

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/18/00966/OUT
FULL APPLICATION DESCRIPTION:	5 no. dwellings all matters reserved except access
NAME OF APPLICANT:	Mr G Mawson
ADDRESS:	Land To The Rear Of West Terrace Billy Row DL15 9SS
ELECTORAL DIVISION:	Crook
CASE OFFICER:	Tim Burnham Senior Planning Officer 03000 263963 tim.burnham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site relates to the southern section of paddock land situated to the rear of West Terrace, Billy Row. The land is currently relatively open and grassed, hosting redundant brick and block built outbuildings which would be demolished; and mature trees to the eastern boundary. The site is accessed from a private track from Billy Row Green running between 18 Billy Row Green and The Old Chapel. Site levels fall slightly from north to south.
2. The application is in outline with just access for consideration and proposes 5no. dwellings.
3. The application is reported to the Planning Committee at the request of Cllr Manchester, due to concerns over highways access issues.

PLANNING HISTORY

4. There is no recent relevant planning history relating to the site.

PLANNING POLICY

NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

6. *NPPF Part 4 – Promoting sustainable Transport* The Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. On highway safety, there must be safe and suitable access to the site for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
7. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes* Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Local planning authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities; however, isolated homes in the countryside should be avoided.
8. *NPPF Part 7 – Requiring Good Design* The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning policies and decisions should aim to ensure that developments will function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and are visually attractive. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
9. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Inappropriate development in areas at risk of flooding should be avoided.
10. *NPPF Part 11 – Conserving and Enhancing the Natural Environment* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

The above represents a summary of those policies considered most relevant in the Development Plan

LOCAL PLAN POLICY:

11. The following policies of the Wear Valley Local Plan are relevant to the application; however, in accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policies will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight.
12. *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.

13. *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.
14. *Policy T1 General Policy - Highways* All developments which generate additional traffic will be required to fulfil Policy GD1 and i) provide adequate access to the developments; ii) not exceed the capacity of the local road network; and iii) be capable of access by public transport networks.

The above represents a summary of those policies considered most relevant in the Development Plan

RELEVANT EMERGING POLICY:

The County Durham Plan –

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

16. *Highway Authority:* No objections. The site is linked to the public highway by a private access track of approximately 37m length and between 3.5m and 4.0m width. The area of land is capable of accommodating more than five dwellings but an adoptable highway meeting modern standards cannot physically be accommodated to access it.

Estimated peak hour vehicular movements related to 5 dwellings is relatively low (between 3 and 4 two-way movements) this will naturally be an increase over that which can be expected under its current agricultural use. At, say, 15mph, the time taken for a vehicle to travel the full access track length is in the order of 6 seconds. Including movements associated with the rear yard parking area of 18 Billy Row Green this is, collectively, likely to equate to a total of 30 to 40 seconds in the peak traffic hour when a vehicle is using the single track access. This is just over 1% of the total peak hour duration. The access track is straight and it will be possible to place an area within the site, close to the access track northern end, to afford inter-visibility for and to a driver about to emerge from the site onto the single track access. The indicative layout depicts an area for this, notwithstanding details of layout are not for determination at this time. Overall, while vehicle conflict cannot be completely eradicated the issue of vehicular movements utilising the track would not be at a level where I could object to the application.

There is a requirement to metal the surface of the access track and this should be conditioned. DCC refuse services have confirmed that waste collections could take place from within the development itself so that no bins would need to be left of the village green. Residents would be required to utilise 2 x 1100 litre commercial styled wheeled bins which could be stored within a bin store at the site. These matters should be conditioned.

17. *Coal Authority*: No objections subject to further coal mining investigation.

18. *Northumbrian Water*: No objection subject to the submission of details relating to foul and surface water details.

INTERNAL CONSULTEE RESPONSES:

19. *Landscape Section*: No objections, the site is not within any locally or nationally designated landscape. The site is primarily visible from the back lane to West Terrace and forms a link to the farmland beyond.

20. *Landscape (Trees)*: No objections, providing measures within the tree protection plan are followed in full.

21. *Environmental Health (Noise)*: No objections.

22. *Ecology*: The Ecology Report has been reviewed. Note that whilst risk of maternity use of the buildings by bats has been ruled out, it does not appear that incidental use by low numbers has been adequately addressed. Mitigation within report and 15mtr Ecology buffer should be included and conditioned.

23. *Contaminated Land* – No objections, contaminated land condition required.

PUBLIC RESPONSES:

24. The application has been publicised by way of site notice and neighbour notification letters. Letters of objection have been received from 7 addresses.

25. The main common point of objection from local residents is the access to the site. Concern is expressed that the use of the access will cause significant disturbance to the properties on either side and that an unacceptable amount of traffic would use the access causing a danger. There is also concern in relation to additional parking pressure in the local area, bin collection arrangements and emergency service access.

26. Other concerns expressed are in relation to loss of privacy, light and property value; construction noise; drainage; wildlife impact; and the ground stability from old mine workings.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>

APPLICANTS STATEMENT:

27. Following the appraisal of the site and its proximity within the village of Billy Row, we feel that all measures have been undertaken to provide a modest development of five new dwellings. When viewed in the overall context, the site is considered suitable and available for development.

28. The proposed location will not result in the loss of valuable agricultural land and is well screened by housing to the west and south.
29. The site is considered sustainable given the location and easy transport links to nearby Crook and beyond. The site offers the opportunity for five new dwellings in an attractive, thriving community where families can enjoy this semi-rural location.

PLANNING CONSIDERATIONS AND ASSESSMENT

30. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to matters of the principle of development, impact on character and appearance of the area, residential amenity and highways impacts.

Planning Policy Context

31. The application site is unallocated land within the development limits of Billy Row where Policy H3 of the Wear Valley Local Plan is permissive of new development. However, given the age of the Wear Valley Local Plan, its housing policies cannot be considered up to date. Accordingly, only limited weight can be afforded to this policy.
32. The emerging County Durham Plan is still at an early stage following its previous withdrawal from examination. Consultation was carried out on the new Issues and Options in June 2016. It is therefore not at a stage where it can be given any weight.
33. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 - decision issued 10th May 2018), with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force. This is expected to be later this summer. In the meantime the Inspector concluded that the most appropriate measure for assessing the housing requirement is the 1,629dpa (1 of 3 scenarios within the County Durham Plan 'Issues and Options' (June 2016)) as it provides the best evidence of the objectively assessed housing need for County Durham. Against this figure, the Inspector concluded that the Council has a housing land supply of 4.75 years.
34. In these circumstances, paragraph 14 of the NPPF is engaged, which requires that housing applications should be considered in the context of the presumption in favour of sustainable development. This means granting planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted. The proposal is therefore subject to the planning balance test.

Location

35. Billy Row is classed as a Tier 4 larger village in the Council's Settlement Study, reflective of the limited availability of services within the village, although the village does contain a primary school and corner shop. Billy Row links closely to Crook,

which is identified as a main town with a wide range of services, which can be reached at short distance via a regular bus service and lit pedestrian footway.

36. The location of the site is therefore in accordance with NPPF paragraph 55, which advises that "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby".

Impact on Character and Appearance of the Area

37. The application site is mostly rough unmanaged grassland, enclosed by housing to the north, west and south. A line of mature trees and hedging forms the eastern boundary along the beck. It is therefore well contained, and in very limited views from outside the site, it has a close visual association with the built up area rather than open countryside. Apart from the trees and hedges along the eastern boundary, the site does not make any significant contribution to the local landscape character.
38. As the application is in outline, the submitted layout plan is being treated as indicative, but it demonstrates that the proposed development could be comfortably accommodated on the site, retaining the vegetation along the eastern boundary in combination with a 15mtr wildlife buffer zone along the beck.
39. Taking all the above into account it is considered that the development could be achieved without detriment to the character and appearance of the surrounding area. There is no conflict with Wear Valley Local Plan Policy GD1.

Highways Impacts

40. The site would be accessed from Billy Row Green via a private access track between 18 Billy Row Green and The Chapel. The track is approximately 37m long and between 3.5m and 4.0m width. It is bounded by a stone wall to the east and a stone wall and an extension on 18 Billy Row Green to the west. Access to the rear of 18 Billy Row Green can also be gained from the track, although at the time of the initial site visit this access appeared little used at present.
41. It is accepted that vehicular movement would increase on the track above the existing very limited levels of use. The Highways Authority estimate peak hour vehicular movements as between 3 and 4 two-way movements. They also note that the access track is straight and it will be possible to place an area within the site, close to the access track northern end, to afford inter-visibility for and to a driver about to emerge from the site onto the single track access. Some planting has taken place within the lane, associated with adjoining property. It is accepted that this may need to be removed to accommodate a metalled surface as required by the Highways Authority and the DCC refuse service (the metalled surface is conditioned). Whilst objectors have questioned the ownership of the lane, no available evidence indicates that the access is not within the ownership of the applicant and in any case, these issues are largely to be dealt with outside of the planning process.
42. The refuse service have confirmed that large communal bins could be used at the site for both waste and recycling, which would be collected from within and returned to the site by refuse staff. Details of a bin store area can be secured by condition and at the detailed application stage.

43. Parking is a detailed matter to be dealt with at reserved matters stage, but the indicative details demonstrate that it should be possible to provide appropriate parking provision within the site to ensure the development would not put parking pressure on surrounding streets.
44. On the basis of all the above, and in the absence of any objection from the Highway Authority, it is considered that the proposed development would not be prejudicial to highway safety. There is no conflict with Wear Valley Local Plan Policies GD1 and T1.

Impact on residential amenity

45. Further to the highway safety issues addressed above, it is noted that the neighbours on each side of the access track have also raised concerns about disturbance from vehicular movements along the access track.
46. As identified in the section above, the peak hour vehicular movements would be between 3 and 4 two-way movements. Whilst this would be an increase over existing traffic movements, it would still be an extremely low level of vehicle movements long the track. Such a low level of use would not warrant refusal on disturbance grounds and there is no objection from the Environmental Health Noise Action Team in this respect.
47. The development would change the outlook of the adjacent properties, but that does not necessarily mean the impact on their living conditions would be unacceptable, as to consider otherwise would prevent building on many undeveloped sites. Matters of layout and scale have been reserved and therefore the relationship with neighbouring properties will be considered in detail at the reserved matters stage. On the basis of the indicative details, there are no concerns that development could not be located a sufficient distance from neighbouring properties to safeguard residential amenity in respect of privacy and loss of light. Effects on property value is not a material planning consideration.
48. There will inevitably be some construction related impacts, but that is not a matter the planning system can reasonably prevent or control on such a small scale development. The construction related conditions recommended by the Environmental Health (Noise) Section are more appropriate to larger scale developments where the noise and dust impacts would be greater and over a prolonged period. In this case it would be unnecessary duplication of Environmental Health controls and therefore such conditions would not meet the tests of necessity set out in the NPPF and Planning practice Guidance.
49. It is therefore considered that the proposal would not have an unreasonable effect on the residential amenity of neighbours. Accordingly there is no conflict with Wear Valley Local Plan Policy GD1 in this respect.

Other issues

50. Regard has been given to the concerns raised by residents on matters such as drainage, ecology and land stability, but there are no objections from the specialist consultees on these matters.
51. The site is not in an area identified as being at risk of flooding. Drainage is a detailed matter, which can be adequately addressed by condition and at reserved matters, as suggested by Northumbrian Water.

52. The submitted ecology survey indicates the development site itself has low ecological value and the proposals seek to retain a 15m buffer zone along the beck, along with enhancement measures like bat and bird boxes, which can be incorporated into the detailed scheme and secured by conditions. There was no evidence found of bat use within the buildings and trees on the site and therefore it is accepted that no further survey work is required. On this basis there is no requirement to obtain a licence from Natural England and therefore the local planning authority can discharge its duty under the Habitats Directive and The Conservation of Habitats and Species Regulations 2017.
53. The site is situated within the Coal Authority high risk area and the submitted coal mining report identifies past coal mining activity in the area, which should be subject to intrusive site investigations. However, The Coal Authority is satisfied this could be dealt with by conditions and have raised no objections to the application.

CONCLUSION

54. This application should be considered in the context of the presumption in favour of sustainable development contained in paragraph 14 of the NPPF. Accordingly, as there are no restrictive policies in play, then planning permission should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
55. The proposal would provide social and economic benefits by adding 5 dwellings to the mix and supply of housing at a time when 5 year housing land supply cannot be demonstrated. There would also be support for local services in the area and temporary employment benefits during the construction period. These are factors which are attributed substantial weight.
56. In environmental terms the site is a suitable location for housing where occupants would not be wholly reliant on private car travel to access local services and facilities.
57. The proposal is also acceptable in terms of visual amenity, highway safety and ecology terms, although these are neutral effects. Residential amenity, drainage and land stability issues can be adequately dealt with by conditions and detailed consideration at reserved matters stage.
58. Having considered all matters, including representations received, there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole. Planning permission should therefore be granted.

RECOMMENDATION

That the application be **APPROVED** subject to following conditions;

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

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

2. Application for approval of reserved matters shall be made to the Local planning authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

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

3. The development hereby approved shall be carried out in strict accordance with the following approved plans, but only in respect of those matters not reserved for later approval:

Site Location Plan rec. rec. 29th March 2018

Proposed Site Plan CM023 02 (excluding detailed site layout) rec. 29th March 2018

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Wear Valley Local Plan Policies GD1, H3 and T1 and NPPF Parts 4, 6, 7, 10 & 11.

4. No development shall commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter the development shall take place in accordance with the approved details.

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

5. Development shall take place in accordance with the Ecology enhancement and mitigation measures detailed within section 7 of the Ecological Appraisal by all about Trees Ltd February 2018 including but not limited to the provision of 15 metre ecology buffer zone along the beck and new bat and bird roosting opportunities within the development, the details of which, including timing of provision, shall first have been submitted to and approved in writing by the local planning authority. The approved details shall subsequently be implemented in accordance with the approved details and timing and shall thereafter be retained for the lifetime of development.

Reason: To conserve protected species and provide ecological enhancement in accordance with policy GD1 of the Wear Valley Local Plan and part 11 of the NPPF.

6. No development shall commence until an assessment of ground conditions to determine the likelihood of any ground, groundwater or gas contamination of the site has been undertaken and the results of this survey together with a strategy for any remedial action deemed necessary to bring the site to a condition suitable for its intended use has been submitted to, and approved in writing by the local planning authority. Any remedial works shall be carried out in accordance with the approved strategy and validated by submission of an appropriate verification report to the local planning authority prior to first occupation of any part of the development. Should any unforeseen contamination be encountered in that phase or part of the development the local planning authority shall be informed immediately. Any additional site investigation and remedial work that is required as a result of unforeseen contamination shall be carried out to the written satisfaction of the local planning authority.

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 policy GD1 of the Wear Valley Local Plan and NPPF Part 11.

7. No development shall commence until the intrusive investigative works recommended within the mining report by Dunelm Geotechnical rec 29th March 2018 have been carried out and the results of said investigation together with a strategy for any remedial action deemed necessary to treat any areas of shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the development, have been submitted to and approved in writing by the Local Planning Authority. Any remedial works shall be carried out in accordance with the approved strategy.

Reason: In the interests of the stability of the land sought for development having regards to Part 11 of the NPPF.

8. Except for any remediation works, no other part of the development shall commence until the means of access has been constructed and surfaced in accordance with details to be first submitted to and approved in writing by the local planning authority. The access shall be maintained in accordance with the approved details for the lifetime of the development.

Reason: In the interests of highway safety having regards to Policy GD1 of the Wear Valley Local Plan.

9. No dwelling shall be occupied until details of a refuse strategy and bin storage area for the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved refuse strategy for the lifetime of the development.

Reason: In the interests of highway safety and amenity having regards to Policy GD1 of the Wear Valley Local Plan.

10. No development shall take place until the tree protection measures detailed drawing TPP-A rec. 29th March 2018 have been installed. The protective barriers shall remain in place for the duration of construction works on the site. There shall be no storage of materials, machinery, tools, or parking of vehicles within the Root Protection Areas of any trees on the site.

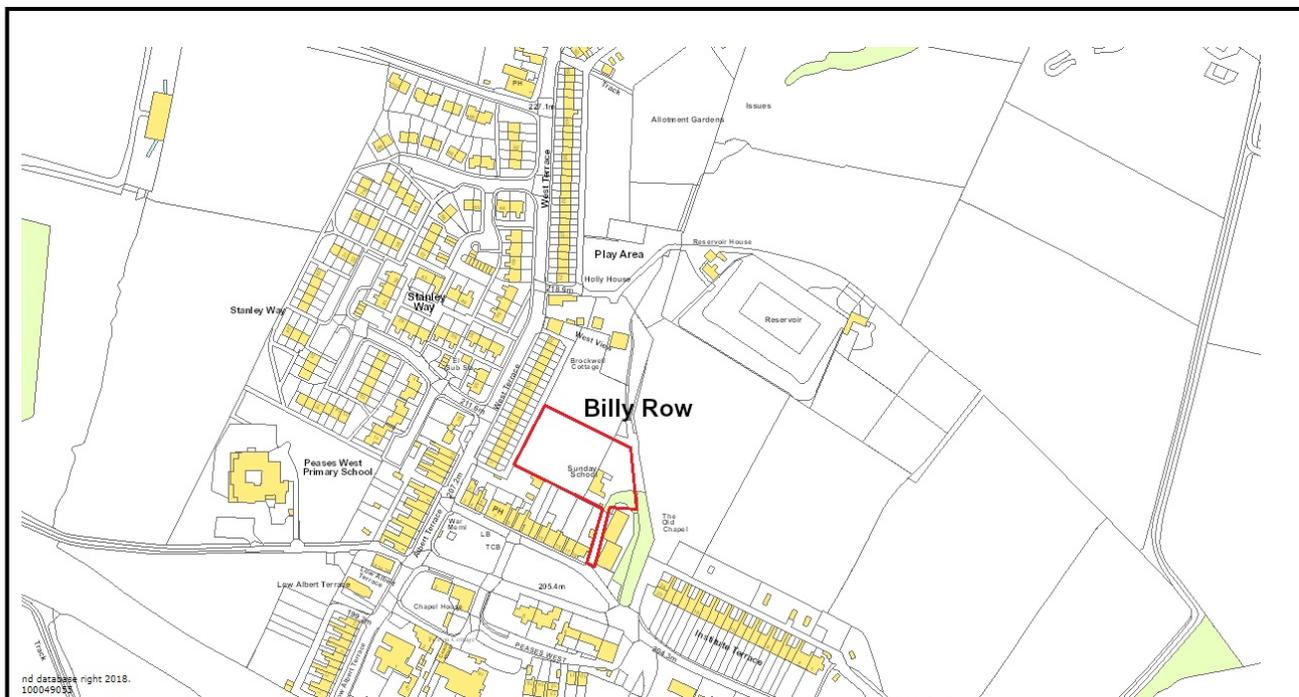
Reason: To minimise the impact of the development upon existing mature trees in accordance with Policy GD1 of the Wear Valley Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In arriving at the decision to recommend approval of the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant, and carefully weighing up the representations received to deliver an acceptable development. The use of pre commencement conditions is deemed necessary are fundamental to the appearance of the area and relate to matters at the start of the development process.

BACKGROUND PAPERS

Submitted application form, plans supporting documents
 The National Planning Policy Framework (2012)
 National Planning Practice Guidance Notes
 Wear Valley Local Plan
 The County Durham Plan (Submission Draft)
 County Durham Settlement Study 2012
 All consultation responses received



Planning Services

5 no. dwellings all matters reserved except access

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21st June 2018