

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/17/03445/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Resubmission of DM/17/00215/FPA and DM/17/02532/FPA for the erection of 52 detached and semi-detached dwellings including affordable units with associated services, infrastructure and landscaping
<b>NAME OF APPLICANT:</b>	Prince Bishop Homes
<b>ADDRESS:</b>	Land To The South Of Penshaw View Tantobie DH9 9TQ
<b>ELECTORAL DIVISION:</b>	Stanley
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is 1.94 ha. of land, east of the B6173 on the south side of Tantobie, a medium sized village 1.5m north-west of Stanley. The village has a restricted range of services and facilities including a community centre and playing fields, club, allotments, public houses, commensurate with its size, and relies on other nearby small settlements, and Stanley for others. There are 13 bus-stops within the village, and other nearby settlements, such as Tanfield Lea, which offers Infant, Junior and Secondary Education facilities and employment opportunities.
2. The land is currently occupied by Old Laundry Cottage, a residential bungalow that has evidence of a former caravan storage area behind it. There is a treed access to the bungalow from the main road. The site which slopes from north to south is split between scrub land and unimproved grassland. A strong hedge-line defines the southern boundary of the site. A belt of woodland separates the western boundary of the land from the playing fields associated with the Community Centre. North of the site is a small commercial vehicle depot and allotment gardens. Agricultural land and a livery operation faces the site east across the B6173. More agricultural land which includes a public footpath separates the site and Tantobie from Tanfield by 0.14 miles. The two villages are connected by a public footpath alongside the main road, with street-lighting.

## The Proposal

3. The application proposes erection of 52 detached and semi-detached dwellings including affordable units with associated services, infrastructure and landscaping. A single vehicular access point from the main road is proposed. Connection with the existing rural footpath is proposed at the west end of the site. Four pairs of semi-detached dwellings form a site frontage onto the main road, with the site accessed at the southern end of the boundary. The site layout is linear in form reflecting both the topography and the urban form of the existing village. The northern, steeper area of the site is left undeveloped, and tree planting is proposed in particular on the north and south boundaries to reinforce existing landscape features.
4. This application is reported to Committee as a 'major' development.

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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), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
6. The NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
7. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
8. The following elements of the NPPF are considered relevant to this proposal;
9. *NPPF Part 4 – Promoting Sustainable Transport.* Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
10. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.

11. *NPPF Part 7 – Requiring Good Design*. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
12. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
13. *NPPF Part 10 - Meeting the challenge of climate change, flooding and coastal change* – Advises on managing flood-risk, taking into account the impacts of climate change through use of the sequential test, ensuring flood risk is not displaced and informing proposals through a site specific Flood Risk Assessment.
14. *NPPF Part 11 – Conserving and enhancing the natural environment*. The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

15. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
16. *Climate change* - Addressing climate change is one of the core land use planning principles which the National Planning Policy Framework expects to underpin both plan-making and decision-taking. Planning can also help increase resilience to climate change impact through the location, mix and design of development. Reflecting the 'golden thread' of the NPPF, sustainable development is key.
17. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
18. *Design -The importance of good design*. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

19. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
20. *Land Stability* - The guidance provides advice to local authorities and developers to ensure that development is appropriately suited to its location, and that there are no unacceptable risks caused by unstable land or subsidence.
21. *Air Quality* – sets out the national European and National legislative framework and a local air quality management (LAQM) regime which requires every district and unitary authority to regularly review and assess air quality in their area. Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location.
22. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.
23. *Planning obligations* - Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.
24. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.

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

25. The following are those saved policies in the Derwentside District Local Plan 1997 relevant to the consideration of this application:
26. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
27. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
28. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the

merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.

29. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible.
30. *Policy HO22 – Recreational Public Open Space within Housing Layouts* - this Policy covers open space provision within housing sites. It states that provision should be made on site where possible, or via a financial payment in lieu of direct provision, where sufficient provision cannot be made on site. The OSNA (2010) sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site specific basis. This is a relevant material consideration in conjunction with Policy HO22 and paragraph 73 of NPPF.
31. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.
32. *Policy TR3 – Cycling* – Requires cyclists’ needs to be taken into account when considering proposals for new traffic management, road improvements and new developments. Permission will only be granted if safe and convenient access and cycle parking facilities such as racks or wall bars are provided.
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#### **RELEVANT EMERGING POLICY:**

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

#### **Five Year Housing Land Supply**

35. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
36. In September 2017, the Government published a consultation document entitled “*Planning for the Right Homes in the Right Places*”, which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
37. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, a revised draft NPPF was issued

for consultation, with paragraph 61 advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.

38. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
39. 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 or until the council has adopted a formal position in relation to its OAN. On the 13<sup>th</sup> June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
40. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

41. **Highways** – The scheme was redesigned during the application process partly at the request of Highways Engineers. A condition could ensure that the scheme is constructed to a standard capable of adoption. The developer would have to enter into agreements to meet other requirements of the Highways Acts.
42. **Northumbrian Water** – ask for a condition to be attached to any approval requiring compliance with the connections and discharge rates set out in the applicant's 'Flood Risk Assessment and Drainage strategy (FULL)', October 2017.

### **EXTERNAL CONSULTEE RESPONSES:**

43. **The Coal Authority** – concurs with the recommendations of Geoenvironmental Appraisal (November 2017, prepared by IDG) and recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development. In the event that the site investigations confirm the need for remedial works to treat any areas of shallow coal mine workings or any mine entries to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

## INTERNAL CONSULTEE RESPONSES:

44. **Spatial Policy** - have provided an assessment of the status of relevant local plan policies, advising thus:
- Policy GDP1, requiring high quality design is NPPF compliant and should be factored in the planning balance.
  - Policy EN1 restricts development in the countryside, requiring proposals to be sensitively related to existing settlement patterns and environmental resources. The Policy is largely up-to-date and can be given weight.
  - Policy EN2 seeks to restrict development outside existing built up areas and encroachment into the countryside. Weight can be given to the Policy.
  - Policy EN11 Existing trees should be incorporated into new developments where possible. This is NPPF compliant.
  - Policy HO5 requires development on small, unallocated sites to meet a set of criteria.
  - Policy HO22 requires public open space provision or monies in lieu. The general aims are consistent with national policy.
  - Policy TR2 has general aims, which when read with the more up-to-date County Highway standards are consistent with the Framework and NPPG advice.
45. The SHLAA 2013 assessed the site as unsuitable for development, poorly related to the existing settlement, encroaching into the countryside with some adverse landscape and visual impacts. The SHMA identified a need for affordable housing in the area. The NPPF is supportive of delivering affordable housing as a component of ensuring sustainable development. However the need for affordable units ought to be assessed in relation to the relevant housing market area using up to date evidence. Paragraphs 158 and 159 require plans to be based on an up to date Strategic Housing Market Assessment which defines the type, tenure and quantity of housing required. The 2016 SHMA County Durham identifies an annual need for approximately 378 additional affordable units across the County. Evidence suggests that a requirement of 15% can reasonably be expected on sites of 15 dwellings/0.5 hectares.
46. The scheme proposes a proportion of 'private rent' and 'affordable rent' – 'The Prince Bishops Model' - housing. This form of affordable is not currently recognised as affordable housing in the existing NPPF. It is however noted that the consultation draft of the new NPPF broadens the scope of what can be regarded as affordable, to include buy to rent housing. While this remains a consultation document (and may be subject to further changes) it is considered that full benefit (that would be given to NPPF-compliant affordable provision) cannot be given to the proposal at this stage.
47. An OSNA figure was identified to support the demands from the scheme.
48. In conclusion and in terms of the overall assessment of the proposal, it is considered that the housing policy framework in the Local Plan is out of date. Consequently, Paragraph 14 of the NPPF is engaged. The first 'limb' of the test requires a planning balance assessment to weigh up any 'adverse impacts' and 'benefits'. Notwithstanding this test, case law has confirmed that the 'saved' local plan policies may be considered as part of this planning balance assessment. The Local Plan aims to avoid development in locations outside of the built up settlement area. Policies EN1 and EN6 in particular support this aim. While it is for the decision taker to determine the level of weight that should be afforded to them in accordance with their status (which is set out in section 3 of this response), these policies in particular remain relevant when considering the scheme, as set out above.

49. In undertaking the required planning balance, NPPF core planning principles include the requirement to meet housing need for the area and expand the range and choice of housing. The scheme proposes a range of units which can be regarded as helping to satisfy local housing need, albeit perhaps to a lesser extent than if NPPF-compliant affordable provision were provided. Paragraph 7 of the Framework considers the three dimensions of sustainability and in this application, the development of the site would contribute to the economy through the delivery of houses, both during their construction but also via new residents supporting local services. This may be considered as a benefit.
50. Consultation with relevant specialist teams will identify whether there are any additional concerns to consider under the second limb of the NPPF Paragraph 14 test in addition to those highlighted in this report. Any adverse impacts and benefits relating to points of finer detail, not included within this response should also be factored into the planning balance required of paragraph 14 of NPPF.
51. **Viability** – Whilst initial assessment has been carried out into additional detailed costings to support the viability arguments presented, there is still justification for seeking a contribution towards open space irrespective of the viability arguments presented. This is on the basis that the residents of the new properties would use existing open space near to where they would be living, so a contribution towards enhancement was necessary under paragraphs 203/204 of the NPPF to make the development acceptable in planning terms.
52. **Drainage and Coastal Protection** – Engineers are not satisfied that the commitments to sustainable drainage set out in the submitted technical reports can be achieved in the context of the submitted layout, requiring further detail as to how this can be achieved, resisting the applicant's suggestion that this issue can be deferred until after determination through the use of conditions.
53. **Ecology** - Although the development site does not contain Durham BAP Habitats or UK Priority Habitats it still has a biodiversity value that is not fully acknowledged within the application. There is only a small amount of wildflower grassland alongside some further hedgerow planting proposed as on site biodiversity delivery and this, I believe, is not sufficient to compensate or mitigate for the losses arising from the built development; the wildflower meadow is also compromised by being a narrow strip located on the northern edge of a mature hedge meaning that it will be heavily shaded and unlikely to realise its potential in terms of floristic diversity.
54. Mitigation and compensation for the habitats on site should be provided through a mixture of improved on-site delivery and off-site habitat creation. Until it can be clearly shown that there will be no net loss of biodiversity Ecology will hold an objection to this development.
55. **Environment, Health and Consumer Protection (Noise)** – The application is considered a noise sensitive receptor and it is located in proximity to three potential noise sources, namely the bus depot to north, sports pitches to west and traffic using Good Street to the east. The applicant's noise report has demonstrated that further noise mitigation measures are required to ensure future occupiers are protected from noise and it is suggested conditions will mitigate any potential noise implications from the scheme. The development is unlikely to cause a statutory nuisance.
56. **Environment, Health and Consumer Protection (Contamination)** –confirm they have assessed the available information and historical maps with respect to land contamination and reviewed the Geoenvironmental appraisal undertaken by ID GeoEnvironmental Consulting Engineers Report No 4592-G-R002 Rev A dated

November 2017. A review of the gas monitoring results has taken place and it is agreed that there are no gas protection measures required. A remediation strategy will be required to carry out further investigation works to delineate the hydrocarbon contamination. Therefore the contaminated land conditions should apply.

57. **Affordable Housing** - The Strategic Housing Market Assessment (SHMA) sets out the affordable housing requirement across the County, the North delivery area has an affordable housing requirement of 15%, equating to 8 affordable units across this development. This should be delivered as a mix of tenure with 70% for affordable rent and 30% for affordable home ownership. It is noted from the application that the Prince Bishop Affordable Home model is quoted. We do not currently recognise this as an affordable product due to there being no guarantee it will remain affordable in perpetuity.
58. **Education** – There has been no request for an education contribution in relation to any shortfall in capacity in this area.
59. **Footpaths** - note the intention to provide a pedestrian link between the development and the Kyo Greenway. The applicant would need to liaise with DCC Asset Management regarding the provision, legal status and future maintenance of such a link. Given the anticipated increase in use of the Kyo Greenway as a result of the development a section106 contribution towards surface improvements would be expected.
60. **Archaeology** – acknowledge that a survey was undertaken for part of the site, but recommend more investigation to inform the development proposals.

#### **PUBLIC RESPONSES:**

61. Forty-nine letters of public consultation were sent out to nearby residents and community buildings. Site notices were posted and an advertisement placed in the local press. No responses were received.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OXNFKUGDHW300>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### The Principle of the Development

62. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development in the countryside, the relationship to the existing settlement and surrounding facilities, and technical issues including drainage and ecology requirements.

### The Development Plan

63. 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 Derwentside District

Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

64. The Local Plan was adopted in 1997 and was intended to cover the plan period until 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.
65. The County Plan is at the beginning of the process to consider and ultimately adopt its policies. In terms of this document's relevance to the current application is dictated by this Plan's early stage, it being considered that only the position on the five year housing land supply is of relevance and material weight to this application.

#### The NPPF

66. 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.
67. 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.
68. 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.
69. However, Paragraph 14 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as relevant policies within the Local Plan are out-of-date where outlined below.

#### Policy Principle and Housing Land Supply

70. In terms of compliance with the Development Plan, there are no relevant housing Policies in the Development Plan. Determination therefore reverts to paragraph 14 of the Frameworks and its presumption in favour when considering the planning balance, which takes into account the following topic areas. As stated in paragraphs 35 – 40 above the Council is able to demonstrate in excess of 6 years supply of deliverable housing land. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than where such a

healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

#### Impact upon the Surrounding Area and Neighbouring Amenity

71. The application is proposed on a large area of land south of the existing settlement, currently occupied by a single dwelling. The site is exposed, visible on rising ground when approached from the south, and to counter this the existing hedgerow on the southern boundary of the land is proposed significantly enhanced. A clear separation of agricultural land will remain to ensure that the settlements of Tantobie and Tanfield Lea remain visually separate, noting that their proximity is such that the facilities shared between the villages – in particular the school – are within easy reach via an appropriately paved and illuminated pedestrian public highway. The development site in principle appears a logical extension of the existing settlement, in a sustainable location.
72. There are no residential amenity implications for dwellings in the existing settlement and the layout proposed is acceptable for privacy and amenity relationships between dwellings. Environmental Protection Officers are satisfied that the relationship between new dwellings and the adjacent small bus depot is acceptable and is unlikely to lead to Statutory Nuisance complaints, subject to conditions. The proposal is considered compliant with Policy GDP1(h) which seeks to protect residential amenity.

#### Highway Safety

73. The revised scheme and conditions can ensure that the scheme can be built to adoptable standards. The pedestrian connection between Tantobie and Tanfield Lea – in particular linking pedestrian access to the school in the latter settlement – has a good single footpath, with the highway illuminated on both sides of the road. The proposed layout proposes connection to an existing off-road bridleway (i.e. pedestrian / bicycle / horse-rider accessible) known as Kyo Greenway, which joins Tanfield Lea to the western end of Tantobie and White-le-Head, giving an off-road, albeit unlit, connection between the settlements and their facilities. The proposals are considered compliant with Policy TR2 and TR3 of the Development Plan and paragraph 32 of the Framework.

#### Affordable Housing

74. Council consultees' responses to the applicant's use of the 'Prince Bishop's Model' of 'affordable' housing illustrates the complexity of this issue. Housing Officers have advised that they do not accept this model – in the current legislative context and government advice and definitions as truly 'affordable'. As a form of low cost, assessable housing provided by a Registered Social Landlord, Planning Officers have recommended in the past that whilst this is the case, positive material weight be given to the model, if it is not – at present in full accordance with the Framework's definition of such – noting at this time that this definition is on the cusp of significant revision. Some positive material weight is recommended attached to this element of the proposals again, it being aimed at delivering 'a wide choice of high quality homes, widen opportunities for home ownership and (to) create sustainable, inclusive and mixed communities' (NPPF paragraph 50).

#### Scale and character

75. Policy GDP1 of the Plan requires developments to be in keeping with the character and appearance of the area, with form, mass, layout, density and materials

appropriate to the site's location. The layout has been revised both to provide a street frontage with a consistent materials palette, and in terms of layout, to give a linear form of development that better reflects the existing settlement's layout. The development is concluded to meet the expectations of Policy GDP1(a).

## Drainage

76. The applicant has responded to the Drainage Section's request for additional information on surface Water Drainage with additional technical information. Drainage Engineers are, as a result of the site layout and the sloping topography, not convinced that the required commitment to sustainable drainage has been demonstrated as physically achievable within the submitted layout. They are concerned that reliance on a condition will result in pressure for compromises that will result in a less sustainable drainage scheme than could be achieved, contrary to the requirements of the NPPF which, 'gives priority to the use of sustainable drainage systems'. Drainage Engineers repeatedly raise concern that this is a recurring problem. The Development Plan only requires, at Policy GDP1(i), 'adequate provision for surface water drainage', and is therefore not Framework compliant. The NPPF (part 10) sets out requirements to ensure that sustainable surface water drainage systems are incorporated into development schemes. Drainage Officers are not satisfied that this has been properly approached and its omission justified

## Education

77. The County Education Department has previously indicated that there is sufficient capacity in the school system to accommodate any demand the development may generate. The scheme has therefore been appropriately assessed against paragraph 72 of the NPPF.

## Landscaping

78. The scheme proposes development of open countryside and therefore by definition causes landscape harm. The scheme has been redesigned to address Landscape Officers' detailed concerns to the initial layout, particularly in terms of the strengthening of the hedge on the southern boundary, and taking that planting out of private gardens. The scheme shown proposed both on this boundary and across the estate, could be ensured and secure by imposition of an appropriate condition to ensure compliance with Policy GDP1(f) of the Local Plan.

## Ecology

79. The upper area of the site is proposed as Ecology mitigation as, 'semi-natural amenity space', therefore reserved for apparent ecology mitigation, the presence of mine shafts combined with the topography compromising its development and open space potential. The term and the offer of a condition to address matters of detail is not specific enough to be able to attribute its mitigation value in assessing the loss of existing habitat. This has not been subject to a quantified assessment such as a Biodiversity Impact Assessment Calculator to determine the scale of the extant biological resource and from that determine the amount and type of habitats required to ensure that there is no net loss. It is unlikely that this area could compensate for the loss of the remaining development site, and it is noted that the developer is resisting off-site mitigation payments on other topic areas. The County Council's Senior Ecologist objects to the proposals in their current form.

## Open Space / Play Space

80. Spatial Policy Officers have identified a requirement for a contribution of £39,780, or £374 per unit to mitigate the development's effects on a range of open space typologies, and ensure the needs of the new residents are met.
81. With the use of the upper area of the site is reserved for apparent ecology mitigation, the presence of mine shafts combined with the topography compromising its development and open space potential. The landform reduces the attractiveness of this area of undeveloped space for many potential leisure uses, and in the absence of detailed proposals, any benefit the development could potentially accrue from the land cannot be quantified. With viability arguments offered against s.106 payments, the case that the scheme meets its responsibilities for providing reasonable Open Space and Ecology expectations is not made. In turn there is an argument that this undermines the sustainability of the existing community and its facilities by placing extra pressure on them.
82. Members will also be aware of the requirements for seeking and imposing an s.106 agreement for payments in mitigation of lack of provision of on-site requirements. A lack of clarity in the assessment of impacts and the specifics of on-site mitigation prevents the clarity required in such an agreement.

## Footpaths

83. Footpaths Officers set a context for the proposed footpath link at the western edge of the site which appears to be a benefit, noting that contributions to the additional maintenance requirements the development will generate would be expected. It is not clear from the applicant's acknowledgement of the requirement for a section 106 agreement to secure this whether this represents an acknowledgement of a requirement for maintenance costs for such.

## Economic Benefits

84. Whilst not quantified to a degree that would allow specific weight to be added to this important component of the planning assessment, that the development will bring economic benefits to the local economy during the construction phase of development and from the subsequent economic activity of new residents in the lifetime of the development is a material factor in favour of the development.

## Noise and site works

85. Specialist Officers suggest conditions to mitigate these areas, both during site works and in the lifetime of the development.

## Heritage Assets

86. There are no Heritage Assets identified on or adjacent to the site. Officers consider that the archaeological implications of development could be addressed by an appropriately worded condition.

## Contamination

87. Specialist Officers confirm that contamination on site can be dealt with by way of appropriate conditions.

## The Balancing Exercise

88. The application brings the benefits of adding to the County's housing supply in a location that could be considered 'sustainable'. It increases opportunities for home ownership. Spatial Policy Officers have described this benefit as, 'limited', and this is particularly so in the context of the Council's current stated housing land supply position. The short term benefits to the local economy brought by the construction phase are also identified as of positive material weight. Economic activity by new residents counts in the application's favour.
89. The lack of functional open space within the scheme would usually be mitigated through monies in lieu, secured through a legal agreement. In this case the applicant has argued that such a payment would adversely affect the viability of the scheme resulting in it not being deliverable.
90. Likewise that the impact on Ecology is not quantified to the satisfaction of the County Ecologist, and the proposed mitigation suffers likewise. Not likely to be fully mitigated on the fenced, sloping upper area of the site, payments in lieu are unlikely to be agreed on viability grounds.
91. Council Drainage Engineers are not satisfied that the development has been planned with appropriate reference to the required sustainable drainage hierarchy. Such an approach is possible on the land – but not in the context of the proposed layout.
92. These negative issues are such, that notwithstanding the acknowledged potential benefits of the scheme, consideration of the planning balance has led Officers to the following conclusion.

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## **CONCLUSION**

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93. The development of the site is potentially acceptable in principle, and in terms of the layout and location raises no concerns at the present time. The local community have offered no objection to the scheme. Potential benefits have been identified including contribution to housing supply, forms of accessible housing and the economic activity that would be generated both in the build process and in the lifetime of the development.
94. There are however significant topic areas within which concerns remain to an extent whereby Officers do not feel the case for an overall sustainable development has been made.
95. The NPPF sets out requirements to ensure that sustainable surface water drainage systems are incorporated into development schemes. Drainage Officers are not satisfied that this has been properly approached and its omission justified. The requirements for the scheme to achieve a net biodiversity gain are likewise not assessed and proposed mitigated in detail for the development proposals to give comfort that they can and will be delivered. Whilst the existing settlement provides for itself in terms of provision of allotments and formal and informal public open space, the lack of contribution from the scheme reduces its sustainability credentials, to the potential detriment of the existing settlement and its residents.
96. These issues are such that Officers consider that the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits therefore paragraph 14 of the NPPF directs refusal of the application.

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## **RECOMMENDATION**

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95. That the application be **REFUSED** for the following reason:

The application represents an unsustainable form of development for the following reasons:

- The applicant has failed to provide detailed information in respect of surface water drainage proposals (SuDS) for the application site. The lack of precise drainage arrangements incorporating a SuDS scheme to alleviate potential surface water run-off from the proposed development is contrary to Part 10 of the NPPF.
- The proposal fails to recognise the biodiversity value of the site and those measures designed to mitigate for the losses arising from the scheme do not adequately compensate for the loss of habitat resulting in a net loss of biodiversity contrary to Part 11 of the NPPF.
- Inadequate open space has been provided on site contrary to Policy HO22 of the Derwentside District Local Plan and this deficiency has not been mitigated through an offsite contribution.

In the absence of a completed S.106 Legal Agreement or Unilateral Undertaking the proposal fails to mitigate against its direct impacts (loss of habitat and inadequate open space provision) and does not, therefore, represent a sustainable form of development.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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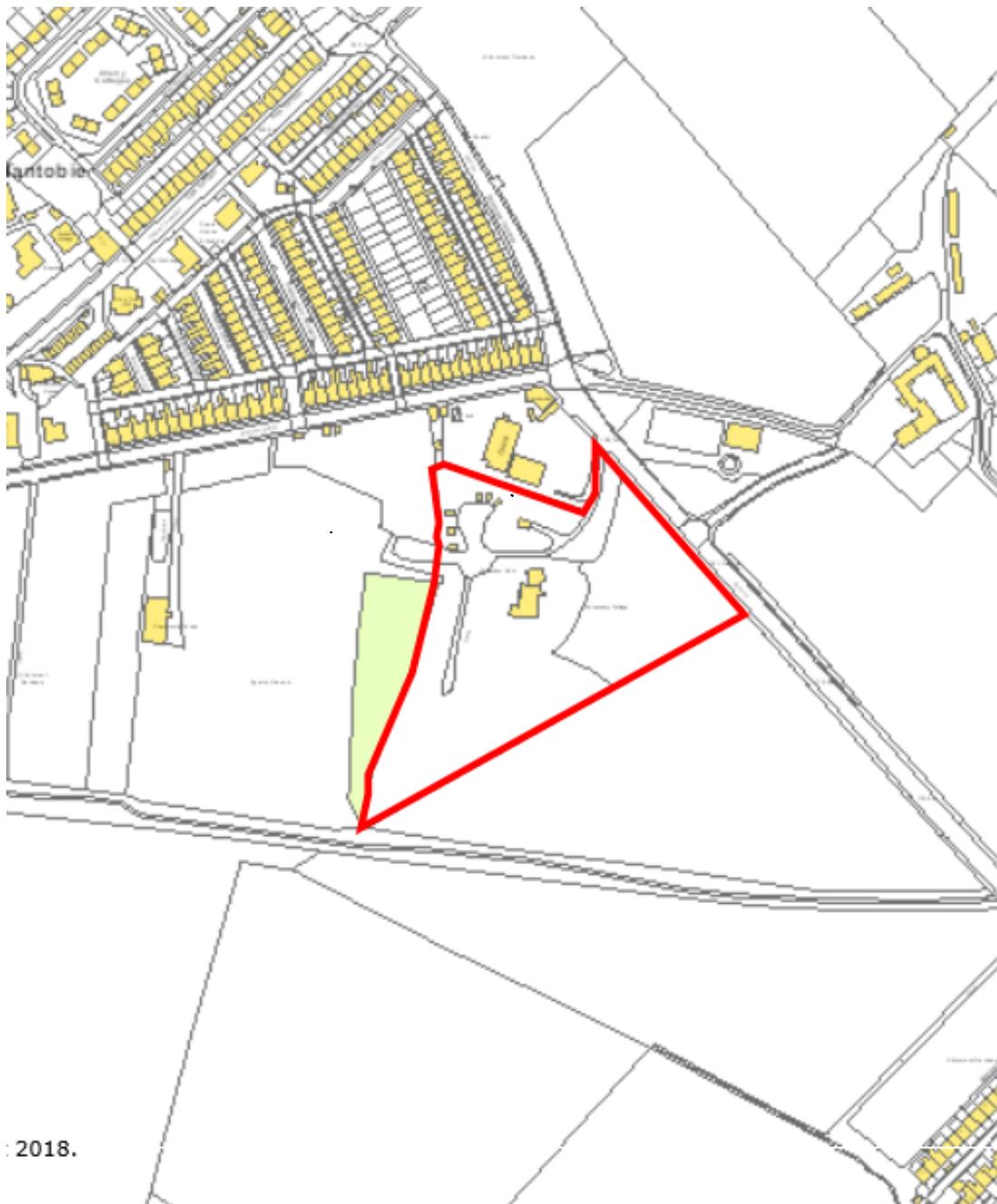
The Local Planning Authority in arriving at the recommendation to refuse the application has been consistent in advice with regards the application and has considered the possibility of a positive outcome in accordance with the NPPF but it has not been possible in this instance.

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## **BACKGROUND PAPERS**

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The National Planning Policy Framework (2012)  
National Planning Practice Guidance Notes  
Derwentside District Local Plan 1997 (saved policies)  
Statutory, internal and public consultation responses  
Submitted forms, plans and supporting documents



**Planning Services**

Erection of 52 detached and semi-detached dwellings including affordable units with associated services, infrastructure and landscaping.

Application Number DM/17/03445/FPA

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**Comments**

**Date** 28<sup>th</sup> June 2018  
2018

**Scale** NTS