

COMMITTEE REPORT

APPLICATION DETAILS

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| APPLICATION NO: | DM/17/03908/FPA |
| FULL APPLICATION DESCRIPTION: | Development of 29 dwellings including means of access, associated car parking and landscaping |
| NAME OF APPLICANT: | Project Genesis Ltd |
| ADDRESS: | Land to the West of Hall Cottage Hall Road The Grove |
| ELECTORAL DIVISION: | Consett South |
| CASE OFFICER: | Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is 1.32 ha. of land, accessed from Hall Road, at The Grove, Consett. The Grove was a 1950's development of local authority-built dwellings that extended north from the A692 to Selby Lodge, a large detached dwelling and Consett Hall. The Hall has since been removed, with Hall Cottages (a single dwelling) the remaining associated built structures. A modern housing development has extended the settlement further north, around the rear of Hall Cottages.
2. The Grove is surrounded by open countryside that includes the site. A series of three inter-connected ponds constructed with the modern housing estate lies north of the settlement. A public car park sits on the cleared site of the Hall, with lines of mature trees separating this from the housing development and lining the Hall Road boundary of the site.
3. The proposed development site is set on a promontory, consisting a gently sloping plateau of semi-improved grassland that despite the nearby presence of the Consett Iron Works (latterly Steelworks) has remained undeveloped, no doubt because of its former proximity to Consett Hall. The boundaries of the site slope steeply to the north and west in open countryside. The countryside to the north and west of The Gove, including the site is designated as an Area of High Landscape Value (AHLV). A public footpath runs north-south across the site, dropping steeply to Pemberton Road. Along the south of the site Consett Road, known locally as Mutton Clog Bank drops towards the same road, with a religious Youth Village a short distance beyond. Informal footpaths link the site to the ponds and a network of paths in the reclaimed and landscaped Steelworks site.

4. The site has long distant views towards the settlements at Berry Edge and Blackhill and the countryside towards Shotleyfield
5. The small settlement includes two Primary schools with playing fields and a recreation ground. It sits within a hierarchy of settlements including the Castleside, Moorside and Consett which cumulatively share a wide range of facilities and services. There are 10 bus stops within The Grove, with the roundabout adjacent the site used for bus turning. The main A692 gives good access to the A68, and settlements north and south and the A691 and A693 to Durham and Stanley/Chester-le-Street respectively.

The Proposal

6. The scheme has evolved during the course of the application and now proposes the erection of 29 detached and semi-detached dwellings in a mix of two storey, split level and bungalow designs. Affordable units are included. The layout is a simple cul-de-sac design, accessed from the modern roundabout via Hall Road, a short cul-de-sac in its own right that serves only Hall Cottages, with all dwellings facing into the site. The footpath through the site is proposed diverted in line to pass behind the dwellings, alongside the retained roadside trees. The existing hedge-line separating the development from the grazing land on the slope to the west is to be retained outside proposed gardens.
7. This application is reported to Committee as a 'major' development.

PLANNING POLICY

NATIONAL POLICY

8. 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 NPPF was updated in July 2018. The overriding message remains 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.
9. In accordance with paragraph 48 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.
10. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. 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. The application

of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

12. *NPPF Part 5 – Delivering a sufficient supply of homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. *NPPF Part 8 - Promoting healthy and safe 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.
15. *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.
16. *NPPF Part 11 - Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
17. *NPPF Part 12 - Achieving well-designed places.* The Government has attached great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning, with this section of the revised Framework document expanded.
18. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

20. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

NATIONAL PLANNING PRACTICE GUIDANCE:

21. The 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.

22. *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.

23. *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.

24. *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.

25. *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 and 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.

26. *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.

27. *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.

28. *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.

29. *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.

30. *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:

31. The following are those saved policies in the Derwentside District Local Plan 1997 relevant to the consideration of this application:

32. *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.

33. *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.

34. *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.

35. *Policy EN6 - Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.

36. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible.

37. *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.

38. *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.
39. *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.

RELEVANT EMERGING POLICY:

40. 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.

Five Year Housing Land Supply

41. Paragraph 73 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.
42. 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).
43. 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, the revised draft NPPF was issued for consultation, with paragraph 61 of that document 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'.
44. 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.
45. The Council's position on 5-year housing land supply was publicly 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.

46. 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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

47. **Highways** – Some minor changes to part of the parking layout are required, and confirmation of a visibility chord at the site entrance. No objection is offered to the proposed layout in principle. A condition could ensure that the scheme is constructed to a standard capable of adoption. The Principal Highways Engineer confirms that the implications to the wider highway network from a relatively small development are acceptable. The public contention that the Construction Management Plan should be revised to direct construction traffic via Consett Lane is not an acceptable alternative.

48. **Northumbrian Water** – Raise no concerns but 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'.

EXTERNAL CONSULTEE RESPONSES:

49. **The Coal Authority** – the land is not affected by the Coalfield Development High Risk Area map.

INTERNAL CONSULTEE RESPONSES:

50. **Spatial Policy** - have confirmed that the County Plan is not at a stage where it can be given weight. There are no Neighbourhood Plans in the area. The relevant policies and their NPPF compliance weighting in the Derwentside District Local Plan saved policies are:

- Policy GDP1: has been 'tested' at recent appeals and found to be consistent with the NPPF and can therefore be afforded weight in the decision-making process.
- Policy EN1: is largely up to date and not connected with the supply of housing under the "narrow definition" favoured by the Supreme Court in Suffolk Coastal case. As such it can be given weight in the balance.
- Policy EN2: is clear in its intent and accords with the Framework. As per EN1, recent case law has confirmed that environmental policies can be considered separately from policies specifically connected with housing supply, and our view is that weight can be given to this policy.
- Policy EN6: paragraph 170 of the NPPF supports the protection and enhancement of 'valued landscapes' in a manner commensurate with the identified quality in the development plan. The Council considers Areas of High Landscape Value fall within the scope of such landscapes, as confirmed in recent appeal decisions. For these reasons EN6 is considered to be consistent with NPPF and can therefore be afforded weight in the determination of this proposal, augmented by more up to date evidence set down in the Durham Landscape Strategy (2008).
- Policy EN11: is considered to be consistent with NPPF and can be afforded weight in determining the application.

- Policy HO5: The proposal covers a greater site area than permitted through HO5, and as such the proposal would not draw any support from this policy.
- Policy HO22: broadly accords with paragraph 96 of NPPF, a more up-to-date evidence base is set out in the OSNA, Playing Pitch Strategy and Action Plan. As the general aims are consistent with national policy, H022 can be given some weight in the decision-making process when read in conjunction with more up-to-date evidence.
- Policy TR2: can be given some weight in the decision-making process when read in conjunction with the more up to date county standards and the advice of the Highways Team.

51. Paragraph 73 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. Paragraph 60 of the NPPF advises that, 'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance...'. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
52. 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.
53. The Council's position on 5-year housing land supply was publicly 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 publication of the updated NPPF in July confirms its appropriateness for use. Against the 1,368dpa figure, the Council is able to demonstrate in excess of 6 years supply.
54. Officers are therefore of the view that weight to be afforded to the boost to housing supply as a benefit of the development is less than in instances where such a healthy land supply position cannot be demonstrated. This will need to be factored into the planning balance.
55. The proposal site has also been assessed through the SHLAA process (latest published version 2018) and deemed to be 'unsuitable' in principle (rated 'red') for housing development, owing largely to its detached location. This evidence base has been ratified by the SHLAA Partnership, which includes external partners.
56. There is a requirement through Policy HO22 to seek open space provision or contributions through development proposals. This broadly aligns with the approach set out in paragraph 96 of NPPF. The formula set out in the OSNA should be used to calculate the requirement and in the event the developer wishes to provide a commuted sum in lieu, the cost.
57. **Landscape** – have assessed the revised Landscape Visual Impact Assessment, submitted by the developer following discussions on their reaction to that first submitted with the application.

58. A detailed assessment of the site, its environs, and the implications of the Area of High Landscape Value (AHLV) designation is given, including characteristics and attributes that elevate it above the ordinary similarly include:

- The strong valley topography that affords extensive views across the landscape;
- The generally good condition of the landscape with its ancient semi-natural woodlands and relatively intact field boundary networks;
- The well-wooded or heavily timbered character of much of the landscape with locally abundant woods and hedgerow, roadside or field trees;
- The time depth of the landscape including the presence of historic landscape features such as ancient woods, old hedges and lanes;
- The general absence of settlements, prominent development and other detractive elements;
- The scenic quality that arises from combinations of the above

59. The proposed development would result in a permanent and adverse change to the character and appearance of the site itself. In that respect, the proposals would run counter to the revised Framework's core planning principle of recognising the intrinsic character and beauty of the countryside, and contributing to, and enhancing the natural and local environment (paragraph 170).

60. The site lies within an Area of High Landscape Value (AHLV) identified in the saved Derwentside DC Local Plan and as an adopted DCC *Landscape Conservation Priority Area* as identified in the *County Durham Landscape Strategy*. These two indicators illustrate that the site forms part of a valued landscape as the term is used in the *National Planning Policy Framework*. In that respect, the proposals would run counter to the Framework's requirement in *Paragraph 170* that '*planning policies and decisions should contribute to and enhance the natural and local environment by:*

a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan):

b) Recognising the intrinsic character and beauty of the countryside, and other wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

The key considerations are:

- Whether the local landscape has specific characteristics or demonstrable attributes that elevates it above the ordinary.
- Whether the effects of the development would be harmful to the landscape and to what degree.

61. Paragraph 11 deals with the presumption in favour of sustainable development. However, in this case, the presumption does not apply. The 'policies which are most important' in this case are saved Derwentside DC policies EN1, EN2 and EN6.

62. The site lies in the Middle Derwent Valley AHLV. The AHLV was identified in Policy EN6 of the Derwentside District Local Plan in 1997, described in Policy 64(a) of the County Durham Structure Plan 1991-2006.

63. As part of the preparation of the County Durham Plan, existing local landscape designations are being reviewed. A Landscape Value Assessment (LVA) of the County is currently being undertaken which will inform that review. It is proposed to identify a local landscape designation in the County Durham Plan: An Area of High Landscape Value or similar - this will cover areas of existing AHLV where the ALV supports their designation, and new areas of AHLV not previously identified.

64. While the Middle Derwent Valley AHLV has not been reviewed until now, the area has been the subject of a detailed Landscape Character Assessment and Landscape Strategy, both of which were adopted by DCC in 2008. A comparison between the Landscape Conservation Priority Areas (in dark blue below left), identified in the Landscape Strategy, and the AHLV (in green below right) shows a good degree of correlation between the two. This is evidence that the AHLV designation is robust and well-founded.
65. In terms of harm, the proposals would entail the loss of some mature trees within and around the site. Their removal would be required for site access, site clearance, and what would be, a change in circumstances. They are notable features that contribute to the character of the local landscape and might otherwise be expected to contribute to the character of the landscape of an undeveloped site for considerable time.
66. Agreement between the applicant and the adjacent landowner would permit management of the adjacent ancient outgrown boundary hedge to the west. The extent of this management, in particular in terms of maintained height, cannot be controlled and would be likely to facilitate views out from houses across the Derwent Valley. This would have an effect on the degree of visual impact.
67. The effect on the character of the landscape at the level of the site and its immediate locality would clearly be transformative. Built development would have a notable effect on the rural character of the landscape forming the immediate setting of the village. It would entail a relatively small but sprawling incursion into open countryside beyond a very well defined and leafy settlement edge, evident from public vantage points in that area that currently enjoy attractive views.
68. The site is not visually contained but does benefit from the localised screening effects of topography and vegetation in some middle-distance views. The most significant effects would occur within the immediate area. In those views the development would read as an incursion of built form into the attractive open countryside beyond the edge of the village.
69. The effects of the proposals on the character of the landscape would clearly be localised to some extent. Landscape Officers consider those effects to be significant at the level of the site, and the local landscape it forms part of, due to the particular value and sensitivity of that landscape, and the contribution it makes to the immediate setting of the Grove settlement.
70. For the reasons set out above the Landscape Officers would consider both the wider AHLV, the local landscape around the site and the site itself to form part of a 'valued landscape' in the way the terms used in paragraph 170 of the framework. They would see the level of harm to the local landscape as being of an order that would bring it into conflict with the Framework's requirement that the planning system should protect and enhance valued landscapes (paragraph 170) and take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside (paragraph 170).
71. **Affordable Housing** – officers have confirmed that the proposed 15% affordable provision required of the scheme is being proposed in an appropriate manner.
72. **Drainage and Coastal Protection** - With the site extended to encompass the proposed surface water outfall to the pond as the land (including the ponds) is all under Project Genesis Trust's control, and water quality on the development to be addressed by means of providing permeable construction on the private driveways at

detailed design stage, the proposal is to discharge the unattenuated surface water flows (1:100 yr. +cc) into the middle pond of the three and to then potentially introduce a flow control device such as a v-notch weir located such that the overflow from the middle pond to the lower one can be controlled to ensure that the flow rates do not increase above the current arrangement. Drainage Officers offer no objection, subject to the detailed drainage design being conditioned.

73. **Contaminated land** – Agree with the findings of the submitted Phase 1 surveys and require pre-commencement conditions including gas monitoring to deal with contamination for a form of development that changes the use to a more sensitive receptor.
74. **Noise** – The noise from the development would have a negligible effect - a stage 2 noise assessment is not required.
75. **Trees** – Proposed buffer planting will create screening, however will also create problems with views and shading for potential home owners which will increase pressure for removal of the new planting and for tree pruning on retained mature trees along Hall Road. The arboricultural report states that majority of the trees have a life expectancy of 40+ years, three of which will need to be removed to facilitate the access to the site; these have not been highlighted with pathogens, their loss will have a significant impact within a mature tree landscape. All trees situated along Hall road have a collective importance and are also part of a wider protected landscape. Trees surrounding Hall Road area are protected by a TPO because of their high individual and group value within the landscape. Increased development will create compaction of which will not necessarily be noticeable until 5-10 years post development leading to the possible loss of more mature trees.
76. **Design and Conservation** - The land was deemed to be unsuitable (red) for housing development through the Strategic Housing Land Availability (SHLAA) process, and the proposal would appear to represent unjustified incursion into the open countryside, part of the designated Area of High Landscape Value. However, the implications of this are wider planning policy based and landscape which are outside of the heritage teams remit and matters for other officers to determine.
77. In relation to heritage matters there would be no concerns. The site is not included within any conservation area, there are no designated heritage assets within the site boundary, none directly adjacent, or within the wider context, the setting of which may be affected by a proposal of this nature. The site has remained as undeveloped agricultural land from first edition ordnance survey map c.1856-60 to present day.
78. **Ecology** – The loss of biodiversity that will result from the development of the greenfield site must be mitigated through a scheme based around The Grove Ponds and the local wildlife site associated with it. This is within the control of the applicant and essential to achieve the required net biodiversity gain. The County Ecologist accept that there will be no detrimental effect on species protected by law.
79. **Footpaths** – have confirmed that the existing Public Right of Way across the site will need diverting, and that it is their opinion that some of the unregistered routes around the edge of the site may have accrued rights through use. Stopping up and formal diversion of the routes would be required in the event of an approval.
80. **Education** – Based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and other committed development there are sufficient primary school places.

In relation to secondary schools, the development is located within the North Durham local school place planning area. The nearest school to the proposed the development is Consett Academy that has a capacity for 1500 pupils. Based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and other committed development there would not be sufficient space to accommodate pupils generated by the development, whilst maintaining a 5% surplus. In order to mitigate the impact of the development a contribution of £65,376 (4 x £16,344) would be required to facilitate the provision of additional teaching accommodation.

PUBLIC RESPONSES:

81. Two letters of public consultation were sent out to adjacent residents. Site notices were posted at a number of approaches to the site and an advertisement was placed in the local press. 149 responses were received.
82. Within this, around 124* objections have been received from individual public correspondents (*taking into account multiple submissions from some correspondents and representations in different formats), along with submissions from the Governors and pupils of St. Pius X RCVAS School, 17 letters from The Grove Primary School, The Grove Residents Association, The Derwent Valley Protection Society, and The Council for the Protection of Rural England CPRE.
83. A petition of 210 names, signed by many of the individual correspondents objects to: encroachment into the countryside, removal of mature trees, loss of local amenity, nature conservation, traffic generation on unsuitable roads.
84. 13 Writers have reconfirmed their objections in response to the re-consultation following the submission of amended plans.
85. Objectors contend the site is in open countryside, detached from the settlement, and note the Area of High Landscape Value designation. The site has been assessed in the Council's SHLAA process and concluded unsuitable for development.
86. The land is valued by the local community as a leisure and wildlife area, with walkers and a significant number of dogwalkers describing their use of the land. Children, some with special needs, claim extensive use of the land. The site is variously described as Green-belt and an Area of Outstanding Natural Beauty. The trees along The Grove and within the development are described as lost and pollarded by many correspondents, many noting the specimens are the derivation of the name of the settlement. The Residents Association describes them as medieval. The land has a significant biodiversity value with a range of species of flora and fauna. The trees biodiversity, cultural, historical and educational value is set out in detail. Concerns have been raised as to the potential effect of protected species including newts, as the amended proposals have directed the surface water drainage scheme towards The Grove Ponds.
87. Different objectors contend the site has been undeveloped or subject to historic contamination from the Consett Ironworks.
88. Capacity of the existing highways network, the safety of the development and of construction works, particularly for children, and in relation to the two Primary schools is a concern. The Grove Community and Residents Association raise specific concern relating to the Construction Management Plan and traffic implications generally, and in relation to the two schools in The Grove, requesting a more suitable access route to the site would be via Consett Lane (Mutton Clog Bank). They also

ask whether there would be contribution to local play facilities. The traffic implications for Consett Lane is a significant concern to many, it being described as a 'rat-run' to and from the A68.

89. Whilst some correspondents acknowledge a need for housing nationally, and support the regeneration of Consett and surrounding areas, others refer to, 'the stupidity of overbuilding'. A number of unimplemented planning approvals in the surrounding settlements are referenced. The CPRE set out a case that the Council's housing land supply is positive, and that the development should be concluded not. Other writers claim, 'many local people also feel the overabundance of affordable housing in this area will have a negative impact on a struggling local infrastructure'. The proposed development would not help the social housing crisis, nor would it bring affordable homes to the area. A range of lack of local amenities is claimed, including schools, medical, play jobs and parking. The potential for children, displaced from playing on the area to generate anti-social behaviour is raised. The high-density form of development proposed is considered unacceptable for an urban fringe location, as it the appearance of the development.
90. Some residents of existing development raise concerns of surface water flooding and foul water disposal.
91. The occupant of Hall Cottages is concerned that the rerouted footpath will have a detrimental effect on their residential amenity through increased pedestrian traffic.
92. Some residents complain at the potential for the development to devalue their properties and that views and 'outlook' will be lost. The potential for the development to create a precedent for further housing is raised. That the developer has financial motivations is unacceptable to some, and some regret the 'laudable early objectives' of Project Genesis have become, 'apparently easy chance to make financial gains'.
93. One letter of support commends the development for avoiding the well-used wildlife and leisure asset of The Ponds, contended as the focus of the local schools' interest in the countryside surrounding the settlement.

APPLICANT'S STATEMENT:

94. "The Government's objective is to significantly boost the supply of homes. It is clear, from the conclusions of a detailed assessment submitted to the council, Durham County Council do not have a five-year housing land supply and therefore paragraph 11d of the National Planning Policy Framework is engaged with a presumption in favour of development.
95. Building new homes attracts new businesses, and brings new shops and services, creating new jobs for residents. Redevelopment of parts of the former steelworks site contributes to a vibrant, healthy and sustainable community. The application site is brownfield land as confirmed by the Ground Investigation Report which identifies the requirement for a remediation strategy to remove slag/Made ground containing slag from the site to bring it up to today's developable standards.
96. The proposed development is for 29 new homes, reduced from 32, to improve the layout of the scheme and ensure the long-term health of the mature trees to the eastern boundary. Three affordable homes are being provided, which meets the Council's affordable housing requirement. The affordable homes are bungalows which are a very popular type of accommodation in Consett as demonstrated at Regents Park.

97. Many of the objections from residents refer to the loss of local amenity space, as the site is currently used for a range of outdoor activities, including dog walking. The site is accessible, via a stile off Hall Road, to public footway No 52, which runs through the site and connects to adjoining open land. The proposed development incorporates the existing public footpath, so the route will remain open and useable to local residents in the manner that it is currently used. Surrounding the site are extensive areas of open space and mixed woodland that are publicly accessible for outdoor recreation activity. The site adjoins Allensford Woods Nature Reserve and beyond Pemberton Road to the North is the River Derwent and Howden Wood. Notwithstanding this, the site is in private ownership and there are no formal arrangements for use of the Site for recreation use, nor is it allocated in the development plan for recreational purposes.
98. As a requirement of the planning process, an Ecological Assessment was undertaken. The assessment considered European Protected Species: bats, great crested newt, otter, birds, water vole, badger, red squirrel and reptiles; and Priority Species: brown hare, hedgehog and a number of species of butterfly. The assessment concludes that no significant impact on legally protected species is expected, subject to implementing the recommendations of the qualified ecologist. The Council's ecologist has reviewed the assessment and accepted the conclusions and recommendations set out in the Ecological Assessment.
99. As the site is within an Area of High Landscape Value (AHLV), a Landscape and Visual Impact Assessment (LVIA) was undertaken. During the planning application process, the Council considered a new LVIA was necessary to assess additional viewpoints and address the consultation response of the Council's Landscape Officer. A new LVIA of the proposed development, which was undertaken by ONE Associates, concludes: *"Having given careful consideration to the likely landscape and visual impacts/effects throughout the study area, it is considered on balance that the proposed development is acceptable."* The potential impact of the proposed development on the AHLV has been robustly assessed in the new LVIA. Mitigation in the form of landscape screening to the western boundary of the site is proposed, as shown on the revised landscape plan. As a result, it has been demonstrated there would not be any likely significant adverse effect on the AHLV.
100. The increase in traffic in the local area as a result of the 29 new homes will be limited and would not have a significant adverse impact on the highway network. The council's highway development management officer has no objection in principle to the development for residential use and the officer made no comment about the increase in traffic. The road infrastructure in the vicinity is constructed to adoptable standards and is adequate to service the proposed development. In terms of highway safety, there is no substantive evidence that the increase in vehicle movements will have a harmful effect on the safety of highway users, including pedestrians. Traffic calming measures are already in place on Hall Road to slow traffic down and there is a speed bump in the road on the approach to the Hall Road roundabout. Vehicles will therefore be slowing down when heading towards the Hall Road roundabout, to take account of the speed bump which means vehicle speeds will remain low within the vicinity of the site.
101. In conclusion, it has been clearly demonstrated the scheme for 29 new homes benefits from the presumption in favour of sustainable development. There are no identified impacts of the proposed development which would significantly and demonstrably outweigh the benefits. In this respect planning permission should be granted in accordance with paragraph 11d of the NPPF."

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

102. 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 Highways issues.

The Development Plan

103. 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 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

104. 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.

105. 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

106. Paragraph 11 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 an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this (sic) Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - 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.

107. The site under consideration is in countryside, being 'green-field', i.e. never having been developed, and is not well related to the urban form of the settlement. This means that the 'policies which are most important for determining the application', are the countryside policies. Spatial Policy Officers have confirmed their level of consistency with the Framework. There are no relevant housing policies, and as explained below the five-year housing land position does not bring that issue to the fore.

108. Paragraph 74 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. Spatial Policy Officers have confirmed that despite an appeal decision questioning their approach, referred to by the applicant, they are confident that through the methodology described above to assess housing land supply, the Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure. This affects the 'weighting' of this issue in the determination of the application.

Policy Principle – Development in the Countryside

109. The Policies 'most important' for determining the application are; EN1, 'Protecting the Countryside', EN2, 'Preventing Urban Sprawl' and EN6, 'Development within Areas of High Landscape Value'. These policies are designed to protect the intrinsic value of the countryside, and not to control housing development.

110. Policy EN1 allows for development where it would benefit the rural economy, or where it helps maintain or enhance landscape character. It further requires proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geographical resources in the area. The proposals are considered to fail these requirements. Policy EN2's relevant criteria, (c), that development will not be permitted outside existing built up areas if it results in: an encroachment into the countryside, is likewise failed.

111. The conflict with Policy EN6 and the status of the AHLV designation is examined above in the Landscape comments, the full text of which is available in the application documents: Consultee responses. Landscape Officers attribute particular value to the site and conclude the development would fail this Policy, and the development is therefore unacceptable in principle.

112. Landscape Officers have set out both the value of the site as countryside, and its raised value as designated within an Area of High Landscape Value. The value the local community put on the land is strongly represented through their consultation responses.

Housing Land Supply

113. The national planning imperative of housing supply is such that this issue must be addressed in any application for housing development. The applicant has set out a detailed case contending that it is their view that clear that Durham County Council do not have a five-year supply and therefore paragraph 11d of the NPPF is engaged and the policies which are most important for determining the application should be considered out of date. Consequently, simply applying this paragraph, DCC should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

114. In the context of footnote 7 of paragraph 11 which advises that for applications involving provision of housing where a Council cannot demonstrate a five-year supply of deliverable housing sites (with an appropriate buffer), housing policies should be considered out-of-date.
115. To counter this, Spatial Policy Officers maintain that their interpretation of the Council's housing land supply position is correct, and that they can demonstrate an oversupply of available land, which reduces the weight that would be given to the housing supply benefit the development would bring. This is despite the site being concluded a sustainable location for development on the basis of the access to services, facilities and sustainable transport opportunities described above.

Highway Safety

116. Local residents, and most notably the two schools raise significant concerns relating to the potential traffic and highway safety implications of the development of the site. Principle concerns relate to the interaction of construction traffic and an intensification of the use of the highways network from new residents' vehicles. The volume of existing vehicular use within and through the settlement and the compromised layout of Consett Lane (Mutton Clog Bank) as a rat-run to the A68 are also raised as significant concerns.
117. Whilst some detailed redesign of part of the parking layout would be required for an approval, along with formal confirmation of a visibility chord, the proposals are considered thereafter acceptable in terms of the design of the layout proposed.
118. On what is described by them as a relatively small development, there are no objections from Engineers to the proposal's likely effect on the surrounding highways network, either in the settlement, or the capacity of roads and junctions leading to it.
119. The layout of the development is such that cycle parking, as required by Policy TR3 is easily achievable.
120. The proposals are considered compliant with Policy TR2 and TR3 of the Development Plan and paragraph 109 of the Framework.

Other Issues

Ecology and Trees

121. Local residents are significantly concerned at the effects of development on the biodiversity the site currently offers, along with the tree loss the development proposes. The concerns at the effects on protected species extend to the ponds, where the developer proposes to direct part of the surface water drainage from the site, in a scheme discussed with Council Drainage Engineers.
122. The County Ecologist has considered the survey work undertaken and considered both the effects on species protected by law, and the wider effects on biodiversity. The former is considered properly addressed, and the latter can be secured through an appropriate detailed landscaping scheme, and appropriate habitat creation around the ponds and Local Wildlife Site, and in the associated neighbouring applicant owned land. No objection to the scheme is offered. The implications to ecology interests can be appropriately mitigated as required by the framework through condition and legal agreement. To this end the application is considered compliant with paragraph 170 of the Framework.

123. Whilst some of the public concerns relating to trees appears to result from assumptions on the proposed development rather than examination of the actual proposals, there would be tree loss on the main avenue that borders Hall Lane to facilitate the entrance, and a group of trees within the site that once framed an access track. Recognising the value of the roadside trees, Officers do not consider that the loss of the specimens proposed compromises their group value, and the ecological benefits (taking into account potential nett biodiversity gains can be delivered elsewhere, as above) and historical reference they provide. As development pressure has been directed to the trees lining Hall Road, Tree Officers will be asked to prepare a Tree Preservation Order for them. This would not preclude the required access works in the event of an approval, as the order would then be served on the remaining trees. It is noted that the redesign of the layout during the course of the application reflected concerns as to the relationship to the proposed dwellings physically and in terms of their amenity, and significantly improved this. Whilst apparent in aerial views of the site, the group of trees within it is not considered of a value that would justify its formal protection and retention. The proposals are not considered contrary to Policy EN11 or paragraph 170 of the Framework.

Affordable Housing

124. Affordable Housing Officers have accepted the three affordable bungalows offered to address the Policy requirement.

Scale, Character and Appearance

125. The redesign of the site to reduce the number of units achieved a number of design benefits in response to issues identified by Officers with the original layout. These include the relationship to trees mentioned elsewhere in this report. The relationship of development to Consett Lane (Mutton Clog Bank) has been improved in terms of massing and layout, with further investigation into and reflection of the levels in the south-west corner of the site. There is an opportunity for new planting in the south-west corner of the site, however the rear boundaries of plots on the southern boundary are separated from the roadway only by the rather sparse and sporadic existing roadside flora.

126. A range of house-types are proposed, bungalow, two-storey, two-storey with roof accommodation, and in the north part of the site where it slopes, split level houses. The latter would require confirmation of site sections of how the proposed and existing landforms would merge in the area of the public footpath through a condition in the event of an approval. The house-types are modern and functional. Whilst the greater part of The Grove settlement consists of local-authority built houses, the modern developments of Hallgarth and Manor Close give a lead for further development of a modern vernacular and bring the proposals in line with Policy GDP1 (a).

127. A sight-line for the diverted footpath has been achieved that opens views from Hall road through the site to the countryside beyond.

128. The proposals are concluded to be compliant with the Development Plan, and the new emphasis given to design issues in the revised Framework (July 2018).

Footpaths

129. A designated public footpath runs north / south across the site, proposed diverted to the rear of the new dwellings, alongside the retained tree belt. Other informal footpaths around the site are claimed usage rights by residents, that have been

accepted as having merit by Footpaths Officers. There are formal processes for diverting and stopping up existing footpaths in the Highways Acts, with different processes required depending on whether this happens in, or outside the planning application process. There has been contact with Footpaths Officers, but at present this issue has not been progressed. However, this is a procedure rather than a planning impediment, as a potentially acceptable alternate route has been indicated.

130. The resident of Hall Cottages – one of only two neighbours of the site, both of whom are separated from the site by metalled highways – complains that the rerouted footpath unreasonably affects their residential amenity. However, one of the claimed footpaths already accesses the land directly opposite that property, with such a degree of formality that has resulted in a stile being erected to permit passage over the post and wire fence. Given this existing usage, and the separation from the existing dwelling, this objection is considered without merit.
131. There is however a detrimental effect on the amenity derived from the use of a footpath in open countryside, that is proposed to run through an extended urban area.

Drainage

132. For Foul Drainage, Northumbrian Water raise no concerns but 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'. This is considered to meet the requirements of the Framework.
133. For surface water drainage, required justified through the Sustainable Drainage Hierarchy, Drainage Engineers have discussed using a scheme that relies in part on the Grove Ponds, which is within the applicant's wider landholdings, in addition to on-site measures including permeable hardstanding construction, which can be conditioned within the detailed design stage in the event of an approval. This is considered to meet the requirements of Policy GDP1 (i) and the Framework.

Education

134. The County Education Department has indicated that based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and other committed development there are sufficient primary school places to accommodate demand in the four Primary schools within the 2 mile safe walking distance.
135. For Secondary schools, based on the projected rolls of the schools, taking into account the likely implementation time frame of the development, build rates and other committed development there would not be sufficient space to accommodate pupils generated by the development, whilst maintaining a 5% surplus. A mitigation figure of £65, 376 was requested for the original scheme of 32 dwellings, that would need to be proportionately revisited for the lesser quantum of development now proposed. Such payment would ensure the scheme meets the requirements of paragraph 72 of the NPPF. Securing said monies through a legal agreement is considered to meet the statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests and advice in the National Planning Policy Framework and Planning Policy Guidance.

Heritage Assets

136. The remaining avenue of trees is considered, in conjunction with other trees in the area, to reflect by degree the history of the site in relation to the demolished Consett Hall. The tree removals to allow access to the site, will not undermine this character. The proposals are not considered contrary to the advice of part 16 of the Framework.

Technical Issues

137. Issues of contaminated land, Coal Mining Legacy and amenity nuisance from noise and dust have been assessed by specialist consultees and are considered capable of resolution and mitigation through the appropriate use of conditions to address both construction period and lifetime of the development issues.

Economic Benefits

138. Both the construction process and the economic activity of new residents bring material planning benefits to the consideration of the application, along with other financial implications for the Council such as the New Homes bonus.

CONCLUSION

139. The Policies most important for determining the application i.e. the countryside Policies EN1, EN2 and EN6 are not out-of-date and therefore lead Officers assessment and conclusions of the application. The proposals are in principle and detail considered to fail against these policies' requirements.
140. The Development Plan has no relevant housing policies. Determination of this issue therefore reverts to the advice in part 5 of the Framework. 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 set out an argument for a reduced weight to this benefit in the context of their assessment the Council's current positive housing land supply position.
141. The short-term benefits to the local economy brought by the construction phase are identified as of positive material weight. Economic activity by new residents also counts in the application's favour.
142. If planning permission was considered, an appropriate suite of conditions and matters to be secured through legal agreement, as set out above would be required.

RECOMMENDATION

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

The residential development of the site is considered to conflict with the most important relevant Policies, EN1, EN2 and EN6 in the saved Policies of the Derwentside District Local Plan, 1997, and paragraph 170 of the Framework: in detrimentally affecting landscape character, and amenity on the public footpath, insensitively related to existing settlement patterns and to historic and landscape

resources in the area, being an encroachment into an area of countryside identified as having characteristics or demonstrable attributes that make it a 'valued landscape'.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

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

Development of 29 dwellings including means of access, associated car parking and landscaping
Application Number DM/17/03908/FPA

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Comments

Date
25th October 2018

Scale
NTS