

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/17/00466/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 75 dwellings
<b>NAME OF APPLICANT:</b>	Gleeson Regeneration Ltd.
<b>ADDRESS:</b>	Site Of Former Chamberlain Phipps Coatings, Catkin Way, Bishop Auckland, DL14 9TF
<b>ELECTORAL DIVISION:</b>	West Auckland
<b>CASE OFFICER:</b>	Laura Eden Senior Planning Officer 03000 263980 <a href="mailto:laura.eden@durham.gov.uk">laura.eden@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is a cleared former industrial site of approximately 2.35 hectares (ha) located within the Woodhouses area of Bishop Auckland, near to the Tindale Crescent crossing. Concrete hardstandings remain on the site. Vehicular access is taken from Catkin Way off Greenfields Road, which also accommodates public right of way (Footpath No.15 (Bishop Auckland)). The area has seen considerable growth in recent years with major retail development replacing most of the industrial sites around the Tindale Crossing area.

### The Proposal

2. Full planning permission is sought for the erection of 75 dwellings. The dwellings would comprise of a mix of 2, 3 and 4 bedroomed semi-detached and detached dwellings. The properties would all benefit from off-street parking and private rear garden areas. Access into the site would be taken off Catkin Way.
3. This application is being reported to Planning Committee as it falls within the definition of major development.

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## PLANNING HISTORY

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4. The site immediately adjacent had outline planning permission granted in 2007 and 2011 for a residential development up to 118 dwellings, but these expired. More recently, Members were minded to approve an outline application for 101 residential dwellings and means of access with all other matters reserved (DM/17/00244/OUT) at the December South West Committee. This decision notice will be issued upon completion of the S106 Agreement to secure £241,000 for offsite highway mitigation works.

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## PLANNING POLICY

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### 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). 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’.
6. 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.
7. *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.
8. *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.
9. *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.
10. *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.
11. *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.

18. *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.
19. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, 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.

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

21. 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;; noise; open space, sports and recreation facilities and public rights of way; 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:**

Wear Valley District Local Plan (2007) (WVDLP) saved policies:

22. *Policy GD1 – General Development Criteria.* All new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
23. *Policy H3 – Distribution of Development.* New development will be directed to those towns and villages best able to support it. Within the limits to development of towns and villages, as shown on the Proposals Map, development will be allowed provided it meets the criteria set down in Policy GD1 and conforms to the other policies of this plan.
24. *Policy H15 – Affordable Housing.* The Council will, where a relevant local need has been established, seek to negotiate with developers for the inclusion of an appropriate element of affordable housing
25. *Policy H24 – Residential Design Criteria.* New residential developments and/or redevelopments will be approved provided they accord with the design criteria set out in the local plan.
26. *Policy I5 – Industrial Estates –* Sets out that within designated Industrial Estates proposals for offices and business use (use class B1), general industry (use class B2) and storage and distribution (Class B8) will be permitted in principle

27. *Policy RL5 – Sport and Recreation Target.* For every 1 hectare of land developed or redeveloped for residential purposes, at least 1300 square metres of land should directly be made available on- or off-site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities, including changing rooms, by other agencies. Such land should be located and developed to accord with the provisions of proposal RL1. On sites under 1 hectare (24 dwellings) a proportion of this standard will be expected.
28. *Policy T1 – General Policy – Highways.* All developments which generate additional traffic will be required to fulfil Policy GD1 and provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.

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

The County Durham Plan

29. 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 relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Wear Valley District Local Plan)*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

30. *Highway Authority* - Recommended that the application should be refused on highway grounds as the development does not secure appropriate levels of contributions to mitigate traffic impacts and would therefore have a severe impact on queuing and delay through the highway network in the Tindale Crescent area .
31. *Drainage and Coastal Protection* – Advise that the principles set out in the submitted flood risk assessment and surfaces finishes plan are acceptable and should be secured by condition.
32. *Northumbrian Water* – No objection to the development on the provision that a condition securing development in accordance with Drainage Assessment.
33. *Coal Authority* – Advise a conditional approach requiring further site investigations and detailing of mitigation where required.

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

34. *Spatial Policy* – Advise that the starting point for determining the acceptability of planning proposals is the Development Plan, in this case the (WVDLP). The site is located within the ‘limits to development’ for Bishop Auckland as defined by Policy H3 of the Plan, and its development would accord with this Policy. The scheme would conflict with Policy I5, however it is considered that this Policy can be afforded reduced weight as it has previously been established through an employment land review that the land is not needed for future employment purposes.
35. It is considered that the site is well related to the town with good access by shops and facilities located at Tindale Crescent. The principle of developing the site for housing would accord with the NPPF objective of locating housing in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. The development will help meet the needs of different groups in the community such as families with children and people wishing to live within the town, and effectively re-use land that has been previously developed. There are no in-principle objections to the development of the site.
36. *Landscape* – It is advised that consideration should be given to creating better linkages through to the adjacent development site and better connections to the surrounding retail areas. The woodland belts around the southern and western edges won’t sit particularly comfortably with the proposed residential development and there is likely to be pressure post development to remove these. The preference would be remove woodland belts from gardens where possible and keep them in the public realm.
37. *Landscape (Arboriculture)* – The application is unlikely to have a significant detrimental impact on the majority of trees in the area provided the protective measures are followed in full. It is recommended that some consideration is given to woodland management of the belt to ensure it is sustainable post development and that caution is applied around the sycamore trees to avoid damage during the construction.
38. *School Places and Admissions Manager* – Advises that a development of 75 houses could generate an additional 23 primary pupils and 9 secondary pupils. Taking into account current surplus in schools which could serve the development (based on The Education Department’s Guidelines) and other proposed developments in the area, it is identified that the capacity of primary and secondary schools in the area would need to be increased to accommodate the additional demand. A contribution of £215,638 is necessary to deliver the increased primary and secondary capacity.
39. *Sustainability* – Offers no objections, while highlighting that improved connectivity to existing facilities should be secured. It is also recommended that a condition requiring the delivery of a scheme to embed sustainability and minimise carbon from construction is introduced.
40. *Archaeology* – Raise no objection due to the previously developed nature of the site.
41. *Housing Delivery* – Advise that the scheme should provide a minimum of 10% affordable housing.
42. *Access & Rights of Way* - Identify that a public right of way passes the north part of the site within the adopted highway (Footpath No.15 Bishop Auckland) and another follows the field edge towards the commercial and retail area of St Helen Auckland (Footpath No.14 Bishop Auckland). The proposal would have no direct effect on the public footpaths however would lead to increased use therefore no objection is raised however request contributions are secured to improve the public rights of way network.

43. **Ecology** – Advise that whilst they are satisfied within the submitted ecology report they are disappointed that further ecological enhancements have not been included within the overall site design as recommended in the NPPF and the lack of recreational space within the site.
44. *Environmental Health and Consumer Protection (Contaminated Land)* – No objection subject to the imposition of a planning condition
45. *Environmental Health and Consumer Protection (Pollution Control)* – Advise a conditional approach to safeguard sound attenuation measures indicated within the submitted noise assessment reports. Conditions requiring the submission of a construction management plan to protect the amenity of existing residents are recommended.
46. *Assets (viability)* – Advise that the general conclusions of the viability assessment are sound and the development could not support additional levels of contributions (education, open space)/affordable housing and remain viable.

**NON -STATUTORY RESPONSES:**

47. *Police Architectural Liaison Officer* – Offers security advice, comments on the garage width and driveway surface.

**PUBLIC RESPONSES:**

48. The application has been publicised by way of press notice, site notice, and individual notification letters. No representations have been received.

**APPLICANTS STATEMENT:**

49. The Site provides a sustainable development opportunity and would contribute to the provision of a mix of housing size, types and affordability in the area, particularly promoting family housing and appropriate dwellings which allow people to stay in their local community. The site provides ready access to local amenities, schools and employment sites and is considered sustainable.
50. The development of this site for residential development would see significant regeneration on a site that has sat vacant for many years and has become a haven for antisocial behaviour and fly-tipping. It is a brownfield site with significant abnormal costs associated with its development, however once completed it will transform the area and provide a choice of family homes for local purchasers.
51. This planning application has considered all relevant planning policy matters in respect of the proposal bringing forward residential development. At a national, regional and local planning policy level, there remains a priority for development in urban areas to which this site would accord. The site lies within a residential area in close proximity to services and facilities including access to sustainable travel options including bus services. The viability of the site has been scrutinised and it has been determined by both a Gleeson viability assessment and further Council assessment that no affordable housing can be provided due to the associated abnormal costs of developing the site. The proposal will integrate well into the locality through the design proposals and density accords with National Planning Policy.
52. All criteria required to be complied with in Policy requirements have been taken into account through the evolution of the scheme, resulting in a well-designed proposal that responds to the specifics of the site, both in terms of layout but also the design of the

elevational treatment. It must also be noted that the proposals aim to deliver quality new homes to local people in addition to providing much needed new housing in this location. The applicants have undertaken considerable dialogue with architects, local residents, consultants and relevant officers at the Council to ensure that the scheme not only delivers high quality design, but also responds to the aspirations of the local community. Indeed, the proposals have been amended several times during the planning submission, to take into account the comments made.

53. Development of this site will bring a number of benefits to Bishop Auckland including around £90K of additional Council Tax per annum and New Homes bonus payment to the Council of around £523K over a 6 year period. The scheme will also provide a number of jobs and apprenticeships to local people, as well as safeguarding many current jobs.
54. As a result of the existing capacity constraints at the Maud Terrace/ Greenfields Road/ Dilks Street signal-controlled junction in Bishop Auckland and the committed development proposed in the local area Durham County Council have proposed a series of mitigation measures at the junction for which they are requesting a £241,000 contribution from Gleeson Homes in relation to their proposals to construct 75 residential dwellings on the site accessed from Catkin Way. The £241,00 contribution, which is the total cost of the proposed mitigation, is also being requested, in full, from other developers.
55. Several traffic counts have been undertaken, on the behalf of developers, at the junction over recent years. Whilst all of these surveys have flow variations the total PCU's passing through the junction during peak hours appears to be relatively consistent within all the counts and as such we can place a degree of reliance upon those figures. Gleeson's development proposals forecast an additional 60 PCU's during the AM peak hour which, based on the circa 1,500 PCU's currently using the junction, equates to an increase of 4.0%. During the PM peak hour the development proposals forecast an additional 50 PCU's which, based on the circa 2,000 PCU's currently using the junction, equates to an increase of 2.5%.
56. IHT Guidelines set out that impact on two-way link flows of 5% or less is considered to be negligible impact. On this basis the forecast development flows have a negligible impact on this junction and Gleeson Homes should not be required to fund mitigation in this location. Gleeson should not be penalised for the impact created by others and whilst Gleeson are agreeable to a level of contribution which they feel is proportionate to their proposals, as set out below, they are not agreeable to 241k.
57. Gleeson have presented alternative mitigation proposals to Durham County Council, the costs for which equate to £40 – 60k and in summary include the following:
  - New lining details on all arms to accommodate two lane approaches (with the exception of the southern approach arm);
  - Widening on the northern approach arm from Greenfields; and
  - Relocation of the signal heads on the northern side of the Greenfields arm.Pedestrian crossings will remain in same locations, however, we would undertake discussions with regard to relocating these given the proximity to the junction. This would further assist with increasing capacity at the junction.
58. Saturation flows in the supporting mitigated LINSIG model have been derived from geometric data in the model itself. The model assumes a 60 second cycle time with an all red pedestrian stage running every other cycle (120 seconds in the model).
59. Although some arms are predicted to operate slightly over capacity in the 2022 future year PM peak scenario this is also the case within the existing 2016 scenario. In

addition, the overall junction PRC is -16.2 in the 2022 PM scenario as opposed to -18.4 in the 2016 PM scenario - an improvement. As such, not only do the proposals mitigate the impact forecast by Gleeson's development they also improve the overall junction performance.

60. Taking Gleeson's application in isolation, their proposals for the Greenfield signals successfully mitigate the forecast impact of that application, and do not prevent further future mitigation proposed by the council. Should Gleeson build out their site prior to the committed developments in the area coming to fruition, which is likely to be the case, they would fund the £40-60K 'half way house mitigation' at the Greenfield signals, which is all that is required without the other developments built out. When one of the other committed developments are built out their contribution would fund the remainder of the mitigation. On the other hand if one of the other committed developments came first the mitigation at Greenfield Signals would already have been implemented so there would be no capacity issue at the Greenfield Signals.
61. NPPF states: improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
62. Gleeson's mitigation proposals do cost effectively limit the significant impacts of the development and: Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
63. The residual cumulative impacts would not be severe as either the full mitigation would be implemented by one of the other committed developments (if they build first) or Gleeson would be mitigating their impact (if they build first) and the remainder of the mitigation would follow at the appropriate time. As such at no point would there be any severe residual impact.

*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 <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OL49YTGDLIT00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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64. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, highway safety and access, impact on the character and appearance of the surrounding area, ecology, residential amenity, flood risk and drainage, ground conditions, and viability/planning obligations.

The Principle of Development

*The Development Plan*

65. 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 Wear Valley District

Local Plan (WVDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.

66. The WVDLP was adopted in 1997 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*

67. 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.
68. 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.
69. 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.
70. 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 WVDLP are out-of-date where outlined below.

#### *Five Year Housing Land Supply*

71. 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.
72. 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 dwellings per annum (29,127 houses by 2033)

1,629 dwellings per annum (30,951 houses by 2033)

1,717 dwellings per annum (32,623 houses by 2033)

73. 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.
74. 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.
75. 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.
76. 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.
77. 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*

78. WVDLP Policy I5 designates the site as an industrial estate (Greenfields Industrial Estate). Within the estate, Policy I5 sets out that proposals for offices and business use (use class B1), general industry (use class B2) and storage and distribution (Class B8) will be permitted in principle. The proposed residential use would therefore not conform to the allocation in the WVDLP.
79. WVDLP Policy I5 is considered partially consistent with the NPPF. Although the NPPF sets out that adequate employment land should be made available to meet demand it requires at Paragraph 22 that land allocations should be regularly reviewed. Paragraph 22 also sets out that where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses should be treated on their merits having regard to market signals and need for different land uses to support sustainable local communities.
80. Given the age of the employment land supply figures that informed WVDLP Policy I5, the policy does 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 policy reduced as a result.

81. In addition to this an Employment Land Review (ELR) was undertaken in 2012 which identified large areas of vacancies and site clearance with a rundown appearance within Greenfield Industrial Estate. The ELR recommended that the site should not be protected for specific employment uses and therefore deallocated. It is therefore considered that the policy conflict with Policy I5 should be given reduced weight in the planning balance.
82. WVDLP Policy H3 sets out that new housing development should be located in the towns and villages best able to support it, setting out limits of development. The approach of directing housing to the most sustainable settlements that can support it, while seeking to protect the open countryside, is consistent with the NPPF. The NPPF does not prevent a local planning authority from defining settlement boundaries; however, these would need to be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. As Policy H3 is not based on up-to-date evidence of this nature, it is therefore considered out of date for the purposes of Paragraph 14 of the NPPF, and the weight to be afforded to the policy reduced as a result.
83. Remaining policies within the WVDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development.

#### *Conclusion on Principle of Development*

84. Whilst the development of the site for housing would be contrary to WVDLP Policy I5, WVDLP policies for the supply of employment land are out of date and the recommendations of the ELR are to deallocate the site for industrial/commercial purposes. As a result, 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 in the paragraph NPPF 14 test.

#### Locational Sustainability of the Site

85. Bishop Auckland is identified as a main town in the Council's Settlement Study 2012 due to its array of services and transport hubs. Connections with the adjacent development site could have been better addressed in the scheme and for viability reasons there are no contributions towards improvement of the existing public right of way network, which would see increased use from the development. Nevertheless, subject to improved footway links on the complete eastern site boundary with Greenfields Road, which could be secured by conditions, residents of the new dwellings would generally have good access to services, employment and education, without being wholly reliant on private car travel.
86. As such, the site is considered an appropriate, sustainable place to locate new housing and therefore there is no significant conflict with Paragraph 61 of the NPPF and WVDLP Policies GDP1 and H24 (which are considered consistent with Paragraphs 30, 34, 35 and 61 of the NPPF) and Parts 4 and 7 of the NPPF.

#### Highway Safety and Access

87. WVDLP Policies GD1, H24 and T1 require developments to be served by a safe means of access and should not create unacceptable levels of traffic which exceed the capacity of the local road network. These Policies are consistent with NPPF Paragraph 32, which also states that development can be refused on transport grounds where the residual cumulative impacts of development are severe.

88. The development site sits close to the saturated highways network junction at Tindale Crescent in Bishop Auckland. This development is predicted to send 60 additional two way traffic movements through Tindale Crescent at the am peak hour, which the Highway Authority advises would be a significant number of vehicles given the over saturation of the junction currently. The resultant loading of more development traffic onto this junction would increase exponentially the queues and delay already experienced to the extent that it would be regarded as a severe impact.
89. It is therefore necessary for the scheme to address capacity limitations at this junction. The mitigation required is in the form of road widening along and layout changes with the traffic light reconfigurations at Maude Terrace/Greenfields Road, which have an estimated cost of £241,715.49.
90. There are a number of other housing permissions pending in the nearby area (Fieldon Bridge 8/CMA/3/50; Land to the North of Etherley Moor DM/16/04062/OUT, Land At The North Of Woodhouses Farm DM/17/01765/FPA; Catkin Way DM/17/00244/OUT which have all committed to address the operational capacity Tindale Crescent junction and other residual impacts on the wider highway network, but there is no guarantee of the timing of these developments and that any of these would come forward before this application proposal. Furthermore, even if improvements are made to Tindale Crescent traffic signals through other developments, the Highway Authority advises that there will be both a geographical and temporal dispersion of peak traffic as traffic chooses to redistribute to avoid the signals. Funding will therefore still be necessary to address any cumulative residual issues on the rest of the highway network. The highway contributions secured under individual planning applications would be combined (whilst still complying with The Community Infrastructure Levy Regulations 2010) for the Highways Authority to detail up and deliver appropriate schemes where it considers appropriate.
91. The applicant is only willing to meet the cost of lesser improvements at the junction (approximately £40,000-60,000) and has argued that this lesser mitigation (detailed in the applicant statement) would result in the junction being only 'slightly over capacity'. However, the Highways Authority do not accept this argument and consider that the junction would still suffer from exponential growth in queuing and delay as traffic fails to clear the signals at the end of each signal cycle resulting in a severe impact on the surrounding road network. When the applicant's traffic signals junction improvement scheme has been modelled where the development is brought forward independent of any committed development, a capacity issue would still arise in 2027 with continued queuing on Maude Terrace east and Greenfield Road. With the inclusion of all committed development the model shows the junction would be unstable with variable and increasing queuing and delay.
92. It is therefore considered that the lesser mitigation proposed by the applicant would not sufficiently address the overcapacity issues at the junction and there would be a severe impact on queuing and delay through the highway network in the Tindale Crescent area.
93. In respect of other highways issues, the Highways Authority is satisfied that the site access arrangements, layout and parking are generally acceptable. There is a need for a new pedestrian footpath along the Greenfields Road boundary, but that could be secured by condition.
94. Overall, on the advice of the Highway Authority, whilst a satisfactory means of access and internal layout could be created, it is considered that the development would have a severe cumulative impact on the wider highway network and the proposals put forward by the developer would not satisfactorily mitigate this impact. There is

significant conflict with WVDLP Policies GD1 (xxi) and T1 (ii) in this respect, as well as paragraph 32 of the NPPF.

#### Impact on the Character and Appearance of the Surrounding Area, Layout and Design

95. It is considered that the proposed dwellings would be commensurate in scale and design with the surrounding area and the internal layout would create a reasonable residential environment.
96. The majority of existing trees would be retained and could be protected during construction.
97. Overall, it is considered that the development would integrate appropriately into the surrounding area. There is no conflict with WVDLP Policies GP1 and H24 and part 7 of the NPPF.

#### Ecology

98. An ecology survey has been submitted with the application which indicates that the development is unlikely to have negative ecological impacts due to the majority of the site being hardstanding therefore of negligible ecological value with the higher value woodland belt being retained as part of the development.
99. The Councils Ecology Section is disappointed that further ecological enhancements have not been included within the overall site design, however, the development is unlikely to have negative ecological impacts and therefore does not conflict with WVDLP policy GD1 and NPPF part 11.

#### Residential Amenity

100. Whilst external privacy distances are met, the internal layout falls marginally short with distances between opposing elevations generally in the region of around 18m. However, purchasers would be aware of this and overall it is not considered that this would lead to any significant issues in terms of overlooking, overshadowing or overbearing impact.
101. The development would be located in proximity of a number of noise sources including commercial/industrial uses within Greenfield Industrial Estate and at Tindle Crescent. The application is supported by a noise impact assessment which sets out the noise mitigation measures in the form of improved glazing and acoustic boundary treatments for a number of properties within the development are required in order to safeguard the amenity of future residents. Environmental Health advise that the methodology and conclusions of the report are sound and that subject to implementation of the sound attenuation measures outlined in the report adequate levels of residential amenity would be achieved.
102. Overall, the scheme would comply with WVDLP Policies GDP1 and H24 and Part 11 of the NPPF as subject to sound attenuation measures being implemented the development would have appropriate relationship with existing developments.

#### Flooding Risk and Drainage

103. The application is accompanied by a Flood Risk Assessment (FRA), which highlights that the application site is within Flood Zone 1 with a low flood risk probability. The FRA sets out that the surface water drainage hierarchy has been reviewed and a discharge to infiltration is unsuitable. It is proposed to discharge surface water to the surface water

public sewer/watercourse on the western boundary at an agreed discharge rate. A surfaces finishes plan has also been submitted which outlines that driveways will be permeable. Subject to the above being secured by conditions the Council's Drainage and Coastal Protection officers offer no objections to the development or the overall drainage strategy. Northumbrian Water also advises a conditional approach to managing surface water discharge.

104. In relation to foul water, it is proposed to connect to the existing sewerage network. Northumbrian Water raise no objections, subject to the imposition of a condition that development takes place in accordance with the submitted details.
105. Subject to conditions outlined above, no objections to the development on the grounds of flood risk or drainage are raised having regards to Part 10 of the NPPF.

#### Ground Conditions

106. The application site lies with the Coal Authority's Coalfield area of high risk and a coal mining risk assessment considering unstable land has been submitted in support of the application. In reviewing this report, whilst the Coal Authority concur that the adoption of a piled foundation solution is appropriate in light of past surface mining operations at the application site however require further site investigation works to be undertaken. On the basis that such works are secured by condition they raise no objection.
107. In relation to land contamination the applicant originally submitted a phase 1 desk top study. Whilst Environment, Health and Consumer Protection officers (Contaminated Land) agreed with the proposed remediation regarding the clean cover system it was considered insufficient information was providing relating to gas protection measures, water supply pipes and controls to prevent contamination to controlled waters. These additional risks have now been identified within the Phase 2 report and as such they recommend the imposition of a condition to agree remediation and verification works in accordance with Policy GD1 of the WVDLP and Part 11 of the NPPF.

#### Other Matters

108. Planning plays a key role in helping to reduce greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. Whilst the development could improve connectivity to reduce walking distances to nearby services and facilities on the whole the development is considered sustainable. Sustainability officers have requested a condition to embed sustainability within the scheme however this would be achieved through the building regulations.

#### Viability/Planning Obligations

109. Paragraph 72 of the NPPF sets out that the Government attaches great importance to ensuring sufficient availability of school places to meet the needs of existing and new communities. In this respect the School Places and Admissions Manager highlights that a development of 75 dwellings would be expected to generate 23 primary and 9 secondary pupils. Although there is a degree of capacity within primary schools within Bishop Auckland that are accessible to the site via a 2 mile safe walking route, when taking into account other developments proposed within the area, the capacity of primary schools would need to be increased to accommodate the additional demand from this development. Based on the Council's policy in relation to securing developer contributions towards education provision, a contribution of £215,638 would be required. However, the applicant has presented a case setting out that the development

would not be viable with this contribution. The Council's Policy in relation to education contributions does recognise the issue of viability and allows exceptions in this respect.

110. WVDLP Policy H15, in accordance with Part 6 of the NPPF, sets out where a need has been established an appropriate level of affordable housing should be provided. The identified need in the area is set out in the Strategic Housing Market Assessment and equates to a minimum of a 10% provision. In order to accord to relevant policies, 8 dwellings would need to be offered on an affordable basis. However, the applicant has presented a case setting out that the development would not be viable with this obligation imposed.
111. WVDLP Policy RL5 sets out targets for sporting and/or recreational land as part of the development or as an alternative developers are expected to make a contribution to the provision of such facilities. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2010 which is considered the most up to date assessment of need for the purposes of Paragraph 73 of the NPPF. The OSNA sets out the requirements for public open space and recreation provision 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. As no open space would be provided on site and in order to mitigate the developments impacts based on OSNA targets an offsite contribution of £226,400 would be required to maintain and enhance existing facilities. Again, the applicant has sets out that the development would not be viable with this obligation.
112. Whilst it is very disappointing that the development would not make any contributions towards education, affordable housing and open space, Paragraph 173 of the NPPF outlines the importance of viability as a material planning consideration, setting out that developments should not be subject to obligations which threaten their ability.
113. The applicant's development appraisal has been assessed and it has been accepted that the viability of the site is marginal, and well below the 17-20% acceptable range of return. Therefore, notwithstanding that the development could not mitigate its impact in these respects the viability case is accepted and no contributions are being sought for these matters.

#### Planning Balance

114. The acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

#### *Benefits*

115. 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, particularly given the other housing schemes coming forward in the immediate area. 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.

116. The development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area. Such benefits can be afforded weight.
117. The development would result in the positive re-use of previously developed land which is unlikely to come forward for any alternative employment use. The development of the site would result in environmental improvement in this respect.

#### *Adverse Impacts*

118. The Highways Authority considers that the development would have a severe impact on queuing and delay through the highway network in the Tindale Crescent area and the development would not contribute appropriately to addressing the issue.
119. The development would have a residual impact on the capacity of existing primary and secondary schools to accommodate additional pupils, and for which the Council would need to provide mitigation. However, the Council's Policy in relation to education contributions does recognise the issue of viability and allows exceptions in this respect.
120. The development would increase pressures on existing open space and recreational facilities in the area, in conflict with WVDLP policy RL5. Officers were however mindful of the significant highways contributions required to mitigate the impacts of the development and in this instance considered that the scheme could not bear the costs of additional contributions should the highway contribution have been forthcoming. There is also a healthy supply of outdoor sport space and amenity open space typologies within the immediate area albeit no onsite provision.

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## **CONCLUSION**

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121. Having regards to all matters, it is considered that the severe residual impact on the surrounding highways network would significantly and demonstrably outweigh the benefits identified. When assessed against the development plan and the NPPF considered as a whole, on balance, the overriding consideration is that the scheme would not be sustainable development.

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## **RECOMMENDATION**

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That the application be **REFUSED** for the following reasons;

1. The additional traffic generated by the development would have a severe impact on queuing and delay through the highway network in the Tindale Crescent area and as an appropriate level of contribution to address traffic dispersal has not been secured to mitigate this impact the development would result in a severe residual cumulative impact. This is contrary to WVDLP Policies GD1 (xxi) and T1 (ii) and Paragraph 32 of the NPPF, and when assessed against the development plan and the NPPF considered as a whole, it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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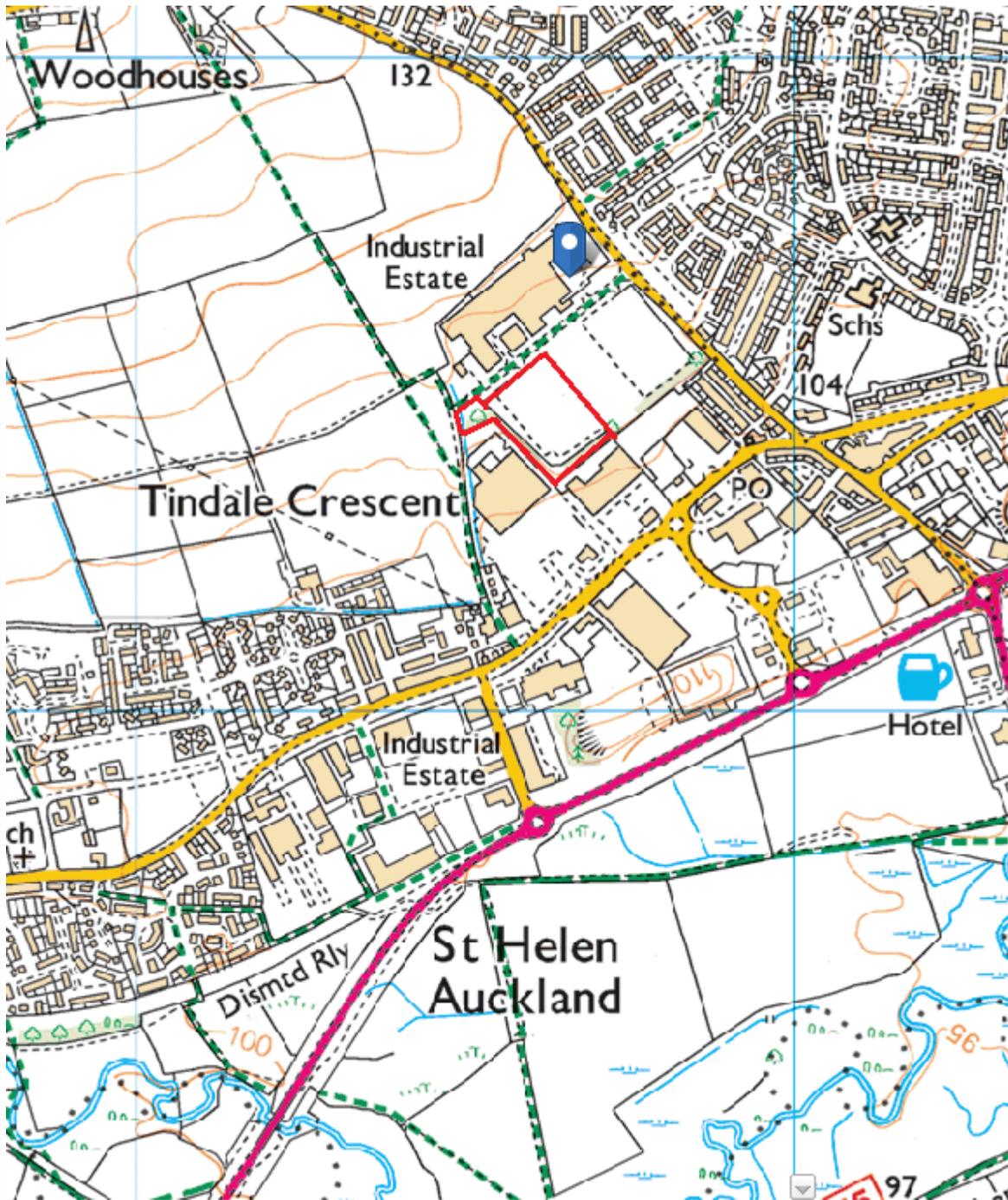
In considering the application the Local Planning Authority has sought to adopt a positive and proactive approach to the determination of the application in accordance with the requirements of the NPPF to promote the delivery of sustainable development. In this instance however on the balance of the information available it is not considered that a positive outcome could be achieved.

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Wear Valley District Local Plan 2006
- The County Durham Strategic Housing Land Assessment
- The County Durham Strategic Housing Market Assessment
- Public Place Planning Document 2006
- Calculating developer contributions in relation to education.
- Statutory, internal and public consultation responses



**Planning Services**

Erection of 75 dwellings  
 Gleeson Regeneration Ltd.  
 Site Of Former Chamberlain Phipps  
 Coatings, Catkin Way, Bishop Auckland  
 Ref: DM/17/00466/FPA

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**Comments**

**Date**  
 22<sup>nd</sup> March 2018

**Scale**  
 Not to scale