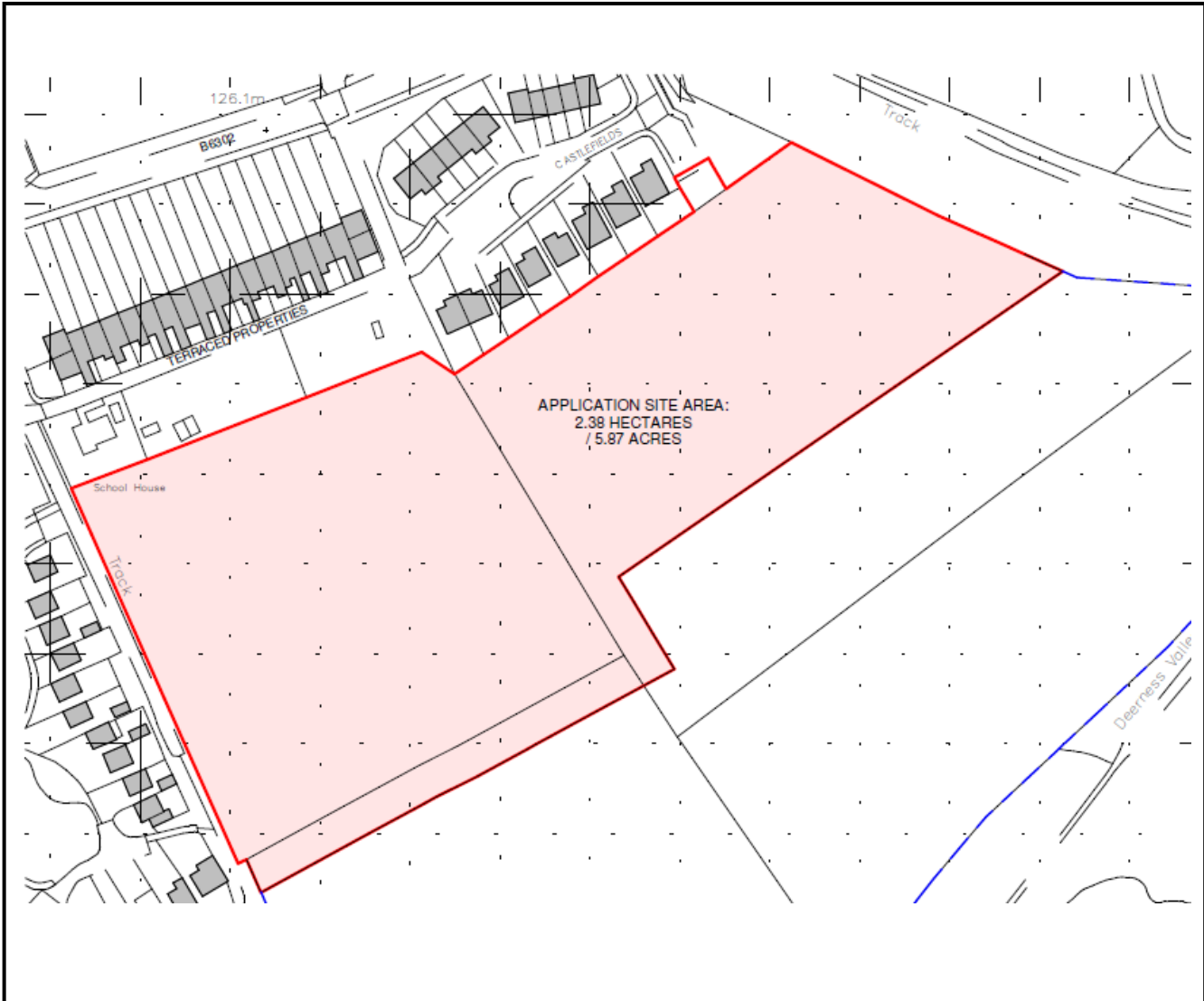
Reason: In the interests of residential amenity having regards to policy H13 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- Environmental Statement
- City of Durham Local Plan
- National Planning Policy Framework
- Consultation Responses



Planning Services

Up to 66 dwellings with details of access (outline)

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Date February 2018