

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/17/03238/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Construction of 78 no units of 2, 3 and 4-bed dwellings with associated garages, parking, and garages.
<b>NAME OF APPLICANT:</b>	Durham Villages Regeneration Company
<b>ADDRESS:</b>	Land North Of The Hermitage Academy And West Of Gainford, Chester-le-Street
<b>ELECTORAL DIVISION:</b>	Chester-le-Street West Central
<b>CASE OFFICER:</b>	Graham Blakey, Senior Planning Officer 03000 264865 <a href="mailto:graham.blakey@durham.gov.uk">graham.blakey@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. Located to the west of Chester-Le-Street town centre, this application site comprises 3 hectares (Ha) of previously undeveloped land which is surrounded by predominantly residential development and The Hermitage Academy secondary school to the south. The site forms part of a significant level change, of 11 metres from south to north, between the school playing fields and Gibside, the housing estate to the north of the application site. Overall, the topography of the area is dominated by the general sloping hillside down to Cong Burn which runs to the north and west. Within the site there are areas of vegetation in the form of bushes and smaller tree groupings, with a line of trees and bushes along a line to the northern third of the site separating the majority of the site from the bungalows of Gibside which face the northern boundary. A second finger of shrub growth extends out at the southern third of the site. A sharp change in levels along the western boundary of the site is also characterised by tree and bush coverage as the land drops away to Auckland estate.
2. Surrounded by residential development, the site features several walking 'desire lines' which criss-cross the site and which link the different areas of housing. The site lies to the north of the school playing fields and so offers a natural connection between the housing west of the site and Bullion Lane, a route towards the town centre. Gibside shopping arcade lies to the north east corner of the site and features a selection of services, including a shop, dentists and others, and is access via Gibside and Whitehill Way. Adjacent lies the The Park Inn public house, which is accessed via Gainford and Bullion Lane to the east. At the entrance to Gibside are bus stops north and south

which link to the town centre and Durham. Vehicular access to the application site is possible from both Gibside, to the north, and potentially Gainford to the east.

3. The site lies 1-1.3km from the Waldrige Fell Site of Special Scientific Interest (SSSI) to the south west. No formally recorded public rights of way are contained within the application site itself. The application site contains no watercourses, with the site lying entirely within Flood Zone 1, which is the zone of lowest risk. The closest heritage asset is the Chester-Le-Street Conservation Area which lies approximately 800-1000 metres to the north east via Whitehill Way.

## The Proposal

4. The application seeks planning permission for the erection of 78 dwellings to the site, with vehicular access taken from Gibside via the rear of the shopping arcade. The development layout is governed largely by the steep topography of the site and sees dwellings mostly facing north/south with the exception of those overlooking the internal road to the west of the site which links south with north.
5. Dwellings would take the form of two-storey and two-and-half-storey dwellings (accounting for 21 units, 27%). The proposed development would feature predominately 3 bedroomed properties accounting for 51 of the 78 homes proposed (65% of the total housing). Properties would all feature off-street parking and rear enclosed gardens.
6. The main internal estate road layout would bring access from north and run south of the northern tree and bush line before turning up the slope and running to the south-east corner, with cul-de-sac and turning head arrangements heading east and west. A Sustainable Urban Drainage System (SuDs) is proposed to accommodate surface water run-off which requires an over-ground drainage basin feature that is proposed for the area of land north of the tree and bushes line closest to the bungalows of Gibside. Open space would be focused primarily around this and an area of open space created around the central area of the new layout. Footpath links to all corners of the site are proposed, linking Auckland, Gibside and Gainford estates.
7. This planning application is being reported to Committee as the development constitutes a major development comprising of more than ten dwellings.

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## **PLANNING HISTORY**

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8. There is no planning history for the application site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.

10. In accordance with Paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
12. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
14. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
15. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
16. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
17. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimizing impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
18. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk

through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; land stability; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

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

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

20. *Policy HP4 – Land Allocated for Residential Development* – identifies the application site as an allocated housing site in the CDLP.
21. *Policy HP6 – Residential development within settlement boundaries* – identifies Chester le Street as a settlement where residential development will be allowed on non-allocated sites that are previously developed land and meet the criteria of Policy HP9.
22. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
23. *Policy HP13 – Affordable Housing* – the Council will seek to negotiate affordable housing within windfall sites, with Chester le Street falling within the Northern Delivery Area where a 15% provision is required.
24. *Policy HP15 – Community Provision* – the Council will seek to negotiate, where appropriate, a contribution to the provision and subsequent maintenance of related social, community, infrastructure and leisure facilities in the locality where such provisions are necessary and directly related to the development being proposed.
25. *Policy T6 – Provision for Public Transport: General* – Development proposals should be designed to encourage use of public transport and reduce reliance upon the private car by locating accesses close to bus routes and footpath links. Where new transport links are required an appropriate contribution will be sought from the developer through a Section 106 obligation.
26. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.

27. *Policy T17 – General Transport Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.
28. *Policy RL5 – Provision in New Developments* – subject to dwelling sizes and types proposed, and the level of local provision, there is a requirement for at least 125m<sup>2</sup> children’s play space and 250m<sup>2</sup> informal open space to be provided within the site for every 1 hectare of land developed or redeveloped for residential purposes, adjusted pro-rata for smaller sites.
29. *Policy BE2 – Public Art* – Developers of larger schemes will be required to contribute 1% of development costs to the provision of works of art in new projects accessible by the public.
30. *Policy BE22 - Planning Obligations* - Chester le Street Council will enter into legal agreements to either enhance the quality of the proposed development or enable a proposal to go ahead that might otherwise be refused.

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

##### The County Durham Plan

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

*The above represents a summary of those policies considered most relevant. The full text, criteria, and justifications of each may be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Easington District Local Plan)*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

32. *Highway Authority* – Raise no objection. The proposed development would access the highway network via Gibside and Whitehill Way. As such, revised modelling indicates that there is a predominance for traffic to turn right out of Gibside and head via North Approach (Whitehill Way) and Pelton Fell Road (B6313) into Chester-Le-Street town centre and then A167 / A1(M). Survey work has indicated that the North Approach / Pelton Fell Road junction is currently operating at capacity and with the increase in traffic as a result of this proposed development would require mitigation. A signalised junction to replace the current T-junction would be required and a condition requiring the design and implementation schedule is recommended. Internally, the road layout is of sufficient standard to meet both future adoption requirements and car parking standards for a development of this scale.

33. *Northumbrian Water* – Raises no objections, subject to the proposed engineering layout is being secured by way of condition thereby ensuring the point of condition to the sewer network. Similarly, the submitted Flood Risk Assessment (FRA) and Drainage Strategy should form part of the approved documents as part of any planning approval.
34. *Drainage and Coastal Protection* – Raise no objection. Source controls are preferable for inclusion.

#### **INTERNAL CONSULTEE RESPONSES:**

35. *Spatial Policy* – In this part of County Durham, the statutory development plan currently comprises the ‘saved’ elements of the Chester-Le-Street District Local Plan 2003 (CDLP). Paragraph 14 of the NPPF makes clear that a presumption in favour of sustainable development is at the heart of the NPPF. Paragraph 7 of the framework defines three dimensions of sustainability: economic, social and environmental. Having regard to the NPPF and recent case law, it is considered that policies can be considered to be ‘out of date’ where a Local Planning Authority is unable to demonstrate a 5 year Housing Land Supply (Paragraph 49 of NPPF).
36. On the 14<sup>th</sup> September 2017, the Government published a consultation document entitled “Planning for the Right Homes in the Right Places” which included a standard methodology for calculating housing need for County Durham. Based upon this methodology the Council would be able to demonstrate a supply of housing in excess of 5 years. Policies HP6 and HP9 of the CDLP are considered only partially consistent with the NPPF in terms of principle of the development, but taking into account the emerging standard methodology, would still carry further reduced weight in the decision making process as the policies are still considered out-of-date in light of paragraph 49 of the NPPF. As a result, the two ‘limbed’ test set out in the ‘Decision Taking’ section of paragraph 14 of the NPPF should be engaged in this instance.
37. The saved local plan policies can be considered as part of the planning balance assessment of the Paragraph 14 ‘first limb’ test where they relate to any identified harm and benefits. Therefore, Saved Policies HP4, HP9, HP15, BE2, BE22, T6, T15 and RL5 remain relevant when considering those aspects of the scheme.
38. *Affordable Housing* – The Central delivery area has an affordable housing requirement of 15% (12 units in this case), this should be delivered as a mix of tenure with 70% for affordable rent and 30% for affordable home ownership.
39. *Design and Conservation* – Raise no objection. It is noted that comments on the layout and house types are as per Design Review feedback.
40. *Landscape* – Raises no objection. Officers advise that the tree adjacent to Plot 63 should be retained as part of a visual break to Auckland.
41. *Landscape (Arboriculture)* – Raise no objections. Officers advise that the tree to Plot 63 should be retained. Recommended that all the information in the Arboricultural Impact Assessment (September 2017) is followed in full.
42. *Archaeology* – Raise no objections. Survey work, including trial trenching, has yielded no archaeological finds.
43. *School Places and Admissions Manager* – Raise no objections. The development is likely to produce 24 primary pupils and 10 secondary pupils. There are sufficient primary places available, but insufficient places at the nearest secondary school.

Consequently of £163,440 will be required for the provision of additional teaching accommodation.

44. *Ecology* – Raise no objections. Officers consider that the submitted Preliminary Ecological Appraisal report is sufficient to inform the application and that further surveys indicate there are no issues. Therefore, the report, outlining mitigation measures, should be conditioned as part of any planning approval. There will be a net loss of biodiversity as the habitat losses are not sufficiently mitigated by significant on site compensatory habitats, and the development should be assessed to determine potential off-site requirements.
45. *Environment, Health and Consumer Protection (Contaminated Land)* – Raise no objections. Phase 1 and 2 assessments propose suitable mitigation, including gas protection measures, and so validation of their installation is required by condition.
46. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections considering that plots to the school sports pitches would feature mitigation measures which would offset the level of noise measured on site. Conditions to ensure mitigation measures are implemented are required.
47. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections subject to further work to the proposed methodology. Submitted air quality risk assessment and screening outlines limited risk of pollutants arising from the proposed development at both construction and operational phases, however highway mitigation proposed to Pelton Fell Road will require additional assessment of the impacts upon levels of pollutants to ensure this remains the same, and is therefore requested by condition.
48. *Access and Public Rights of Way* – Raise no objections. Paths across the site are likely to have accrued public rights through level of use, however linkages would be accommodated within the highways adoption programme.

#### **EXTERNAL CONSULTEE RESPONSES:**

49. *Police Architectural Liaison Officer* – No objections are raised and it is noted that the crime risk assessment for this development is low.

#### **PUBLIC RESPONSES:**

50. The application was advertised within the press, on site and letters were sent to neighbouring properties. A single representation was received from a resident of Graythwaite to the west of Whitehill Way.
51. The resident raised concerns over the impact of the proposed development upon traffic in the vicinity, with Whitehill Way being particularly busy during peak hours, with large queues south on Whitehill Way from the junction with Pelton Fell Road. More homes would mean more queuing. The loss of the greenspace within a relatively built area is a disappointment for local residents, as is the removal of the playing area on the site [already removed].

#### **APPLICANTS STATEMENT:**

52. The National Planning Policy Framework (NPPF) sets out a clear presumption in favour of sustainable development particularly where the Local Authority cannot demonstrate a 5 year land supply, as is the case in Durham County. The Gibside site lying directly adjacent to the secondary school, close to local primary schools, close to

bus routes and within walking distance of the town centre facilities is clearly a sustainable location for residential development.

53. The proposals therefore fully meet both the national and local planning policies as the site is located in a very sustainable location and it has been identified for housing development.

#### Affordable Housing

54. Durham Villages Regeneration Company (DVRC) fully recognise the reasons why the Council's Area Planning Committees are very passionate about the supply of affordable homes across the County. DVRC has been a very active deliverer of affordable homes across Durham in recent years. Since the joint venture company was set up, it has delivered over 1,300 new homes across Durham County of which over 420 (over 30% of the total) have been affordable homes built for local housing associations or the Council. The following projects are recent examples:-

- Sherburn Hill – a current mixed tenure scheme that includes 5 affordable rented homes being delivered via Karbon Homes
- Bowburn – a recently completed development that included 6 affordable rented bungalows and houses in partnership with Isos Housing/Cestria as well as other discounted market housing for sale to first time buyers.
- College View, Esh Winning – a mixed tenure development that included 22 affordable rented houses and bungalows for Isos Housing and Durham Aged Mineworkers Homes Association
- Pinewood, Esh Winning – a development of 10 family homes all for affordable rent via Isos Housing
- Valley View, Ushaw Moor – 29 affordable rented house and bungalows for Isos Housing and Durham Aged Mineworkers Homes Association
- Doric Road, New Brancepeth – 26 affordable rented house and bungalows for Three Rivers Housing (4 Housing Group)
- In addition several years ago DVRC delivered a series of Council housing schemes that delivered 28 affordable rented homes in Bearpark, High Pittington, Croxdale and Bowburn

55. The viability of the Chester le Street project prevents the delivery of affordable homes procured under a Section 106 planning agreement, such as those at Sherburn Hill and Bowburn. Registered Providers typically offer £64,000 to £75,000 for 2 and 3 bed houses, a significant reduction (around 50%) on the open market values forecast for Gibside.

56. Given the significant costs for commuted sums, abnormal costs relating to ground conditions, and the traffic signal controlled junction recently requested, any Section 106 affordable housing requirement makes the scheme undeliverable.

57. If however there is no planning obligation to provide affordable homes, it is possible to attract Homes and Communities (HCA) Affordable Homes grant to the scheme. In recent years the level of grant offered for affordable rented homes by the HCA fell dramatically under a Conservative government which prioritised home ownership. Recently however higher levels of grant are now on offer due to the fact that Theresa May has placed emphasis back on the provision of affordable homes rather than just the provision of Starter Homes which was the thrust of the David Cameron affordable homes policy.

58. Karbon Homes have in the last few weeks been able to identify an allocation of grant to provide the 6 two bed and 2 three bed affordable rented homes for the Gibside,

Chester le Street site. This grant has enabled Karbon Homes to increase its offer for the affordable rented dwellings to help to maintain scheme viability and address the anticipated Planning Committee's aspirations to deliver the full 15% affordable housing requirement.

59. Delivering affordable homes through the land purchase contract between the Council and DVRC has recently been agreed on schemes at Dipton and Peterlee so that affordable homes can be legally secured long term by the Council in the same way that they would have been secured under a Section 106 Planning Agreement. DVRC would seek to follow the same approach at Chester le Street.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*  
<http://publicaccess.durham.gov.uk/online-applications>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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

The Principle of the Development

### *The Development Plan*

61. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester le Street District Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that to the weight to be afforded to existing Local Plans will depend upon the degree of consistency with the NPPF.
62. The CDLP was adopted in 2003 and was intended to cover the period to 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.

### *The NPPF*

63. 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.

64. 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.
65. 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.
66. Paragraph 111 of the NPPF promotes the effective use of land by re-using land that has been previously developed (brownfield) however, it does not preclude the development of greenfield sites. The NPPF therefore differs from previous central government planning policy in that it does not require a sequential approach.

#### *Five Year Housing Land Supply*

67. 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.
68. In June 2016 consultation was carried out on the County Durham Plan Issues and Options, which presented three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the proposed plan period), these being:
- 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)
69. As of April 2017 the Council considered that it had a deliverable supply of 10,234 (net) new dwellings for the next 5-year period. Set against the lowest need figure the Council took the position that it could demonstrate a supply of 4.91 years of deliverable housing land, against the middle figure around 4.51 years' worth supply and against the highest figure, 4.20 years of supply.

70. Whilst none of the three scenarios within the Issues and Options were publicly tested, they served to demonstrate that set against varying potential figures, the Council had a relatively substantial supply of housing at that time.
71. 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.
72. 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.
73. 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*

74. Given the age of the CDLP and the evidence base that informed it, the settlement boundary and housing allocation policies therein do not reflect an up-to-date objective assessment of need and must now be considered out-of-date for the purposes of Paragraph 14 of the NPPF, and the weight to be afforded to the policies reduced as a result. The prescription of how much weight should be given to such policies in the decision is a matter for the decision-maker, having regard to advice at Paragraph 215 of the NPPF.
75. CDLP Policy HP4 allocates the site for housing to a total of 80 units, however this Policy is based upon out-of-date housing land supply information and so can be afforded limited weight in the decision making process. CDLP Policy HP6 supports the principle of residential development on non-allocated sites within Chester-Le-Street's settlement boundaries provided the site comprises previously-developed land. While the site sits within the built envelope of Chester-Le-Street it does not occupy land that has previously been developed and does not therefore accord with Policy HP6. However, again, given the Policy is out-of-date as described above, the weight to be afforded to the Policy is reduced. That weight is further reduced by the requirement in CDLP Policy HP6 that housing is only permitted on previously-developed sites, something which is not consistent with the NPPF. Consequently, the acceptability of the development largely rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.
76. 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 significant and demonstrably outweigh the benefits.

## *Locational Sustainability of the Site*

77. The County Durham Settlement Study (2012) is an evidence based document which categorises Chester-Le-Street as one of the “Main Towns” in the County. These larger towns have access to all facilities expected within an urban setting such as schools, doctors, community facilities and industrial estates. It is considered likely therefore, that residential development in these settlements would be locationally sustainable, subject to specific site constraints.
78. The site also lies within the settlement boundary identified within the CDLP, to the west of the town centre. Consequently, the site has access to all of the facilities in the town and those nearest to the site (doctors, schools, shops close by and public transport links), with the development providing the potential to strengthen and support for these services.
79. Paragraph 61 of the NPPF sets out that planning decision should address the connections between people and places and the integration of new development into the natural and built environment. CDLP Policy T6 encourages the use of public transport and reduce the reliance upon the motor car, and is consistent with the NPPF. From the application site, The Hermitage Academy Secondary School is located to the southern boundary of the application site and is a 500m walking distance via Auckland to the main entrance of the school (although more direct pupil access is possible from the north). The Gibside shopping parade featuring a selection of shops, a dentist and other facilities, lies to the north east corner of the application site together with The Park Inn public house, all which are around a 300m walk from the furthest housing plot within the application site. Bus stops to Whitehill Way with links to the town centre and Durham City also lie within 300m walk of the application site. Cestria Health Centre is located to the south west of the application site within a 500m walking distance; while shops and services within the town centre of Chester le Street are to the east, with the train station 1.2km walking stances via Bullion Lane.
80. As a result, it is considered that prospective residents would have good access to an array of services and facilities, more than adequate to serve the development proposed, and that these are within relatively easy reach of the site. No objections are therefore raised regarding the locational sustainability of the site. Remaining policies within the CDLP that are of relevance to the site relate to specific matters rather than influencing the principle of the development.
81. Overall, it is considered the walking distances, improved pedestrian links and the established bus service would give future residents alternative options to the private motor car to access services and amenities, in accordance with the NPPFs core principles and Paragraph 61, which encourages the integration of new development into the existing environment; and CDLP Policies HP9, T15 and T17, which are considered consistent the NPPF in this respect and be given full weight in the decision making process.

## Highway Safety and Access

82. CDLP Policy T15 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. CDLP Policies T17 and T6 seek to ensure that safe, attractive and convenient footpath links are provided, and where appropriate, to serve new development and provide access to public transport. These Policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application,

except for Policy T15 which uses out of date guidance and so is only partially compliant and can be given limited weight.

83. NPPF Paragraph 32 sets out that safe and suitable access should be achieved for all people while setting out that developments that generate a significant amount of traffic should be supported by Transport Assessments or Statements, and that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. Concerns over highway safety, including the capacity of the road network to accommodate additional flows have been raised by local residents.
84. The application is accompanied by a revised Transport Assessment (TA) following concerns of the Highways Authority regarding the impact of the development on the surrounding highway network. The TA informs upon and assesses the key highways related implications of the development, including traffic flows on roads surrounding the development, accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; and, identify highway works necessary to facilitate the development.
85. The revised TA establishes that the impact of the development upon the highway network would be only acceptable subject to suitable mitigation undertaken at a nearby road junction where traffic from the application site would further add to traffic queuing in the morning rush hour. The Highways Authority considers that the survey work undertaken by the applicant indicates that there is a predominance for traffic from the western side of Chester-Le-Street around the application site to head north along Whitehill Way towards the North Approach / B6313 Pelton Fell Road junction. As such this junction is considered to be operating above capacity in the morning peak hours traffic flow and that the proposed development would impact further upon queue lengths and waiting times.
86. The junction is currently a protected right hand turn arrangement on Pelton Fell Road which causes traffic heading north from the application site and vicinity to reach North Approach and most predominately turn right onto Pelton Fell Road and head into the Town Centre and the A167 / A1(M). The proposed development increase the traffic flow through this junction on the morning rush hour peak and so the Highways Authority agree with the conclusions of the TA that this junction requires signalisation to improve traffic flows and reduce queuing. As the further housing proposed by this development would exacerbate this issue, the provision of the junction mitigation improvements is therefore required to enable the development to suitably conform with CDLP Policies T17 and T6 as well as Paragraph 32 of NPPF.
87. The proposed development provides pedestrian links to all four corners of the application site, providing good permeability from the proposed development to the surrounding area and provide access to the predominant sustainable transport option in the area, the bus. CDLP Policy T17 promotes the increased access of new development to sustainable transport links, and with the surrounding bus stops, this proposal is considered to adhere to the requirements of the Policy.
88. The vehicular site access is from the north east and via Gibside from Whitehill Way. Access would be via the rear of the Gibside shopping parade and it is proposed to reconfigure the current rear service yard of the buildings and remove the existing Council-owned block of garages. The application proposes a continuation of the adopted highway south in to the site and provision of an 'in and out' arrangement to the rear service yard of the shopping parade. These would be considered to improve access to the yard as well as improving the immediate area aesthetically for adjacent residents of Gibside. A condition is requested by the Highways Authority to provide

details of the works in this area to ensure they are suitable and to accord with CDLP Policies T17 and T6.

89. In summary, the impacts from the proposed development would lead to a severe residual cumulative impact in the context of Paragraph 32 of the NPPF and would require suitable mitigation to North Approach / Pelton Fell Road junction to be acceptable in highway safety terms. As such, subject to the provision of the junction improvements, the proposals therefore comply with CDLP Policies T17 and T6 in regard to reducing private transport use through improved access to links and safe access to the highway network.

#### Landscape Impact, Layout and Design

90. CDLP Policy HP9 requires that developments should be designed and built to a high standard which provides an attractive and efficient residential environment that relates well to the built environment around the site, and which retains existing landscape features of the area. The Policy also gives direction upon housing densities and parking provision. Parts 7 and 11 of the NPPF also seek to promote good design and sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
91. Paragraph 58 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. CDLP Policy HP9 again offers prescriptive guidance limits to specifics of the design and layout which is not consistent with the aims of the NPPF. Overall, both Policies do broadly build upon the NPPF and NPPG requirements and so can be considered partially consistent as a result. Therefore, the key policy consideration in this matter is whether the site is read together well with the surrounding built environment and landscape features, and represents good design.
92. In broad landscape terms, the position of the site within the built environment would result in little or no impacts upon the wider landscape as would be expected from development beyond the edge of a settlement. Any longer distance views would see the development comfortably assimilated into the overall built form of development of this area of Chester-Le-Street.
93. The site has remained undeveloped while land around it has seen housing built since the mid-20<sup>th</sup> century. This has allowed the area to gain appreciation as an area of public open space and features pockets of tree and bush growth together with a criss-cross of worn footpaths. To the northern boundary of the application site, 59-68 Gibside are a line of bungalows which face south on to the application site.
94. The proposed development would see a drainage basin located to the immediate south of their properties between a line of landscape tree planting from the time of the bungalow's construction and the more established tree and bush grouping to the south. The built development would lie to the south of the established tree and bush grouping and so maintain the visual function of the land immediately to the south of the bungalows as amenity open space.
95. Further existing tree cover would be maintained to the steeply sloping western boundary of the site, offering some visual break in the built environment.
96. The layout of the proposed housing within the development responds well to the overall steep topography of the application site which drops 11 metres from south to north across the site. The internal road layout is a logical one which allows for easy

navigation through the site for future occupiers. Pedestrian links in all directions out of the site allow for permeability to all surrounding areas and is a positive for the proposed development.

97. As such, the development would be considered to comply with CDLP Policies HP9 and BE2 and be an appropriately designed and visually interesting development. Compliance with Parts 7 and 11 of the NPPF therefore follows and adds weight in favour of the development in the planning balance.

#### Affordable Housing

98. In order to widen the choice of high quality homes and widen opportunities for home ownership, Paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need, where Local Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations” and “where affordable housing is needed, set policies for meeting this need on site”. CLDP Policy HP13 follows the NPPF in requiring new housing developments to provide affordable housing, and so in this respect is considered to be consistent in regards to the NPPF. The up-to-date evidence in the Strategic Housing Market Assessment by the Council establishes a requirement for 15% provision in the Chester-Le-Street area, and this would equate in this case to the delivery of 12 affordable units. However, Policy HP13 requires a 30% provision of affordable homes on relevant new development schemes that is based upon out-of-date evidence and so can be afforded reduced weight in determining this proposal.
99. However, the proposal has been accompanied by appropriate financial information which outlines that the proposals cannot deliver the required level of affordable housing on the grounds of viability. This information has been scrutinised by the Council’s Asset Management team who consider the information to be accurate and reasonable.
100. Subsequently, the applicant has worked with a Registered Provider (RP), Karbon Homes, to secure 12 affordable homes spread across the site, with 8 dwellings being affordable rented and 4 dwellings offered as Discount Market Sale homes that would equate to the full amount of affordable homes required. These units cannot be secured by way of a s106 legal agreement given the viability position and would therefore be secured through the land transfer agreement between the land owner (Durham County Council) and the applicant (Durham Villages Regeneration Company). Securing the affordable homes in this way enables the use of grant funding from Homes England (formerly Homes and Communities Agency) to deliver the units, which could not otherwise be delivered.
101. In summary, the original proposed scheme as a result of requirements to mitigate against impacts of the proposed development would be unable to provide any affordable housing units due to viability reasons, which were assessed by the Council and accepted. However, the applicant has revisited this part of the scheme and is able to provide the full 15% affordable housing requirement in association with a RP. However, in order to obtain the necessary grant funding from Homes England to facilitate this, the provision of the affordable housing cannot be controlled by way of s106 legal agreement. Accordingly, whilst the affordable housing is not controlled as part of any planning permission, there is sufficient comfort through the Council’s control of the site as current landowner that the affordable housing would be delivered and some weight can therefore be afforded to this in favour of the proposal. Such weight is clearly less than if the affordable units were being secured through a s106 legal agreement.

## Residential Amenity

102. CDLP Policy HP9 requires that the design and layout of development to have no adverse effect on the amenity of those living or working in the vicinity of the development site. This aspect of the Policy is considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Whilst Part 11 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.
103. The indicative site layout for the housing demonstrates that separation distances well in excess of 21m between habitable room windows to neighbouring residential dwellings surrounding the site and that the scheme meets the required privacy distances between the properties which are proposed and that this can be achieved across the development as a whole.
104. In terms of noise, the application is accompanied by a noise impact assessment which identifies that the site adjacent to commercial and retail uses to the north east corner of the site are likely to be noise generating uses which could be in conflict with the proposed residential end use of the application site.
105. The Council's Environmental Health and Consumer Protection officers have reviewed the submitted information, and following further clarification of the impacts from the adjacent public house, are satisfied that the proposed development would be in compliance with the Technical Advice Notes (TANs) operated by the Council.
106. The report concludes that the outdoor noise environment of the proposed development would adhere to relevant recommended threshold levels contained within the TANs, and that the excessive noise generated from the nearby public house would be mitigated by the proposed layout of the housing in the closest proximity to the public house, with Plot 1, the closest, having no windows facing the building. Observations taken by the noise consultant noted that no noise was audible from the public house on their audio recording taken.
107. World Health Organisation (WHO) guidelines, outlined within the TANs, of no greater than L<sub>max</sub> 55 dB(A) during daytime hours, and British Standard (BS) 8233 requires 35 dB(A) during night-time within bedrooms. Monitoring on site has confirmed that these would not be breached and so the development would not require mitigation.
108. During the construction phase of the development, it is acknowledged that levels of noise may be noticeable by existing residents, and some level of disturbance is almost inevitable with a development of this duration and scale. The applicant has acknowledged these concerns and has included a Construction Management Strategy so that impacts can be minimised. Environmental Health and Consumer Protection Officers have reviewed the document and consider that this phase of the development is suitably mitigated by the methodologies outlined within the strategy, and as such, the strategy would be conditional upon any approval of the scheme. Having regard to these measures, the application is considered to be in accordance with CDLP Policy HP9 and T15, and Part 11 of the NPPF in this regard.
109. With regard to air quality, the application is accompanied by an air quality risk assessment and an addendum update from the applicant's consultants. The vehicle movements from to and from the site and the proximity of the development to the Air

Quality Management Area (AQMA) at Pelton Fell Road. At the time of the drafting of this report discussions were on-going in regard to the impact of the proposed development upon the AQMA through increased traffic flow, with the need to mitigate the junction to with North Approach through installation of traffic signals a late consideration. As a result, a condition is proposed to require an updated air quality risk assessment be submitted to outline any relevant mitigation measures which the developer would need to undertake to off-set the impacts of the proposed development. Subject to the above planning condition, the proposal is considered to adhere to the principles of Part 11 of the NPPF in this regard.

## Ecology

110. Part 11 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. A preliminary ecology appraisal, including bird and bat surveys, has been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The report therefore conclude that the risk of protected species being on the site, with the exception of foraging bats and breeding birds within trees, or the development being a risk to the protected species are low. The report also concluded that no further survey work was required. The County Ecologist has considered the content of the submitted information and has advised that the findings are sound, subject to the mitigation measures within the report being conditional upon any approval. As there would not be a disturbance to an Ecologically Protected Site (EPS), there is no need to consider whether an EPS Licence would be likely to be granted.
111. Paragraph 109 of the NPPF requires new development to minimise impacts upon biodiversity and, where possible, provide net gains. Proposed to a historically 'greenfield' site, the proposed development would be considered to result in a net loss of biodiversity as the habitat losses are not sufficiently mitigated against through on-site compensatory habitat. As a result, the proposed development has been assessed in conjunction with a Biodiversity Impact Calculator and has identified that there would be a need to create additional of species rich grassland habitat on site. The proposed development would not be able to accommodate this level of habitat creation and so the applicant has agreed to enter into a planning obligation to provide funds for the Council to provide the necessary mitigation habitat off-site. A financial contribution of £11,000 towards improvements to the Hobbletrot Open Space and Woodland, Nettlesworth, through the creation of species rich grassland.
112. Having regard to these proposed mitigation measures, the development would, it is considered, lead to no net loss in biodiversity in accordance with the aims of Part 11 of the NPPF. Accordingly, such enhancement can be considered to be a benefit of the scheme and weigh in favour of the development.

## Public Open Space

113. CDLP Policy RL5 seeks to ensure adequate provision is provided in new housing development. This Policy is considered only partially NPPF compliant as the evidence base has now been updated within the Open Space Needs Assessment (OSNA). The Council's Open Space Needs Assessment (OSNA) 2010 is considered the most up to date assessment of need for the purposes of Paragraph 73 of the NPPF.
114. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for six typologies, either within the site, or through a financial contribution towards offsite provision, in

lieu. Having regard to the proposed layout, it is considered that the development accommodates appropriate levels of Amenity Open Space and Semi-Natural Greenspace, but insufficient levels of the other remaining typologies (play space, allotments, outdoor sports space and parks and gardens). Previously, the site contained a public play area maintained by the previous Chester-Le-Street District Council. The Council's Leisure Services Team has initial plans to re-introduce a new play area in the vicinity of the application site.

115. The application fails to therefore accommodate all of the requirements of the OSNA so a financial contribution in lieu of any further onsite provision should be sought. As a result, improvements to existing areas of open space, sport and recreation spaces in the vicinity, as well as the creation of the new play area, would be required by way of an in-lieu financial contribution of £134,706 secured by way a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). The contribution would be used to provide or maintain outdoor and open space provision in the Chester-Le-Street West Central Electoral Division.
116. The public open space proposed within the site would take the form predominantly of peripheral open space around the site and including the SuDs drainage basin. The SuDs basin forms part of previous amenity open space to the south of the Gibside bungalows and is separated visually from the rest of the application site. Two small pockets of open space are proposed to the centre of the site and which would form a focal point at the intersection of the internal roads within the site.
117. Overall, the application is considered to be in accordance with CDLP Policy RL5 and Paragraph 73 of the NPPF with regards to the provision of public open space.

#### Flood Risk and Drainage

118. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
119. The application is accompanied by a Flood Risk Assessment (FRA) and this has been amended during the course of the application. The application site is located within flood zone 1 and is therefore located on land least likely to suffer from tidal or fluvial flooding. It is also identified that the site is at low risk of flooding from groundwater, overland flow, land drainage and sewer sources. As a result, no flood defence measures are proposed as part of the scheme within the FRA.
120. With regards to how the development would address drainage, the application demonstrates that unsupportive ground and soil conditions together with the lack of proximity to nearby watercourses makes discharge of surface water in to anything other than the existing sewers unlikely. The existing surface water sewer would run via a proposed Sustainable Urban Drainage System (SuDs) basin proposed to the northern part of the site. As a result, a discharge rate of 11.0 l/sec would be permissible as it is in keeping with the Northumbrian Water system. The drainage basin has been designed with a capacity of 587 cubic metres and would be capable of holding sufficient surface water to accommodate the 40% increase over the 1 in 100 year flood event in line with guidance.

121. The Council's Drainage and Coastal Protection officers have indicated that the development would adhere to the surface water management train to some degree by proposing the inclusion of a SuDs basin within the scheme. However, the development does not propose the use of permeable surfacing to each housing plot / shared driveways or overland water channels to transport surface water across the scheme to the attenuation basin. The applicant has explained that the lack of overland water channels is as a result of the level differences across the site. Officers advise that the SuDs structure would be adopted and maintained by the Council, in accordance with the SuDs Adoption Guide 2016, with costs being met through an estate rent charge.
122. With regard to the disposal of foul waters, connection to the foul sewer network has been confirmed with Northumbrian Water, and so the proposed development can be catered for by the local sewerage network. Northumbrian Water raise no objections to the methodology with regards to the disposal of surface water subject to a condition with any recommendation for approval to that works are undertaken in accordance with the FRA.
123. The development, while not securing all aspects of the Council's surface water management train, does secure a suitable scheme of surface water drainage overall that would ensure that the development would meet the required run-off rate. The omission of permeable paving solutions and overland transport of the surface water are aspects of the proposals that would weigh against the development, and the habitats that could be created. However, the proposals do ensure there is no increase in the flow rate in the off-site highway drainage therefore, the development wouldn't increase flood risk downstream. As such, the proposals meet the underlying requirement to ensure suitable surface water run-off control is achieved and the risk of flooding elsewhere is not increased. The proposals are therefore considered acceptable and compliant with Part 10 of the NPPF.

#### Heritage Impacts

124. The application site does not lie within any designated heritage assets. The closest listed buildings being located within the town centre to the east. This is indicative of the modern nature of this western areas of the town between the town centre and Waldrige. Consequently, it is considered that there would be no harm upon the significance of any designated heritage asset or its setting. In terms of non-designated heritage assets, again none have been identified within the immediate vicinity of the site. Accordingly, Design and Conservation officers raise no objections, and the to the proposal noting the site contains no designated or known non-designated heritage assets nor are there designated close to the application site. The application is considered in this regard, to be and in accordance Part 12 of the NPPF.

#### Other Issues

125. The School Places Manager has advised that based upon the proposed development of 78 dwellings, the proposal would generate 10 secondary school age school pupils and 24 primary school age pupils. Taking into account the projected rolls of the schools and the impact of the proposed development, there will be insufficient capacity within secondary schools in the Chester-Le-Street area. As a result of the proposed development, additional secondary school places would be required in order to accommodate the pressure upon school places likely to result from this development.
126. A contribution of £163,440 is required in order to provide the additional capacity and this would be secured by means of a planning obligation. The School Places Manager advises that there is sufficient existing capacity at local primary schools in order to accommodate demand from this development.

127. As the proposed development involves a sensitive end-user in the form of residential properties, a suite of assessments and monitoring results have been submitted as part of this application. An initial site investigation report has concluded that no contaminant present on the site and the submitted remediation strategy, backed by gas monitoring results, has suitably outlined a scheme for remediation for the site and capping of deep ground contaminants in the view of the Council's Environmental Health Officer. It is therefore proposed that a condition to agree the necessary validation report post completion of the development be imposed with any recommendation for approval. Subject to the imposition of the condition, the proposed development would therefore be considered to be in accordance with Part 11 of the NPPF.
128. No formal public rights of way are recorded across the site; however several well used worn paths criss-cross the site. These provide pedestrian links between existing housing and many are also used for recreational purposes such as dog walking. The Public Rights of Way officer notes that these routes are to be replaced with several pedestrian link paths that would form part of the wider highway adoption agreement (s38 of the Highways Act, 1980).
129. As a result of the proposed development being considered on viability grounds due to the need for off-site highways mitigation, the requirements of CDLP Policy BE2 to provided artistic elements on site or a contribution in lieu of provision as 1% of the development cost cannot be met by the development in this case.

#### Planning Obligations

130. Paragraph 204 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contributions towards offsite open space provision, education provision and off-site ecology mitigation are considered to be in accordance with these tests. However, affordable housing would not pass the necessity test hence the voluntary arrangement being offered by the applicant through the land transfer.

#### Planning Balance

131. This proposal is considered to accord with the development plan in principle, through the proposed redevelopment of a locationally sustainable site within the built extent of the settlement. However, as a result of the relevant policies being out of date the acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore planning permission must be granted unless any adverse impacts of the proposed development significantly and demonstrably outweigh any benefits.

#### *Benefits*

132. The development would assist in maintaining housing land supply. Recent Case law states that the weight given to a proposal's benefits in increasing the supply of housing will vary, depending, amongst other things, on the extent of any shortfall, how long a shortfall might persist, and how much of it the development would meet.

133. In light of the recent Government consultation document entitled “Planning for the Right Homes in the Right Places” and the likely change to the Council’s position on five year land supply, the weight given to this boost in housing supply is marginally reduced but still carries weight in favour of the proposals nonetheless. Ultimately, it is considered that the approval or otherwise of this particular development would not be critical to the overall supply of deliverable housing sites in the County. As a result, the benefits of this scheme in terms of boosting housing delivery are limited, and less weight should be afforded to the benefits of delivering new housing than would otherwise be the case if the Issues and Options scenario was still being relied upon.
134. The application site is within the built envelope to the west of Chester-Le-Street town centre. Locationally, the development has excellent access to services and facilities within walking distance of the site and wider facilities of the town centre beyond, as well as excellent access to sustainable modes of transport (bus links). These site characteristics offer substantial benefits in favour of the proposal.
135. The scheme proposes the delivery of twelve affordable housing units that would, but for viability impacts, be the full requirement for the north of the County, adding to the housing mix within the development and wider area. The weight to be afforded to this voluntary offer as a benefit is clearly less than if secured in perpetuity by way of a s106 Legal Agreement. Nonetheless, the delivery of such units should be afforded weight.
136. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development.

#### *Adverse Impacts*

137. While sustainable drainage measures are in place, in the form of a drainage basin, this forms only part of the Surface Water Management Train as outlined in the Council’s SuDs Adoption Guidelines (2016), and to a degree, weighs against the development, albeit this is allayed to some degree by the zero net increase in flow rate in the downstream drainage as a result of the development.

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## **CONCLUSION**

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138. The residential development would draw support from CDLP Policies HP6, HP9, T6 and T17 in terms of its location and access to sustainable travel options. However, the NPPF sets out that on the basis of the out of date evidence base to these relevant Policies they can be considered to be out of date and so the presumption in favour of sustainable development is engaged. In the context of Paragraph 14, the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
139. As set out above, the proposed development would result in some limited adverse impacts from only partial adherence to the SuDs Adoption Guide, however, such impacts do not “significantly and demonstrably” outweigh the benefits identified above, and as a result, the proposal benefits from the presumption in favour of granting planning permission for the purposes of Paragraph 14 of the NPPF.
140. The proposal has generated limited public interest, with letters of generally in support of the proposals with concerns outlined. Concerns expressed regarding the proposal

have been taken into account, and carefully balanced against the scheme's wider social, economic and community benefits.

## RECOMMENDATION

That the application is **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the following:

- £163,440 towards the provision of additional capacity at secondary school level in the Chester-Le-Street Area,
- £134,706 towards the provision of, or improvements to open space and recreation within Chester-Le-Street West Central Electoral Division,
- £11,000 towards biodiversity improvement at Hobbetrot Open Space and Woodland, Nettlesworth,

and subject to the following conditions:

### Time Full

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.*

### Plans

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

Plan	Drawing No.	Date Received
Detailed landscape proposals 1 of 3	C-1535-01 REVISION B	1 Dec 2017
Detailed landscape proposals 2 of 3	C-1535-02 REVISION B	1 Dec 2017
Detailed landscape proposals 3 of 3	C-1535-03 REVISION B	1 Dec 2017
External Materials Layout	1157-330-01_D	15 Feb 2018
Enclosure Details	1157-333-01_A	1 Dec 2017
Public Open Space Plan	1157-368-01	1 Dec 2017
Tree constraints plan	ARB/CP/1561/TCP	3 Oct 2017
Arboricultural impact plan	ARB/CP/1561/AIP_V2	3 Oct 2017
Bat and bird box location proposals		3 Oct 2017
Site location plan	DR_D_1157-300-01	3 Oct 2017
1054HT Planning drawing	HT 1054 V1	3 Oct 2017
1178HT Planning drawing	HT 1178	3 Oct 2017
1224HT Planning drawing	HT 1224	3 Oct 2017
651HT Planning drawing	HT 651	3 Oct 2017
764HT Planning drawing	HT 764	3 Oct 2017
851HT Planning drawing	HT 851	3 Oct 2017
867HT Planning drawing	HT 867	3 Oct 2017
955HT Planning drawing	HT 955	3 Oct 2017
Proposed site sections	QD1257-321-01	3 Oct 2017
Screen Wall Context	QD1157-321-01_A	1 Dec 2017
Proposed Site Plan	1157-311-01 Rev J	16 Feb 2018

*Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies HP9, HP13, BE22, T15 and T17 of the Chester le Street District Local Plan and Parts 1, 4, 6, 7, 8, 10, 11 and 12 of the National Planning Policy Framework.*

### **Pre-commencement**

#### **Tree Protection**

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

*Reason: In the interests of the visual amenity of the area having regards to Parts 7 and 11 of the NPPF. Required to be pre-commencement as landscape features must be protected prior to works, vehicles and plant entering the site.*

#### **Time Limited**

#### **Highways - Traffic Light works.**

4. Within three months of the commencement of the development, full details of the proposed road junction layout and signal strategy for the B6313 Pelton Fell Road / North Approach (Whitehill Way) junction, together with a timetable for their implementation shall be submitted and agreed in writing by the Local Planning Authority. The junction improvements shall thereafter be carried out in accordance with the agreed scheme.

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

#### **Highways – Works to form new vehicular access.**

5. Within one month of the commencement of the development, full engineering details of the proposed access works from Gibside, including changes to the adjacent service yard, shall be submitted to and agreed in writing by the Local Planning Authority. The access and other improvements shall thereafter be carried out in accordance with the agreed scheme.

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

#### **Air Quality**

6. Within three months of the commencement of the development, a revised air quality assessment shall be submitted to and agreed in writing by the Local Planning Authority. No dwellings shall be constructed until the assessment and any suitable mitigation measures have been formally agreed. Once agreed, the development shall be carried out in accordance with the approved details and measures.

*Reason: To ensure the impacts upon the Pelton Fell Road AQMA are managed suitably in accordance with Part 11 of the National Planning Policy Framework.*

## **Contaminated Land**

7. Within 2 months of completion of the development, the following details shall be submitted in writing with the Local Planning Authority.

Throughout both the phases of the development all documents submitted 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.

### **Completion**

- (a) During the implementation of the remedial works 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 and where necessary a Phase 3 Remediation Strategy shall be prepared. The development shall be completed in accordance with any amended specification of works.
- (b) Upon completion of the remedial works, 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 Part 11 of the National Planning Policy Framework.*

## **Other Conditions**

### **Surface water disposal**

8. The development hereby approved shall be carried out in strict accordance with the 'Flood Risk Assessment and Drainage Strategy, August 2017' by Queensbury Design Limited and relevant approved plans.

*Reason: In the interests of the adequate disposal of foul and surface water in accordance with Parts 10 and 11 of the National Planning Policy Framework.*

### **Landscape implementation and management and right of public accessibility**

9. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of each phase of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions

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

### **Noise Mitigation**

10. All dwellings hereby approved shall be constructed in accordance with noise mitigation measures as contained within "Wardell Armstrong Noise Assessment NT13368 dated Sept 17" and additional letter reference HK/PW/NT 13688/0003 dated 1/12/17, and shall be fully implemented prior to the first occupation of each dwelling and retained in perpetuity thereafter.

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

### **Ecology Mitigation**

11. The development shall be carried out in accordance with the mitigation outlined within the "Preliminary Ecological Appraisal, Gibside, Chester-le-Street, May 2017".

*Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 109 of the National Planning Policy Framework.*

### **Construction Method Statement**

12. All work during the construction period shall be carried out in accordance with the "Construction Management Statement, Gibside, Chester-Le-Street, Rev A" dated 23 January 2018.

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

### **Working Hours**

13. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

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

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

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

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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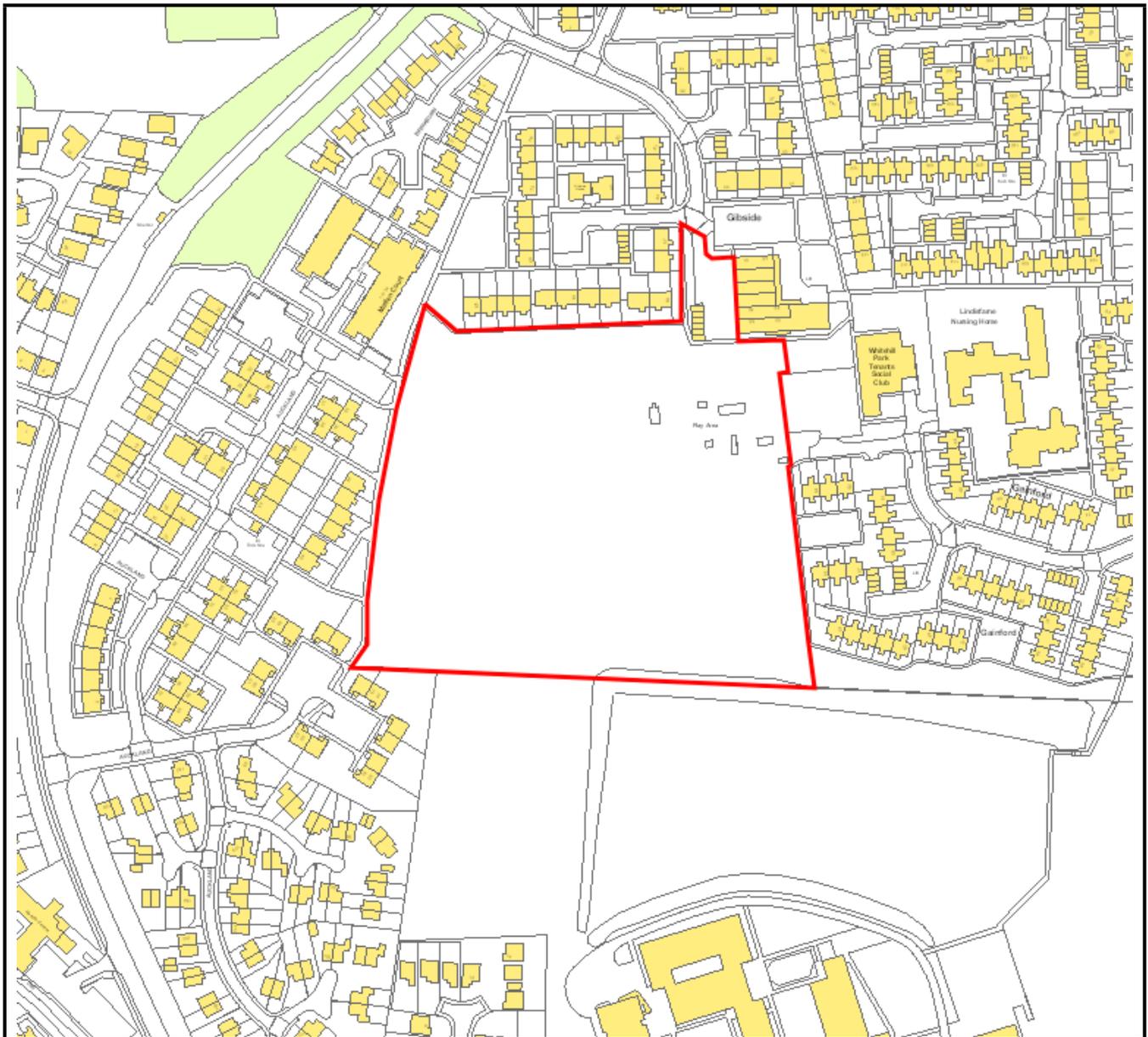
The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering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

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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)
- County Durham Settlement Study (2012)
- Conservation of Habitats and Species Regulations 2010 (as amended)
- County Durham Sustainable Modes of Travel Strategy ([www.durham.gov.uk/article/2818/Sustainable-modes-of-travel-strategy](http://www.durham.gov.uk/article/2818/Sustainable-modes-of-travel-strategy))
- National Planning Practice Guidance
- Chester-Le-Street District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMAA, County Durham Settlement Study and OSNA
- Statutory, internal and public consultation responses



**Planning Services**

DM/17/03238/FPA

Construction of 78 no units of 2, 3 and 4-bed dwellings with associated garages, parking, and garages.

Land North Of The Hermitage Academy And West Of Gainford, Chester-le-Street

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**Comments**

**Date** March 2018

**Scale** Not to scale