

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/18/00833/OUT
FULL APPLICATION DESCRIPTION:	Outline application for the demolition of an existing bungalow and associated outbuildings and the construction of 9 dwellings with all matters excluding access reserved for future consideration
NAME OF APPLICANT:	Mr S Langley and Mrs S Minto
ADDRESS:	Deerness Villa, Sleetburn Lane, Langley Moor, Durham DH7 8LQ
ELECTORAL DIVISION:	Brandon
CASE OFFICER:	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a parcel of land approximately 0.5 hectares in area located around 500 metres to the north of Langley Moor, Durham and is situated within a cluster of residential dwellings set around Old Langley Hall and Langley Hall Farm.
2. At present the site hosts a single dwelling with associated curtilage, private amenity space and driveway taking an access from the C18 Sleetburn Lane to the north. As the site is also used as the operational base for a landscape gardening business it includes several large, freestanding poly tunnels and a detached building constructed in block and render which provides storage and office accommodation for the business. In addition, the site hosts several commercial vehicles at any one time including transit and flat bed style vehicles.
3. In terms of the wider area the site is framed by residential dwellings to the north and a recent development of converted farm buildings to the east. An area of woodland lies to the south and west and it is noted that the site also sits within the context of a Grade II Listed building to the north at Old Langley Hall. In addition, Public Footpath No. 91, follows the route of the sites northern boundary.

The Proposal

4. Outline planning permission is sought for the erection of up to 9 dwellings with all matters excluding access reserved for future consideration.

5. Details submitted for full consideration in this regard identify a proposed access from the C18 (Sleetburn Lane) to the north which shows requirement to widen the current arrangement through the removal of a section of boundary wall immediately to the west of the access, the inclusion of a footpath and the formation of a junction radii of 6 metres.
6. Whilst details of layout, landscape, appearance, and scale are reserved for future consideration, the application is nevertheless supported by an indicative site layout which shows a linear arrangement of 9 properties set around a cul-de-sac street scene with turning head and comprising a mix of detached and semi-detached styles.
7. The application is being reported to planning committee at the request of Cllr Paul Taylor who is the Local Councillor for the ward and considers that the development raises issues in relation to the impact upon residential amenity and highway safety to the extent that the application be reported to planning committee.

PLANNING HISTORY

8. Planning permission was previously granted for the installation of a single storey pitched roof to the existing dwelling in 1999. No other planning permissions exists relevant to consideration of this application or the application site itself.

PLANNING POLICY

NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *NPPF Part 5 Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
12. *NPPF Part 6 Building a Strong, Competitive Economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
13. *NPPF Part 8 Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted

14. *NPPF Part 9 Promoting Sustainable Transport*: Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 12 Achieving Well Designed Places*: 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.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
17. *NPPF Part 16 Conserving and Enhancing the Historic Environment*: Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

LOCAL PLAN POLICY:

City of Durham Local Plan

18. Policy E7 (Development in the Countryside) advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
19. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
20. Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.
21. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
22. Policy E23: Listed Buildings states that the Council will seek to safeguard listed buildings and their setting.

23. Policy E24: Ancient Monuments and Archaeological Remains states that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ.
24. Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
25. Policy T1 (Traffic – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
26. Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
27. Policy R11 (Public Rights of Way and Other Paths) states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless, a suitable alternative route is provided.
28. Policy Q1: General Principles – Designing for People states that the layout and design of all new development should take into account the requirements of users. It will be expected to incorporate the following as appropriate personal safety and crime prevention, the access needs of people with disabilities, the elderly and those with children.
29. Policy Q2: General Principles – Designing for Accessibility states that the layout and design of all new development should take into account the requirements of users. It will be expected to embody the principle of sustainability and to incorporate the following as appropriate.
30. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
31. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
32. Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
33. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

34. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

35. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. The Highway Authority has no objection to the application noting that appropriate access improvements and sight visibility splays could be achieved and although indicative, these demonstrate that adequate distances between the adopted highway and plots 1 and 9 as shown could be achieved. In addition, the applicant has amended the scheme to retain the existing bus stops in situ and meet the cost of improvements to the westbound bus stop comprising a hardened verge and raised kerb.
37. Northumbrian Water Limited has no objection to the application subject to the inclusion for a planning condition which requires the submission and agreement of a scheme for the disposal of soil and surface water prior to the commencement of development.
38. Drainage and Coastal Protection Section has no objection to the application.

INTERNAL CONSULTEE RESPONSES:

39. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of planning conditions to control the environmental impact of the development during the construction phase (to include the submission and agreement of a construction management plan to demonstrate how noise, vibration and dust in particular would be controlled).
40. Design and Conservation Section raises no objection to the application upon receipt of a heritage statement and is satisfied that as this is an outline application including only access at this time, a detailed scheme can be delivered at the reserved matters stage which will not be harmful. However, the indicative layouts submitted with the application in support of the principle of development should not be seen as endorsement for such layouts to form the basis of the future reserved matters application.

41. Landscape Section has no objection to the application.
42. Arborist subject to the inclusion of a condition regarding the submission and agreement of appropriate tree protection measures relating to the construction phase.
43. Ecology Section has no objection to the application subject to the inclusion of a planning condition requiring the implementation of the mitigation described in the supporting Bat and Great Crested Newt Risk Assessments.
44. Archaeology Section has no objection to the application.
45. Public Rights of Way Section has no objection to the application after further information was provided which clarified the extent to which the improvements to the access would impact upon the adjacent Public Right of Way (Footpath No. 91 to the north of the site) and the applicant agreed to provide a commuted sum of £15,000 to improve the section of PROW to the north of the site.

PUBLIC RESPONSES:

46. The application has been publicised by way of site notice and notification letters to neighbouring properties. Six letters of objection have been received and one letter of support. The reasons for objection are summarised as;
 - a) Highway Safety: There have been several accidents and daily near misses between vehicles and pedestrians immediately adjacent to the site access. As a result, the development would have an adverse impact upon highway safety, particularly given vehicle speeds, the narrowness of the road and the position and design of the proposed junction is not suitable. In addition, the position of the bus stop would have an adverse impact on the access for adjacent properties.
 - b) Residential Amenity: The development would have an adverse impact upon the residential amenity of adjacent occupiers in respect of overbearing, overshadowing and loss of sunlight and privacy, particularly to an adjacent property to the east. In addition, there would be increased disturbance from noise as a result of additional vehicle movements.
 - c) Principle of Development: Granting of planning permission would set a precedent which would lead to other similar application within the hamlet. Alternative more centrally located sites within Langley Moor should be developed before this site is considered.
 - d) Deficiencies within the application some of the plans for which do not include points of access at other properties and no detailed elevations have been provided.
 - e) Public Right of Way: The development would have an adverse impact upon Footpath No 91 to the north of the site and it is not clear from the application how this would relate to the development.
 - f) Land Ownership: Uncertainty with regard to ownership relating to the area required for junction improvements.
 - g) Heritage Asset: The development would have an adverse impact upon an adjacent listed building at Langley Hall Farm.

- h) Ecology: The development would have an adverse impact on the local bat population.
- i) Ground Water Drainage: The development would worsen a significant problem with existing ground water drainage which flows overland and onto Sleetburn Lane and onto adjacent properties.
- j) Concerns were raised regarding the extent to which the application was publicised and in particular that two properties to the north of the site should have been sent neighbour notification letters.

47. The reasons for support can be summarised as;

- a) The development of High End Executive properties would bring positives to the hamlet and likely affect a decrease in traffic.

APPLICANTS STATEMENT:

48. The key issues and concerns raised in the Pre-Application Enquiry (PRE28/17/01348) response have been carefully considered and, where necessary, additional specialist consultants have been appointed to prepare specific reports.

The submitted application (DM_18_00833_OUT) is for Outline Consent with all matters excluding access reserved for future consideration. Consequently, details pertaining to Layout, Scale (& Massing), Appearance & Landscaping would be the subject of a reserved matters application should approval be granted.

The proposals are the result of a careful and considered design process which accord with relevant aspects of local and national planning policy and are the outcome of a diligent process involving close design dialogue with both the pre-app and outline application case officers.

We would hope that the extensive range of supporting information provided serves to address any concerns raised and subject to planning being granted believe the development would provide for additional high quality dwellings that would ensure the hamlet maintains its vitality within the immediate and wider setting.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

49. 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, impact upon residential amenity, landscape and visual impact, designated heritage asset, highway safety, public rights of way, ecology, drainage, land contamination and planning obligations.

Principle of Development

50. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CofDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that to the weight to be afforded to saved local plan policies will depend upon their degree of consistency with the NPPF.
51. The City of Durham Local Plan (CofDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 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.
52. On this basis, given the age of the CofDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
53. Policy E7 of the CofDLP is relevant and advises that new development outside existing settlement boundaries will not normally be allowed. As the development site falls outside of the settlement boundary of Langley Moor, as defined in the local plan, it does not accord with Policy E7. However, the out of date evidence base which underpins this policy means that it must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.
54. Consequently, there are no up to date policies in the development plan against which the principle of development can be determined and as noted regard must therefore be had to Paragraph 11 of the NPPF which 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 there are no relevant development plan policies or the policies which are of most important to determining the application are out-of-date, granting permission unless:
 - i) the application of policies in the framework that protect areas or assets of particular importance provide a clear reason for refusal
 - ii) 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;

55. Having regard to the above, the Development Plan is considered to be out of date with respect to this proposed development and there are no policies that protect areas or assets of particular importance which provide a clear reason for refusal. As a result, the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

Five year Housing Land Supply

56. Paragraph 67 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.

57. 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) which is now also reflected in paragraph 60 of the NPPF. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).

58. 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 13th 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.

59. Accordingly, the benefit of boosting housing land supply will need to be factored into the planning balance, whilst recognising that the benefits of delivering new housing would be less than if a shortfall in supply existed

60. Objections have been received from residents regarding the principle of developing this site before greenfield sites and that brownfield land should be developed first. Whilst at paragraph 118 the NPPF notes that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs, this does not preclude the development of brownfield sites not falling within existing settlement limits.

61. In addition, residents have also raised concerns that if planning permission is granted for the development of this site, it would set a precedent that would lead to other applications for residential development elsewhere in the hamlet. However, it is noted that this application relates only to the application site, and any future application for residential development elsewhere within the hamlet would be the subject of a separate planning application, and assessed on its planning merits at that time.

Locational Sustainability of the Site

62. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. In this respect, whilst recognising that the development is located on the edge of a small Hamlet at Old Langley Hall, approximately 580 metres to the north of Langley Moor, it is nevertheless considered that the scheme would integrate itself well into the built environment, occupying previously developed site, and be within walking distance of shops, services and public facilities at Langley Moor. The presence of a bus route past the northern boundary of the site is noted as is the proximity of two existing bus stops.
63. Whilst it is acknowledged that the site lies outside of any settlement boundary as defined in the City of Durham Local Plan, and as such displays some level of conflict with policy E7 which advises that new development outside existing settlement boundaries will not normally be allowed, the out of date evidence base which underpins this policy is such that it must be regarded as being out of date for the purposes of paragraph 11 of the NPPF and can be afforded only limited weight as a consequence.
64. The development could therefore be considered acceptable in principle subject to proper consideration of the impact of the proposal upon residential amenity, landscape and visual impact, designated heritage asset, highway safety, public rights of way, ecology, drainage, land contamination and planning obligations as well as the overall planning balance test.

Impact upon Residential Amenity

65. Policy Q8 of the CofDLP provides detailed design advice for new residential development and policy H13 states that planning permission will not be granted for new development which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. The former prescribes separation distances of 21 metres between windows of habitable rooms, 13 metres between blank two storey gable elevations and windows to habitable rooms and 6 metres between windows to blank single storey gable elevations. These policies are considered NPPF compliant particularly with regard to paragraphs 127 and 180 of the NPPF which require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution respectively.
66. Whilst it is noted that detailed matters in relation to scale and layout are reserved for future consideration the application is nevertheless supported by an indicative site layout which shows a total of 9 No. properties set around a cul-de-sac street arrangement. Of these, properties at Plots 8 and 9 would present rear elevations to the east facing the rear elevation of an existing dwelling at The Lodge. As a consequence residents of the adjacent dwelling have, in objecting to the application, raised concerns that any dwelling at Plots 8 and 9 would appear overbearing, unacceptably overshadow the western elevation of their property and private garden and restrict light to existing windows.
67. Whilst these concerns are noted the site layout has been provided for indicative purposes only and as such any detail relating to layout is not submitted for consideration in determination of this application.

68. Notwithstanding this, the submitted plan nevertheless demonstrates that separation distances described in policy Q8 of the City of Durham Local Plan could be achieved within the development itself. With regard to existing dwellings, (particularly those to the east at The Loft and The Cottage), there is a significant change in levels between the two sites and as such the introduction of new development within this part of the application site would inevitably have some impact. However, the current single storey dwelling which already occupies this part of the site and has some impact in this regard, would be removed as part of the proposal.
69. Consequently, the application provides sufficient information in order to demonstrate that the site is capable of accommodating residential development of the type described with agreement of precise detail in terms of layout, appearance and scale subject to detailed consideration at reserved matter stage should permission be granted and this would involve consideration of the impact of the development upon residential amenity including loss of privacy, overbearing or overshadowing. With this in mind it is considered that a suitable design could be achieved which does not have an unacceptable impact upon the residential amenity of adjacent occupiers, particularly given the windows to the rear of elevation of the adjacent property appear to serve an internal corridor, WC and kitchen.
70. Whilst it is likely that the outlook to the rear of The Lodge would be altered as a result of the proposal, it is considered that development could be accommodated which would not result in any unacceptable reduction in the amenity for existing residents in terms of overlooking, loss of privacy or outlook as a result of the development.
71. In order to limit the potential for disturbance during construction the Council's Environmental Health Section (Noise Action Team) recommends that a construction management plan be secured to deal with construction related impacts including control of working hours. Subject to the imposition of such a condition in this regard it is considered that any adverse impacts could be satisfactorily mitigated.
72. Overall, the scheme would therefore comply with CofDLP Policies Q8 and H13 and Part 15 of the NPPF in that it would not lead to a significant reduction in residential amenity for existing or future residents.

Landscape and Visual Appraisal

73. The site is located on high ground at the eastern tip of a Pennine spur dividing the Deerness and Wear Valleys. It is well framed by existing buildings to the north and east and by woodland to the south and west, the latter in particular screening views of the site which it is noted does not fall within any landscape designation.
74. Policy H13 of the Local Plan is therefore relevant which states that planning permission will not be granted for new development which have a significant adverse effect on the character or appearance of residential areas. In addition, policy Q8 requires the design and layout of new residential development to take into account the need to retain existing features of interest within the site including trees and hedgerows and to be appropriate in scale, form, density and materials to the character of its surroundings and policy E14 requires the retention of existing trees wherever possible.
75. Both policies display a broad level of accord with the approach contained within Part 12 of the NPPF which seek to promote good design, while protecting and enhancing local environments. In particular paragraph 127 states that planning decisions should aim to ensure developments function well and add to the overall quality of the area.

76. Whilst it is noted that the application is submitted in outline only with details of landscape, layout, appearance and scale reserved for future consideration, based on the indicative layout plan submitted, it is considered that residential development could be accommodated at the site which would not have an unacceptable adverse impact upon the character and appearance of the surrounding area, subject to review of a reserved matters application. The Council's Landscape Section and Arborist therefore have no objections to the application subject to the inclusion of a planning condition requiring the implementation of appropriate tree protection measures prior to the commencement of development and that these be retained for the duration of the construction phase.
77. Overall, and subject to the consideration of any future reserved matters application, it is considered that the scheme could deliver a high quality visually attractive development in accordance with CofDLP Policies Q8 and H13 and Part 12 of the NPPF.

Design and the Impact upon Heritage Assets

78. CofDLP Policy E23 seeks to safeguard listed buildings and their setting by not permitting development which detracts from the setting of a listed building. This policy is considered broadly consistent with the NPPF in this respect, which sets out at Part 16, that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance whilst recognising that some harm may be appropriate when weighed against the public benefits of a scheme. These policies reflect the requirements of Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. S.66 requires that special regard must be paid to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
79. The application is supported by a Heritage Statement which assess the impact of the proposal upon the nearest heritage asset, which in this instance is identified as the Old Langley Hall to the north of the site which is Grade II listed. The heritage statement concludes that the development of the site would not have any unacceptable impact upon the character or setting of the adjacent Grade II Listed Building.
80. In reviewing the submitted heritage assessment and considering the potential impacts of the development the Council's Design and Conservation Section is satisfied that as the application is submitted in outline (including only details matters relating to access), a detailed scheme could be delivered at the reserved matters stage which will not be harmful to the nearby Grade II Listed Building. However, whilst indicative layouts are submitted in support of the application, the acceptance of the principle of development should not be seen as any endorsement of these layouts to form the basis of any future reserved matters application.
81. With this in mind it is considered that the application provides sufficient information to demonstrate that residential redevelopment of the site as proposed would not have any unacceptable impact upon the character and appearance of the surrounding area and would preserve the special historic character of the Grade II Listed Building at Old Langley Hall in accordance with the aims of policy H23 of the CofDLP, paragraph 193 of the NPPF and Sections 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

82. The application relates to outline planning permission although detailed matters relating to access are submitted for consideration. These identify a means of access which would occupy the position of the current site access onto the C18 (Sleetburn Lane) which is currently gated and flanked by stone walls to both sides. Improvement works would include the widening of the access, the provision of 6 metre junction radii and adequate sight visibility splays. With regard to the latter a speed survey has been undertaken and is submitted in support of the application which identifies minimum sight visibility splays of 37 metres as being required.
83. Several residents have raised concerns and objection to the application in relation to the impact of the proposal upon highway safety. These concerns relate specifically to a belief that the proposal would generate a level of traffic detrimental to highway safety citing previous instances where vehicles travelling this route have left the carriageway and collided with an adjacent stone wall.
84. Policy T1 of the CofDLP states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant impact on the amenity of adjacent occupiers of neighbouring property. This approach is considered to display a broad level of accordance with the aims of paragraph 108 of the NPPF.
85. As already noted the application is supported by a speed survey which calculated appropriate visibility splays at the junction of 37 metres and the Highway Authority is satisfied that these are both appropriate and could be satisfactorily achieved.
86. Other improvements to the access include its widening and the provision of 6 metre junction radii which the Highway Authority has confirmed could again be satisfactorily achieved subject to S278 Agreement. Notwithstanding this, an adjacent occupier has queried the extent to which the improved access would affect land within their control. As a result the applicant has amended the extent of the application site and made alterations to the junction to ensure that all land within the application site is either within their control or forms part of the adopted highway. Whilst this has resulted in a marginal reduction to the width of the proposed footpath serving the development, this would not undermine pedestrian safety to the satisfaction of the Highway Authority.
87. Whilst the application had originally proposed the relocation of two existing bus stops this element has since been removed from the proposal upon the advice of the Highway Authority which advised that these should be retained in their current location. However, the applicant has agreed to meet the cost of providing a hardened verge and raised kerb to the west bound bus stop which could be ensured through planning condition and joint Section 38 and 278 Agreement.
88. In summary, the proposed access arrangements are considered acceptable and would provide safe and adequate means of serving the development, which itself is not considered to generate a volume of traffic that would be detrimental to highway safety. The proposal is therefore considered acceptable in accordance with the aims of policy T1 and paragraph 108 of the NPPF subject to planning conditions requiring improvements to the existing access, that these be completed prior to the commencement of development and.

Public Rights of Way

89. The site is framed by a Public Right of Way to the north comprising Footpath No. 91 which is located parallel to the sites northern boundary and links to Footpaths Nos. 90 and 91 to the west and Nos. 87 and 88 to the east. Whilst the applicant has confirmed there would be no direct impact upon the PROW as a result of the improvement works to the site access a short section of wall adjacent to the PROW would be removed.
90. Policy R11 of the CofDLP states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative route is provided and the proposal accords with policy T21 where possible the existing network of public rights of way and other paths will be extended. This approach displays a broad level of accord with the aims of paragraph 98 which states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.
91. In this respect the applicant has provided sufficient information to the satisfaction of the Council's Public Rights of Way Section, to adequately demonstrate that the development would not have any unacceptable impact upon the existing right of way and would not require any stopping up or diversion of this route.
92. The route provides an important pedestrian link for future residents to the wider footpath network and shops and services to the south at Langley Moor. However, it is noted that previously this route has been subject of complaint to the Council's PROW Section given the poor and muddy path surface and illegal access by motorbikes. These are notable barriers to its use and as such works to improve this route (comprising the creation of a 1m wide permeable path along Footpath 91 (sub-base with whinstone finish construction), and approx. 2m wide re-whinstone dusting of the surface of Footpath 92) would improve access and could be secured through a commuted sum payment of £15,000 via Section 106 Agreement.
93. It is understood that the development would facilitate some improvement through improved visibility for users as a result of the removal of a short section of adjacent boundary wall and through a commuted sum contribution of £15,000 to be spent on improving the footpath surface from adjacent to the proposed development through to High Shaws to the south-west. Works would include creating a 1m wide permeable path along Footpath 91 (sub-base with whinstone finish construction), and approx. 2m wide re-whinstone dusting of the surface of Footpath 92. Footpath 91 is an arable field edge path, well-trodden when viewed on site. Footpath 92 is an existing track through woodland.
94. Subject therefore to a commuted sum payment of £15,000 being secured through Section 106 Planning Agreement to be used in improvements to the existing public right of way, the development is considered to accord with the requirements of policy R11 of the CofDLP and paragraph 98 of the NPPF in that it would not have any unacceptable impact of the existing public right of way network.

Ecology

95. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests. As the application involves the demolition of existing buildings and works within 250 metres of 4 No. ponds a Bat Risk Assessment and Great Crested Newt Survey support the application.

96. The Bat Risk Assessment concluded that whilst the site itself provides poor quality foraging for bats, the edges of an adjacent woodland are likely to be an important foraging and commuting resource for any bats roosting within the wider area. Activity surveys were undertaken of the buildings in May and June 2018 with no roosts identified and as such overall, bat activity was generally found to be low and more focussed on the woodland boundaries. However, an avoidance and mitigation strategy is included within the report and advises careful design of external lighting, new wildlife pond construction, retention of trees, timing constraints, precautionary working methods.
97. With regard to great crested newts it is noted that a risk assessment and survey of nearby ponds were completed in June 2018 and found no great crested newts. As such the site is considered to be of low value for Great Crested Newts although mitigation is advised comprising the formulation of a precautionary statement.
98. The Council's Ecologist has been consulted and offers no objection to the application subject to the inclusion of a planning condition requiring the implementation of the mitigation stated in the Bat and Great Crested Newts risk assessments and surveys. Despite concerns from local residents that the development would adversely impact upon the local bat and great crested newt population it is considered that subject to the inclusion of a planning condition to ensure appropriate mitigation, the development to accords with the aims of Part 15 of the NPPF.

Drainage

99. Policy U8A of the CofDLP states that development proposals will only be approved if they include satisfactory arrangement for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
100. Means of drainage and disposal of foul and surface water are raised in objection to the application by an adjacent occupier who advises that at present surface water run-off from surrounding land onto their property is a problem during periods of rainfall.
101. Notwithstanding these concerns NWL and the Council's Drainage and Coastal Protection Section have been consulted and raise no objection to the application which is considered to accord with the requirements of policy U8A of the CofDLP subject to the inclusion of a planning condition requiring the submission and agreement of precise detail of the means of disposal of foul and surface water can prior to the commencement of development.

Contaminated Land

102. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
103. It is noted that the site currently hosts a single dwelling and office accommodation and several poly tunnels used in association with a landscape gardening business which operates from the site. The Council's Contaminated Land Section has no objection to the application which is considered to accord with the requirements of paragraph 178 of the NPPF.

Planning Obligations

104. As noted a planning contribution by way of a £15,000 commuted sum for improvements to an adjacent public right of way would be secured through a S106 Agreement and is required in order to improve pedestrian access to the site

Other Matters

105. Objections have been received citing concerns regarding the extent to which the application was publicised and in particular that two properties to the north of the site should have been sent neighbour notification letters. However, it is noted that the application has been advertised by way of site notice and neighbour notification which exceeds the minimum statutory requirements as defined by the Town and Country Planning (General Development Procedure) Order 2014.
106. Objections have also been received from residents with regard to uncertainty regarding the land ownership of the area required for junction improvements at the site access. This has been raised with the applicant who advises that all of the land identified for improvement is situated within the adopted highway.
107. In addition, residents have raised concerns that some of the supporting plans do not identify the position of other points of access onto Sleetburn Lane. However, the level of information is considered sufficient when considered against the requirements of the Council's Validation Checklist.

Planning Balance

108. As the relevant policies of the CofDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

Benefits

109. Similarly, a planning condition would secure improvements to an existing bus stop to the north of the site through provision of a hardened verge and raised kerb secured through Section 38/278 Agreement.
110. The development would also provide some benefit in terms of a boost to housing supply, although it is noted that this could be considered limited at 9 dwellings and in the context that the Council's ability to demonstrate a 5 year supply of housing land. Less weight should be afforded to the benefits of delivering new housing in this regard as such than would otherwise be the case if a significant shortfall in supply existed.
111. To a limited degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area. Such benefits can be afforded some weight.

Adverse Impacts

112. Whilst the development would have some adverse impact in that it would inevitably alter the outlook for occupiers of adjacent properties, any impact in this regard would likely be limited given the application site currently hosts a single dwelling and associated outbuildings.

CONCLUSION

113. As the CofDLP is silent and housing land supply policies are out of date, the presumption in favour of sustainable development is engaged. The residential development is therefore required to be considered in the context of Paragraph 11 of the NPPF, which states that the development be granted planning permission unless, the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
114. The principle of development is considered acceptable and the proposal would accord with one of the key aims of the NPPF to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which can be made sustainable given the proximity of local services and public transport.
115. Therefore, when considered in the context of paragraph 11 of the NPPF it is considered that the proposal would not have any adverse impacts which would significantly or demonstrably outweigh the benefits.
116. The proposal has generated some public interest, with a number of letters of objection having been received. The objections and concerns raised by local residents have been taken account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions.

RECOMMENDATION

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

- £15,000 commuted sum to be used to upgrade the existing Footpath Nos 91 and 92 to the north and west of the site.

And subject to the following conditions;

1. Approval of the details of the appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced other than remediation works and site access works.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters of the development 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 approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last reserved matter 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 comprise a maximum of 9 dwellings.

Reason: To define the consent and precise number of dwellings approved

4. No development shall commence until such time as 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. Thereafter the development shall take place in accordance with the approved details.

Reason: In the interest of the adequate disposal of foul and surface water in accordance Part 14 of the National Planning Policy Framework

5. No development shall commence until the highway infrastructure improvement as shown on Drawing No. 1602 S4 REV P03 entitled 'Proposed Site Plan' received 31 August 2018 including the widening of the access and the introduction of 6 metre junction radii.

Reason: In the interests of highway safety in the accordance with the aims of policy T1 of City of Durham Local Plan and paragraph 108 of the NPPF.

6. The development hereby approved shall not be occupied until works to upgrade the existing bus stop to the north have been completed including the installation of a hardened verge and a raised kerb.

Reason: In the interests of highway safety and to promote public transport use in accordance with policy T1 of the City of Durham Local Plan and paragraph 108 of the NPPF.

7. The development shall be carried out in accordance with the mitigation outlined within Section H of the Ecological Survey and Assessment entitled 'Ecological Appraisal and Bat Risk Assessment June 2018' received 22 June 2018 undertaken by E3 Ecology and Section G of the 'Great Crested Newt Survey June 2018' received 22 June 2018 undertaken by E3 Ecology.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 175 of the National Planning Policy Framework.

8. The pond required in mitigation with regard to Condition 6 shall not be stocked with fish.

Reason: To ensure retained habitat is protected and to conserve protected species in accordance with Paragraph 175 of the National Planning Policy Framework.

9. No construction work shall take place, nor any site cabins, materials or machinery be brought onto site until all trees to be retained, as indicated on Approved Drawing No. MWA Deerness Villa TPP 001 entitled Tree Protection Plan received 19 March 2018, is protected by the erection of fencing comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting by temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree. The fences shall remain in place throughout the construction period.

No underground services trenches or service runs shall be laid out in root protection areas of those trees to be retained as shown on the approved plan.

Reason: To protect the character and appearance of the surrounding area in accordance with the requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

10. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority.

The agreed plan shall include as a minimum (but not necessarily be restricted to) the following:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014.
- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 'Code of practice for noise and vibration control on construction sites' 2014.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council's accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

The management plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations. The approved Construction Management Plan(s) shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 15 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

11. The development shall not commence until a scheme to deal with contamination for that phase has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

- (a) A Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

- (c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.
- (e) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 15.

12. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



Planning Services

Outline application for the demolition of an existing bungalow and associated outbuildings and the construction of 9 dwellings with all matters excluding access reserved for future consideration

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Comments

Date 11 September 2018