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## Appeal Decision

Hearing held on 12 May 2015

Site visit made on 12 May 2015

**by M Seaton BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 April 2016**

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**Appeal Ref: APP/X1355/W/15/3003771**

**Former Homelands Hospital, Holy Well Lane, Helmington Row, Crook, County Durham, DL15 0SE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Chris Dodds (Gleeson Developments Ltd) against the decision of Durham County Council.
  - The application Ref 3/2013/0043, dated 14 February 2013, was refused by notice dated 18 September 2014.
  - The development proposed is the demolition of existing buildings and the erection of 49 dwellings with associated infrastructure.
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### Procedural Matters

1. During the course of the planning application, amendments were made to the originally submitted scheme for 54 dwellings, which as a consequence has resulted in a revised figure of 49 dwellings being proposed. This has resulted in a change to the description of development from the version identified on the planning application forms, which is reflected on the Council's Decision Notice and in the submitted Grounds of Appeal. On the basis of the submissions, I have also adopted the revised description of development in determining the appeal.
2. A number of additional documents, technical responses and further submissions from the main parties have been submitted both at, and after the Hearing. Many of the submissions have addressed issues related to an evolving position regarding Housing Land Supply. A completed Unilateral Undertaking has also been submitted addressing the proposed relocation of the west-bound bus stop on A690 Front Street, off-site play facilities contributions, and the future provision of a pedestrian link to A690 Front Street. I am satisfied that the parties have been provided with an appropriate opportunity to consider these further submissions, and my decision has therefore taken these additional documents into account.

### Decision

3. The appeal is allowed and planning permission is granted for the demolition of existing buildings and the erection of 49 dwellings with associated infrastructure at Former Homelands Hospital, Holy Well Lane, Helmington Row, Crook, County Durham, DL15 0SE in accordance with the terms of the application, Ref 3/2013/0043, dated 14 February 2013, subject to the conditions set out in the Annex.
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## Main Issues

4. The main issues are;
  - whether the Council can demonstrate a five-year supply of deliverable housing sites;
  - whether, having regard to local and national planning policy, the proposal would amount to a sustainable form of development, having regard to its location within the countryside; and
  - the effect of the proposed development on the character and appearance of the area.

## Reasons

### *Housing Land Supply*

5. Paragraph 47 of the National Planning Policy Framework (the Framework) advises that local authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. Paragraph 49 goes on to say that relevant policy for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
6. At the Hearing, the Council submitted the recently published *Durham County Council Housing Land Availability Assessment: Statement on Five-Year Housing Land Supply May 2015* (2015 Housing Assessment), as well as a *Housing Trajectory for County Durham: 1 April 2015* (2015 Trajectory). The 2015 Housing Assessment sets out the Council's assessment of the housing land supply position as at 1<sup>st</sup> April 2015, and concluded that Durham had a 5.60 years supply of deliverable housing land to cover the five year period 2015-2020. The statement indicated that it had updated the five-year supply information which was submitted to the Examination in Public (EiP) of the County Durham Plan (the emerging CDP), with the housing completions for 2014/15 now known.
7. The 2015 Housing Assessment indicated that the Council had used the emerging CDP as the basis for providing the most up to date housing requirement for the purposes of calculating the five-year supply. Whilst the emerging CDP identified an averaged annual housing target of 1,651 dwellings per annum (dpa) as the objectively-assessed need (OAN), the Council had adopted the calculation within the Inspector's reported interim conclusions as a more realistic calculation of OAN in accordance with a reduced economic growth scenario. This calculation indicated an averaged annual housing target of 1,435 dpa with a housing requirement of 7,175 units over the 5-year period of 2015-2020. The Council had also accepted that as it had not reached its housing target in any of the last four years, a 20% buffer should be applied to the requirement and the shortfall from 2011-14, which set a revised overall housing requirement of 9,912 units, or an average of 1,982 dpa. In light of the published housing trajectory for County Durham for the period 2015-2020 anticipating 11,097 completions, the Council reached the conclusion that it was able to demonstrate 5.60 years supply of housing.

8. The appellant disputed the validity of the Council's approach to rely upon the calculation of the OAN as set out within the Inspector's Interim Report, which was on the basis at the time of the Council's stated intention to challenge the Inspector's Interim Report. As a consequence, the appellant concluded that a more realistic reliance should have been placed upon the OAN of 1,651 dpa as set out within the emerging CDP, which would result in a housing requirement of 8,255 units over the 5-year period of 2015-2020. Incorporating the shortfall from 2011 – 2014 and the 20% buffer, this set an overall housing requirement of 12,245 units, or an average of 2,449 dpa. Against the housing trajectory, this would equate to around 4.53 years supply of housing.
9. Further to this position, the appellant has drawn my attention to the inclusion within the housing supply for County Durham of a number of sites (equating to 1,422 units) which had been allocated within the emerging CDP, but do not benefit from planning permission and which it is contended would not accord with existing local plan policy. If these sites were also to be discounted from the anticipated completions, then against the overall housing requirement of 12,245 units, or an average of 2,449 dpa, this would result in around 3.95 years supply of housing.
10. My attention has subsequently been drawn to the Inspector's interim findings as having been challenged by the Council through judicial review, with the decision taken to quash the Inspector's Interim Report into the CDP submitted as part of the EiP, with the CDP also indicated as withdrawn. In this respect, I am mindful of the stated reliance within the 2015 Housing Assessment on the conclusions of the Inspector's interim findings in assessing the OAN in the calculations related to the supply of deliverable housing land for the five year period 2015-2020.
11. Although the Inspector's interim report has been quashed, and the emerging CDP withdrawn, I have not been advised whether the 2015 Housing Assessment document has been withdrawn with the Plan. I am nonetheless of the view that absent of the Plan, there is no basis on which I could reasonably conclude the housing requirement on which it was based should continue to stand. In any event, I note that the Council has indicated that with the withdrawal of the CDP it cannot commit to a position on housing supply, and that its starting point for the assessment of proposals must therefore be paragraph 14 of the Framework. This stance is highlighted as being consistent with the conclusions reached by an Inspector on a recent October 2015 appeal decision for a dwelling within the countryside elsewhere within the County, and I also note that the appellant has expressed agreement with this position.
12. In reaching my conclusion on this matter, I have been mindful of the Council's reference to a further appeal decision from August 2015 in Spennymoor, where the Inspector for the Spennymoor appeal concluded that despite the judicial review proceedings the Council could at that time demonstrate around a 5 year supply of housing land. However, at the point of the decision the Inspector's interim findings into the emerging CDP had not been quashed, with the Inspector for the Spennymoor appeal concluding that this was the most up to date and appropriate figure for the OAN. This is quite clearly a materially different circumstance to the current situation where the Inspector's Interim Report has now been quashed, and whilst I have noted the conclusions of this decision, I do not consider it to have any significant bearing on my own conclusions.

13. Despite the withdrawal of the emerging CDP, on the basis of the submissions and the successful challenge to the Inspector's Interim Report advocating a more conservative OAN and housing requirement for County Durham, this would provide support for the higher averaged annual housing target of 1,651 dpa which had previously been set out in the emerging CDP, and I give this figure more weight than the figure set out within the Inspector's Interim Report. However, despite the confirmed withdrawal of the CDP and the absence of any further evidence from the Council to the contrary, I do not consider that the discounting of sites to have been allocated within the CDP has been justified sufficiently by virtue of the limited evidence submitted by the appellant. Nevertheless, even if all the identified supply of housing land were brought forward for development, there would only be around 4.53 years supply, assessed against the housing target which pre-dated the quashed report.
14. I have noted the Council's later submission that *it is currently impossible for it to commit to a position on figures for housing supply*, and that it regards paragraph 14 of the Framework as the starting point for consideration. I agree with this latter statement, and it is therefore my conclusion that the Council does not possess up-to-date policies for the supply of housing, and cannot currently demonstrate a five year supply of deliverable housing sites. Therefore, in accordance with paragraph 49 of the Framework, the proposals should be considered in the context of the presumption in favour of sustainable development and paragraph 14 of the Framework.

*Development within the countryside*

15. It is common ground between the main parties that the former hospital site has not been used since 2004, and covers an area of 1.66 hectares. The site slopes up from the south-east boundary where vehicular access is gained from Holy Well Lane, towards the north-west. The agreed Statement of Common Ground (SoCG) also indicates the appeal site to be located less than 200 metres to the east of Crook. From my observations, the appeal site is located beyond the settlement limit, and therefore for the purposes of policy interpretation is within the open countryside. However, I am mindful that within the 12 core land-use planning principles set out at paragraph 17 of the Framework, the effective reuse of land that has been previously developed (brownfield land), provided that it is not of high environmental value, is advocated. In this respect the appeal site would clearly accord with this principle given its former occupation as a hospital, and has not been identified as within an area allocated as having high environmental value. This must weigh significantly in favour of the redevelopment of the site.
16. The Council's reason for refusal has cited saved Policies ENV1 and H3 of the Wear Valley District Local Plan 1997 (the Local Plan). These policies seek to protect and enhance the countryside of the Wear Valley, and direct new development to those towns and villages which are best able to support it. These settlements include Crook and Willington, which are the largest towns in the area, with Crook fulfilling the role of a Major Service Centre.
17. In respect of these policies, I have been mindful of the appellant's contention that the Framework does not make reference to development limits in defining suitable locations for development, and that the means of assessment of development within the countryside is unduly restrictive in light of the

Framework. In particular, paragraph 55 of the Framework promotes sustainable development in rural areas, guiding that housing should be located where it will enhance or maintain the vitality of rural communities, and that isolated new homes should be avoided within the countryside unless there are special circumstances.

18. Whilst I acknowledge the intent of the saved policies in guiding development, I consider Policies H3 and ENV1 to be concerned with the supply of housing, albeit that Policy ENV1 also addresses the need for protection of the countryside. Nevertheless, as a consequence of my conclusions in respect of the Council's inability to demonstrate a five year supply of deliverable housing sites, these policies as they relate to housing supply should be considered to be out-of-date. On this basis, and having regard to paragraph 49 of the Framework, I am satisfied that the proposed development should therefore be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the NPPF explains that, where relevant policies are out-of-date, that means granting permission unless any adverse impact would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.
19. The appellant contends that the appeal site cannot be considered to be isolated, being located within relatively close proximity of existing buildings and development on Front Street and Holy Well Lane, as well as the allotment site to the west. The appellant has highlighted that the site is accessible in respect of the facilities and services available within Crook, which includes shops and a supermarket, doctors and dentist surgeries, primary schools, and has access to regular bus services passing on the A690 within walking distance of the site. Limited facilities are also identified as available close to the site in the form of a Public House and Helmington Row Village Hall. The appellant has also identified that the provision of a footpath from the northern corner of the site across the adjacent fields to the A690 would further increase the accessibility of the site by reducing the walking distance to Crook. It is proposed that the right of way would cross land owned by the Council, and that a west-bound bus stop could be moved westward closer to the footpath link, which could be secured through a legal agreement.
20. In assessing the accessibility of the appeal site, the Council accepts the bus service on the A690 to be frequent, that Crook possesses a good range of services and facilities, and is capable of accommodating new development, with reference made by both main parties to a potential strategic allocation of 600 dwellings elsewhere in the settlement. However, the Council maintains that the site is isolated by virtue of its clear separation from the built extent of the settlement and other nearby development, as well as in terms of actual travel distances to services and facilities from the appeal site.
21. The Council has provided an assessment of the distances from the appeal site to local services and facilities, with reference to Table 3.2 of the *Institute of Highways and Transportation Guidelines for Journeys on Foot 2000 (the IHT Guidance)*, an approach which has been highlighted as also consistent with its assessment of sites in the Strategic Housing Land Availability Assessment (SHLAA). This sets out suggested desirable, acceptable and preferred maximum walking distances related to 'Town Centres', 'Commuting/School Sight-seeing', and 'Elsewhere'.

22. In this respect, I have no reason to disagree with the Council in its assessment of the measured walking distances involved to various services and facilities. However, I note that commuting distances to Crook and Willington would be within the preferred maximum walking distance, although many of the categorised services and facilities would fall beyond the preferred maximum distances as set out within the IHT Guidance. Nevertheless, I observed there to be a reasonable pedestrian environment for any journeys on foot to Crook, which would be further enhanced through the provision of street lighting along Holy Well Lane. Furthermore, whilst I have had regard to the Council's contention that the gradients involved in walking would be likely to act as a deterrent for some, on the basis of my observations of the walking route to Crook, I do not consider that they would unreasonably act as a deterrent to pedestrians or indeed cyclists. I also find that the existing proximity to the bus stops on Front Street providing regular services to Crook, Willington and larger settlements beyond including Durham, is a factor which would weigh significantly in support of the accessibility of the proposed development of this brownfield site. I am therefore satisfied that the accessibility of the site to local services and facilities would not be dependent upon the use of the private car.
23. Turning to the submitted Unilateral Undertaking, the provision of a footpath link from the northern corner of the site to the A690 would undoubtedly further improve the accessibility of the appeal site. However, I accept the Council's point that the associated development to provide the footpath would be beyond the highlighted extent of the appeal site, and has not been subject to any formal public consultation or planning assessment, although despite the Council's concerns to the contrary, I am satisfied that the wording of the Unilateral Undertaking in this respect would be enforceable, and the intent and objective of the Undertaking could be achieved.
24. I note that the possibility of such a link being brought forward in the future is anticipated through the wording of the Unilateral Undertaking. However, there is no compelling evidence before me that the delivery of such a link would be likely to be feasible given existing tenancy arrangements on adjoining land, despite the Council appearing to have ownership of the land in question. Furthermore, it is clear from the level of contribution proposed that this would not facilitate the full construction and delivery of the footpath link by the appellant, with the clear expectation being that the Council would be expected to either undertake the majority or all of the works at their own expense, as well as the ongoing maintenance. In this respect, the Council indicated explicitly at the Hearing that it would be unwilling to take the footpath link on as a public liability on its own land. Therefore, as a consequence, unless the appellant were to purchase the land and provide the link themselves, and no evidence has been placed before me as to the likelihood of this occurring, there would seem little prospect of delivery of the footpath link. As a consequence, this is a factor which has not attracted any weight in support of the proposals.
25. With regards the westward movement of a west-bound bus stop closer to the footpath link, it is clear from the submissions before me that there are both technical and operational reasons why such a movement would neither be acceptable nor viable, and in the absence of any compelling evidence to the contrary to override these concerns, this is again not a factor which therefore attracts any weight in support of the development.

26. The proposed development would be located beyond the existing developed extent of Crook, and would be within the open countryside and in this respect would be contrary to Policy ENV1 of the Local Plan. However, the proposal would involve the re-use of land which has been previously developed, with future residents within reasonable access of local services and facilities via the existing pedestrian environment and in close proximity to frequent bus services to Crook and other surrounding settlements. In light of my conclusions regarding policies ENV1 and H3 of the Local Plan being out-of-date insofar as they relate to housing land supply, I am satisfied in this respect that the redevelopment of the brownfield land would accord with the core planning principles set out at paragraph 17 of the Framework, and would furthermore be accessible and sustainable by public transport, walking and cycling.

*Character and appearance*

27. The appeal site occupies a position surrounded by open fields, with the perimeter of the site accommodating a large number of protected trees. The existing buildings on the site are agreed to be of a generally large scale and of Victorian/Edwardian style with some later additions, and I observed on site that they were arranged along a relatively central axis set a reasonable distance away from the boundaries. The site had previously in 2011 been the subject of a Development Brief prepared by the Homes & Communities Agency (HCA) to facilitate the redevelopment of this 'brownfield' site, albeit that the proposed development has not adopted many of the design stipulations, and therefore falls to be assessed on its own merits.

28. Whilst the dispersal of the protected trees around the perimeter of the appeal site provides a reasonable level of screening, the combination of the boundary trees and the existing development results in the existing site being a relatively prominent and visible feature within the otherwise generally open landscape. However, I observed the character of the wider countryside in this location to be punctuated by small pockets of development, including hamlets and groups of cottages, as well as farms and other small clusters of buildings. In this respect, and despite its larger and more municipal scale of buildings, I am satisfied that the established nature of the existing development on the site does not detract from the overall character and appearance of the landscape.

29. The proposed residential development of the site would result in the removal of the existing buildings and would incorporate a more intensive form of development than the existing disposition of the hospital buildings. In this respect, I have carefully considered the expressed concerns of the Council with regards to the effect of the development on local distinctiveness, as well as the references to the appropriateness of the appellant's Development Model in this context, and having regard to various other sites referenced by the appellant.

30. In respect of local distinctiveness, I accept that the proposed layout would result in the introduction of a more suburban residential character of development on the site, which as reported by the Council would be consistent with the character of many of the sites referenced by the appellant. I also acknowledge the Council's point related to the desirability of incorporating design cues from the existing buildings on the site. However, on the basis of my observations, I do not find that the absence of such would result in an adverse effect on the overall quality of the development itself. Indeed, the Council has accepted that the internal layout design incorporating landscaping,

has been well-designed and improved during the course of the application, and I would agree that I find this to be of a relatively high quality.

31. I am also not persuaded on the basis of the submissions or my observations of the area, that there is an overriding or predominant local or rural character to existing development in the immediate vicinity which would be appropriate for the redevelopment of the site to reflect. If anything, I consider that the form and layout of development as proposed would broadly reflect the character of nearby terraces in respect of the adoption of relatively consistent 'lines' of closely related dwellings near to the boundaries of the appeal site. I have noted the criticism of the appellant's Development Model and the Council's contention regarding the incorporation 'by chance' of design features found within the wider local area. Nevertheless, I do not find the basis for the incorporation to be of any particular consequence, and I am satisfied that in the context of the site and its setting within the landscape, the development in the manner proposed, whilst clearly evident within the wider landscape, would not result in a poor quality of design which would be to the detriment of its surroundings.
32. Turning to the impact on the retained protected trees, I note that it is common ground that there would not be an adverse effect on the root protection areas as a consequence of the construction of the dwellings themselves, and that the Council has not raised any objection to the loss of trees located within the site away from the boundaries. I am also satisfied that other direct impacts of the development on trees could be adequately mitigated against by using low impact construction methods and suitable tree protection during the construction period. Nevertheless, the Council has expressed concern over the loss of T34 from the northern boundary to accommodate a development plot, as its structural and physiological condition would not warrant its removal. In this respect, I accept the Council's contention over the quality of this specific tree and the presumption in favour of its retention, and I also agree that a replacement tree would not initially provide the same visual benefit as the tree which would be lost. However, whilst I accept that this would result in some detriment to the character and appearance of the development in the short-term, in time the replacement tree would be anticipated to provide, along with additional landscaping and planting, further visual benefit and amenity, and screening of the site.
33. The Council has also highlighted the concern that the proximity of the development to protected trees would be likely to result in an anticipated pressure to fell trees on amenity grounds, due to the impact on natural daylight. I have carefully considered this matter and observed the relationship between the boundary trees and the position of the proposed dwellings on the site. Whilst undoubtedly the proposals would result in the introduction of development much closer to the retained trees than is currently the case, I note that the Council has accepted that the thinning out, regular pruning, and maintenance of trees, particularly along the southern boundary, would at least assist in the relationship with the development initially, in combination with the removal of permitted development rights for extensions. However, whilst I would not disagree with the appellant's contention regarding the pleasure that residents may gain from established trees at the foot of gardens, I do accept the Council's observations regarding the potential for an adverse impact on the external living environment within small gardens which could result from the presence of Sycamores on a number of plots.



34. In this respect, I accept that there could be the potential for conflict between future residents and some of the protected trees, albeit that the Council would retain the ability to consider these through TPO applications. Nevertheless, on balance I would conclude that the overall design and layout of the proposal would not be of a poor quality or result in a harmful impact on the character and appearance of the area. The proposal would not therefore conflict with saved policies GD1 or H24 of the Local Plan, as the development would be of a high standard and would not be out of keeping with the character and appearance of the area, and I am also satisfied that there would not as a consequence be conflict with Section 7 of the Framework.

*Other Matters*

35. The appellant has submitted a Unilateral Undertaking to address the provision of a footpath link, the proposed relocation of a bus stop, and the provision of off-site play facility contributions. Whilst I have already addressed in detail the aspects related to the footpath link and bus stop, I must also consider whether or not the obligation related to the provision of an off-site play contribution would meet the policy tests set out in the Framework at paragraph 204, and as enshrined in the statutory tests set out in the regulation 122 of the Community Infrastructure Levy Regulations 2010.

36. The proposed development would make some limited provision for open space within the layout, but a contribution of £44,000 towards off-site play facilities has also been required to meet the Council's requirements, and provided through the submitted Unilateral Undertaking. However, I have not been provided with any evidence pertaining to the means of calculation for the contribution, or have been given any indication as to how the obligation would be utilised in direct relation to the proposed development or that a need for such provision pervades within the vicinity. As a consequence I am unable to conclude that the required obligation would be necessary to make the development acceptable in planning terms, or would be utilised in a manner directly related to the development. Furthermore I note that the Council does not contend that there would remain extant capacity in the maximum pooled limit of 5 generic contributions allowed by virtue of the Community Infrastructure Levy Regulations 2010, and I cannot therefore conclude that the requested contribution is fairly and reasonably related in scale and kind, and therefore meets the statutory tests set out at regulation 122.

37. The proposed development makes no provision for affordable housing, with the appellant having prepared a viability assessment in support of the non-provision. It is indicated within the Statement of Common ground that the Council has accepted that in light of the other costs detailed within the viability assessment and associated with the redevelopment of the existing hospital site, that the provision of affordable housing would make the scheme unviable. No further detailed evidence has been provided on this matter, and I have no reason therefore to dispute the conclusions reached.

38. The appeal site is indicated by the Council to be located within the setting of a Grade II listed building, identified as a former school located at the junction between the A690 and Holy Well Lane. The former Board School is dated 1877, and is contained within its own defined curtilage, albeit that it can be seen in some views with the appeal site across the intervening fields.

39. In determining this appeal, I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the setting of the listed building. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
40. I consider that the setting of the school is derived from its prominent location close to the junction between the A690 and Holy Well Lane, and that this would not be adversely affected by the proposal due to the intervening distance and the existing mature boundary trees which assist in reducing the inter-visibility with the appeal site. As a consequence, I am satisfied that the significance of the heritage asset would not therefore be diminished by the proposal as it would not detract from the setting, and would not therefore conflict with the policies of the Framework which seek to conserve and enhance the historic environment.
41. In addition to the above and the main issues, interested parties have also raised concerns over a number of other matters, including highway safety and parking, the impact of the proposed development on ecology, and the drainage of the site.
42. In respect of highway safety, I observed on site that the width of Holy Well Lane between the access to the appeal site and the A690 is comparatively limited, albeit that I am satisfied that the carriageway would be sufficient to be able to accommodate the volume of traffic that would be generated by the proposed development. Whilst concern has also been raised regarding the suitability of the junction between Holy Well Lane and the A690, I note that there is no objection from the Highway Authority on highway safety grounds in this respect, which is a conclusion with which I would agree. Turning to the parking provision on the appeal site, I note from the submitted evidence that the level of the provision has been improved during the course of the planning application to meet County parking standards, and as indicated within the Statement of Common Ground this is not a matter which is disputed by the Council. In the absence of any technical evidence to the contrary, I am satisfied that the level of parking provision would be appropriate.
43. Turning to matters related to ecology and drainage, an ecological report and phase I habitat survey accompanied the planning application, along with a flood risk assessment which assessed the surface water drainage of the site. These are not issues with which the Council has found dispute, and as indicated within the Statement of Common Ground, I would agree that these are matters which can be adequately secured through the use of planning conditions.

#### *Planning Benefits*

44. The proposed development would result in the contribution of 49 dwellings towards the existing shortfall of a five-year supply of deliverable housing sites in the County. This would accord with the underlying objective of Chapter 6 of the Framework, which is to seek and significantly boost the supply of housing, and ensure choice and competition in the market for land for housing. Whilst I accept that the appeal site has not been allocated as a housing site, the site occupies an accessible location with regards to its access to services, facilities and a variety of modes of transport, and would therefore make a positive social

contribution of additional housing within the area, which would weigh in support of the proposed development.

45. Further to the additions to the local housing market, the proposed development would also provide some limited economic benefit as a result of the opportunities for the creation of employment from the construction of the dwellings, as well as the resultant training opportunities in the local area. I am also satisfied that the development would provide some support to existing local services.
46. The effective reuse of previously developed land would attract substantial weight in support of the proposed development. The retention of the majority of the existing protected trees around the boundary of the appeal site, combined with the provision of additional planting and landscaping would protect and enhance the existing natural environment. In respect of the impact on biodiversity, the proposals would seek to incorporate measures to enhance the site for biodiversity including the erection of bat boxes in the absence of any recorded roosting sites on the appeal site. The enhancement of the biodiversity of the site would be secured by planning conditions and would be in accordance with the objectives of paragraph 118 of the Framework. This is a matter which would clearly weigh in support of the proposed development.
47. I have also had regard to the appellant's stated intent to incorporate within the design and construction of the proposed dwellings measures to make efficient use of resources, achieve an overall reduction of waste, as well as a 10% reduction of CO<sub>2</sub> emissions through the implementation of an increased specification of insulation and energy efficiency, including the avoidance of future heat loss from dwellings. This would accord with the objectives of Chapter 10 of the Framework addressing the challenge of climate change.

### **Planning Balance and Conclusion**

48. In reaching my conclusion, I have been mindful of the Council's inability to demonstrate a five year supply of deliverable housing sites, and therefore, having regard to paragraph 49 of the Framework, that policies related to housing supply should be considered to be out-of-date and that the proposed development should therefore be considered in the context of the presumption in favour of sustainable development. In this respect, I recognise that paragraph 14 of the Framework advises that where a development plan is absent, silent or relevant policies are out-of-date, that permission should be granted for development proposals unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
49. Given the current position with regard to the development plan, and the absence of a five year supply of deliverable housing sites, considerable weight in support must be afforded to the provision of 49 new dwellings to meet housing needs within the area and the country. The redevelopment of a previously developed 'brownfield' site would also weigh substantially in support of the proposals. I also consider that the proposals would provide some limited economic benefit as a result of the creation of employment from the construction of the dwellings, and support to existing local services.
50. I am satisfied that the appeal site is situated within an accessible and sustainable location for new development, with particularly good access to public transport. Furthermore, whilst I have accepted that there would be the

potential for some limited future harm to protected trees on the site, I am satisfied that the proposal would not result in an adverse impact on the overall character and appearance of the wider area. I have also concluded that the proposals would preserve the setting of the nearby Grade II listed building.

51. Overall, and having regard to all other matters raised and the economic, social and environmental dimensions of sustainable development set out in paragraph 7 of the Framework, I conclude that the scheme represents sustainable development. Moreover, the limited harm likely to be caused by the proposal would not significantly and demonstrably outweigh the development's benefits, particularly in terms of contributing towards housing needs on a previously developed site. Consequently, the appeal should be allowed.

### **Conditions**

52. I have considered the suggested conditions in the light of paragraph 206 of the Framework. This paragraph sets out that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
53. Conditions relating to timeliness and the identification of plans are necessary in the interest of proper planning and the avoidance of doubt. Conditions requiring details of roof materials, and all materials to be used on roads and hard surfaces, as well as the landscaping of the development would be required in the interests of the character and appearance of the area. The removal of permitted development rights for extensions and ancillary buildings and structures on certain plots, and the need for the submission of a method statement for the removal of the existing roadway on site would ensure that there would not be an unacceptable conflict with retained protected trees and would also therefore be in the interest of the visual amenity of the area. The agreement of details of protective fencing and the extent of root protection areas would also be in the interests of the protection of retained trees and the character and appearance of the area. The provision of bat boxes and roosting opportunities within the development would seek to conserve and enhance the biodiversity of the appeal site.
54. The provision of a scheme to minimise energy consumption through provision from renewable or low carbon sources on site would be in the interests of sustainable construction and energy efficiency. A condition requiring the submission of a scheme of foul and surface water drainage would be necessary in the interests of the disposal of surface water. Conditions securing a construction method statement and the completion of roads, turning spaces, driveways, footways and footpaths, would be in the interests of highway safety.

*M Seaton*

INSPECTOR

## **Annex**

### **Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless as otherwise required by the conditions below, the development hereby permitted shall be carried out in accordance with the approved plans listed in the Drawing Schedule to this decision letter.
- 3) Notwithstanding any description of the materials in the application, no development shall commence until precise details of the roof materials of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) Notwithstanding any description of the materials in the application, no development shall commence until precise details of the materials of all private driveways and access roads in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) No development shall commence until a detailed scheme for the provision of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented in accordance with the approved details.
- 6) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, E and F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) other than on plots 1-3, 31, 34, 41-49, there shall be no development within these classes to the rear of the dwellings hereby approved without an application having been submitted to and approved by the Local Planning Authority.
- 7) No development shall commence until a scheme to minimise energy consumption has been submitted to and approved in writing by the local planning authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained so in perpetuity.
- 8) No development shall take place until a scheme for the provision of bat boxes and bat roosting opportunities on the site and within the dwellings has been submitted to and approved in writing by the local planning authority. The scheme shall include the type, number, location and timing of provision of any such habitat features. The development shall take place and be retained in accordance with the approved details.
- 9) All planting, seeding or turning in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of each plot to which it relates and in the case of

any public spaces the completion of the development. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development, including each plot, shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

- 10) No demolition or development shall commence until details showing the exact position of protective fencing around trees within the site have been submitted on plan and agreed in writing by the local planning authority. Thereafter, no demolition or construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees scheduled for retention are protected by the erection of fencing in the agreed locations. The location and design of protective fencing details shall follow the guidelines set out in BS 5837:2012 Trees in relation to construction and the method statement within section 5 of the submitted Tree Survey. This fencing must be retained as agreed throughout construction works and no storage of any materials are to take place inside the fences.
- 11) No development shall commence until a plan showing the revised root protection areas (RPAs) of all trees scheduled for retention within the site has been submitted to and approved in writing by the local planning authority. Any development within the agreed RPAs must employ the special construction techniques and surface type recommendations within Section 5 of the submitted Tree Survey.
- 12) No development shall commence until a method statement for the management of the removal of the roadway along the northern site boundary and infill with topsoil has been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved details.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. The access route for all construction traffic
  - ii. the parking of vehicles of site operatives and visitors
  - iii. loading and unloading of plant and materials
  - iv. storage of plant and materials used in constructing the development
  - v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - vi. wheel washing facilities
  - vii. measures to control the emission of dust and dirt during construction
  - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works

- 14) Before the occupation of any dwelling hereby approved the proposed estate roads, footways and footpaths, turning spaces and driveways between the dwellings and the existing highway, shall be properly consolidated and surfaced. The footways and footpaths between any dwelling and the existing highway shall be completed within three months from the date of occupation of the dwelling.

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**Drawing Schedule (as agreed in SOCG dated 23 April 2015)**

<u>Drawing No.</u>	<u>Drawing Title</u>
PL-78-006	Location Plan
PL-78-001 Rev. M	Site Plan
PL-78-002 Rev. K	Boundary Treatment and Hard Landscape Plan
PL-78-004 Rev. J	External Material Schedule
1189-5-50 Rev. E	Planting Plan
1189-5-1 Rev. D	Landscape Strategy Plan
-	Garage Threshold/Drive Detail
-	Detached Single Garage
-	Twin Garage
13/201-8	Type 201
13/301-8	Type 301
13/304-10	Type 304
13/309-10	Type 309
13/310-10	Type 310
13/403-9	Type 403
13/404-9	Type 404
13/405-9	Type 405
13/406-10	Type 406

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## **APPEARANCES**

### FOR THE APPELLANT:

Chris Dodds	Gleeson Regeneration
Tim Elliot	Appellant
Peter Wood	Appellant
Faye Whiteoak	Design Consultant
Sarah Worthington	Peacock and Smith (Planning Agent)

### FOR THE LOCAL PLANNING AUTHORITY:

Adrian Caines	Principal Planning Officer, Durham County Council
Thomas Bennett	Durham County Council
Bryan Harris	Durham County Council
Gerrard Lawson	Durham County Council

### INTERESTED PERSONS:

Mr Tweddle	Neighbour
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## **DOCUMENTS SUBMITTED AT THE HEARING**

Hearing Notification Letter

Finalised Statement of Common Ground

Council Highway Officer e-mail correspondence and appendices related to site at Land North of Lowhills Road, Peterlee (dated 15 May 2013)

## **DOCUMENTS SUBMITTED FOLLOWING THE HEARING**

Housing Land Availability Assessment – Statement on Five-Year Housing Land Supply dated 1 April 2015 (May 2015)

Housing Trajectory for County Durham dated 1 April 2015 (May 2015)

Council e-mail correspondence regarding Unilateral Undertaking (May/June 2015)

Appellant Note responding to Five Year Land Supply in Durham (June 2015)

Appellant's Supplementary Clarification Letter on June 2015 Five Year Land Supply Note (June 2015)

Letter from HBF regarding Durham 5 Year Housing Land Supply (June 2015)

Housing Land Availability Assessment – Statement on Five-Year Housing Land Supply dated May 2015 (June 2015)

Updated Housing Trajectory for County Durham dated 1 April 2015 (June 2015)

Undated Unilateral Undertaking and Covering Letter (June 2015)

Council e-mail correspondence regarding status of County Durham Plan, with attached appeal decisions for Durham Road, Spennymoor & Mountsett Cottage, Burnopfield (October 2015)

Letter from Airedon Planning & Design (Planning Agent) regarding updated 5 Year Housing Land Supply position (October 2015)

Letter from Airedon Planning & Design (Planning Agent) responding to Council's October 2015 e-mail submission and appeal decisions (November 2015)

Signed and Completed Unilateral Undertaking and Covering Letter (January 2016)

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