

## **DEVELOPMENT CONTROL (HETTON, HOUGHTON AND WASHINGTON) SUB-COMMITTEE**

### **AGENDA**

**Meeting to be held in the Committee Room 2 on Wednesday, 27<sup>th</sup> February, 2013 at 5.45 p.m.**

ITEM		PAGE
1.	<b>Receipt of Declarations of Interest (if any)</b>	
2.	<b>Apologies for Absence</b>	
3.	<b>Applications made under the Town and Country Planning Acts and Regulations made thereunder</b>  Report of the Deputy Chief Executive (copy herewith)	1
4.	<b>Town and Country Planning Act 1990 – Appeals</b>  Report of the Deputy Chief Executive (copy herewith)	43
5.	<b>Response to the Department for Communities and Local government Consultation on Planning Performance and the Planning Guarantee</b>  Report of the Deputy Chief Executive (copy herewith)	44

E. WAUGH,  
Head of Law & Governance.

Civic Centre,  
SUNDERLAND.

18<sup>th</sup> February, 2013

**This information can be made available on request in other languages.  
If you require this, please telephone 0191 561 1059.**



## **Development Control (Hetton Houghton & Washington) Sub-Committee**

**27 February 2013**

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### **REPORT ON APPLICATIONS**

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#### **REPORT BY DEPUTY CHIEF EXECUTIVE**

##### **PURPOSE OF REPORT**

This report includes recommendations on all applications other than those that are delegated to The Deputy Chief Executive for determination. Further relevant information on some of these applications may be received and in these circumstances either a supplementary report will be circulated a few days before the meeting or if appropriate a report will be circulated at the meeting.

##### **LIST OF APPLICATIONS**

Applications for the following sites are included in this report.

1. 2 Woodbine Cottages, Springwell, Gateshead
2. Coal Bank Farm, Weardale Street, Hetton le Hole
3. Land adjacent to Dean Croft Bungalow, Warden Law, Houghton le Spring

##### **COMMITTEE ROLE**

The Sub Committee has full delegated powers to determine applications on this list. Members of the Council who have queries or observations on any application should, in advance of the above date, contact the Sub Committee Chairman or email Development Control [dc@sunderland.gov.uk](mailto:dc@sunderland.gov.uk)

## **DEVELOPMENT PLAN**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

### **Unitary Development Plan - current status**

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

## **STANDARD CONDITIONS**

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

## **SITE PLANS**

The site plans included in each report are illustrative only.

## **PUBLICITY/CONSULTATIONS**

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010

## **LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION**

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Office of the Chief Executive in the Civic Centre or via the internet at [www.sunderland.gov.uk/online-applications/](http://www.sunderland.gov.uk/online-applications/)

Janet Johnson  
Deputy Chief Executive

1.

Washington

Reference No.: 12/00014/SUB Resubmission

**Proposal:** Erection of two storey detached property (resubmission) (additional drawings showing section through development site received 06/02/2013)

**Location:** 2 Woodbine Cottages Springwell Gateshead NE9 7PR

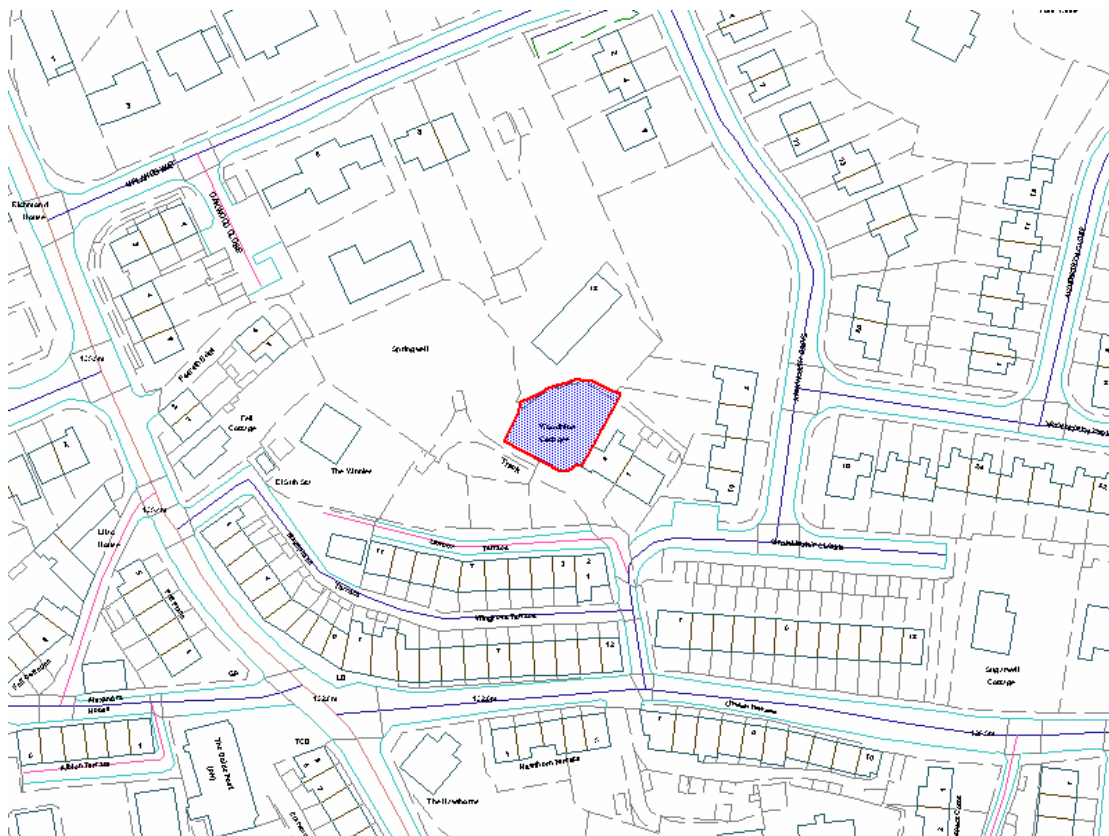
**Ward:** Washington West

**Applicant:** Mr Gary & David Simpson

**Date Valid:** 2 February 2012

**Target Date:** 29 March 2012

### Location Plan



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### PROPOSAL:

Planning permission is sought for the erection of a two-storey detached dwelling in the garden to the side of 2 Woodbine Cottages, Springwell Village, Gateshead, NE9 7PR.

The application proposes to erect a single detached dwelling in the large private garden at the side of 2 Woodbine Cottages, which forms one half of a pair of two-storey cottages. The garden has a maximum width of 19 metres and a maximum

depth of 22 metres and is set 1 metre above the ground level to its front, with a retaining wall consequently forming the front boundary. The two existing cottages occupy a 'backland' site to the north-east of the two rows of terraced dwellings running parallel with Peareth Hall Road. Between the track in front of Woodbine Cottages and the nearest terrace, Lismore Terrace, is a row of small garden/allotment plots.

To the north-west of Woodbine Cottages is an area of woodland/scrub, part of which has been used to extend the private garden of no. 2 (see app. no. 09/04179/FUL), although this land does not form part of the proposed development site. To the north and north-east are the more modern dwellings of Uplands Way and Highworth Drive, which stand on higher land than the cottages and the garden area. Immediately to the north is 'Moorgate', a large bungalow standing on top of an embankment at the end of no. 2's garden.

Access to Woodbine Cottages is via a lane leaving Peareth Hall Road and running past the eastern end of Wingrove and Lismore Terraces. Beyond Lismore Terrace, the lane turns into a narrow, unadopted track, whilst the street in front of Lismore Terrace is also unadopted. Both the track and the street of Lismore Terrace have recently been given an improved surface.

The main body of the proposed dwelling has a width of 7.9 metres and a depth of 9.8 metres and its front elevation will stand a little forward of the adjacent Woodbine Cottages. The new dwelling will feature a garage with bedroom above to its south-east side, which are set back 4.3 metres from the main facade of the dwelling in order to accommodate a vehicular driveway. The south-east side wall of the new dwelling is positioned 4 metres from the gable wall of 2 Woodbine Cottages. The main body of the new dwelling is to have a dual-pitched roof with a ridge height of 8.5 metres above ground level, but the ridge line height of the recessed section to the side is set down from this by a distance of 1.2 metres. The dwelling is intended to be erected on levelled ground and will consequently appear as sunk 1 metre into the remaining garden.

The dwelling will be afforded a lounge, lounge/dining room, kitchen, utility room, study, WC and garage on the ground floor and five bedrooms (one en-suite) and a bathroom to the first floor. The front and rear elevations will contain main living room windows whilst the north-west facing side elevation will also feature a ground floor lounge/dining room window and first floor bathroom windows.

This application is a resubmission subsequent to the refusal of planning application ref. 11/00067/FUL in April 2011 (determined at officer level under delegated powers). The original application proposed the erection of two dwellings on the land and also included the hard surfacing of one of the garden plots between Woodbine Cottages and Lismore Terrace to use as a parking area for prospective residents of the properties. The application was refused for the following reasons:

1. The proposed development will result in conditions which are prejudicial to highway and pedestrian safety, due to an increase in traffic on the narrow, unadopted roads and tracks leading to the development site, the increase in the use of a junction with substandard visibility (i.e. that between the lane leading to Woodbine Cottages and Peareth Hall Road) and the absence of any pedestrian footway or streetlighting along the track in front of Woodbine Cottages. The

proposed development therefore fails to comply with the requirements of policies T14 and T22 of the UDP.

2. The proposed use of the garden/allotment plot in front of Lismore Terrace for parking is an unacceptable arrangement, for it will appear as visually intrusive within the locality, is detached from the two dwellings the spaces are intended to serve and it cannot be guaranteed that the spaces will remain available for the lifetime of the development due to the ownership of the land being unknown. As such, the proposal fails to comply with the requirements of policies B2, B3, T14 and T22 of the Council's adopted UDP.

3. The development site is adjacent to land which has previously accommodated an industrial use and, as the applicants have not submitted a desktop study and/or site investigation, it has not been established whether the site has been contaminated or whether any remediation or mitigation measures are required to allow the proposed residential development. As such, it cannot be ascertained whether the land is suitable for the proposed residential development and the proposal is therefore contrary to the requirements of policy EN14 of the UDP.

4. The fenestration and treatment of the front elevations of the two dwellings fails to respect the appearance of the front elevations of the adjacent Woodbine Cottages and as such, the proposed dwellings will appear as incongruous within the locality, contrary to the requirements of policy B2 of the Council's adopted UDP.

An application of this nature would normally be determined under the Council's delegation scheme, but it has been referred to the Development Control Sub-Committee (Houghton, Hetton and Washington) at the request of Councillor Henry Trueman.

#### **TYPE OF PUBLICITY:**

Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

City Services - Network Management  
Street Scene (Environmental Service)  
Northumbrian Water

Final Date for Receipt of Representations: **14.03.2012**

#### **REPRESENTATIONS:**

##### **PUBLIC CONSULTATION**

Letters of objection have been received from the occupiers of 4, 5, 6, 7, 8 and 9 Lismore Terrace, 3 Makepeace Terrace (located to the south-west of the proposal site), 8 Highworth Drive and 'Moorgate', Uplands Way (located immediately to the north of the proposal site). The main issues raised by objectors are:

- proposed dwelling is unlike any surrounding properties in terms of size and design (being double fronted) and would consequently appear as out of character in an area mainly comprising single-fronted terraced dwellings and smaller houses;
- development is not compatible with existing and surrounding land use and will be too dominant;
- piecemeal development such as this may prejudice the proper planning of the area;
- large dwelling could be occupied by family with more than one vehicle in an area with parking and access problems;
- proposed parking facilities are 'vague' and space will be at a premium;
- concerns regarding noise and disturbance;
- access roads to the proposal site are unsuitable for heavy construction vehicles;
- new surfacing paid for by residents will deteriorate with being used by extra traffic;
- nothing has changed at the site since the refusal of original planning application ref. 11/00067/FUL and highway and pedestrian safety concerns in respect of that proposal still exist and are not overcome by this application;
- drainage in area is not adequate to cater for another dwelling;
- new dwelling will overlook rear garden and be afforded views into rear bedrooms of 'Moorgate', to the detriment of its privacy;
- concerns over works to retaining wall and encroachment into embankment at rear of garden;
- occupier of 'Moorgate' wants guarantee that no landslip issues will occur;
- occupier of 'Moorgate' bought dwelling with planning permission for two six-bedroomed properties (application ref. 08/04549/OUT, approved in April 2009, permission now expired) and has refrained from proceeding to prevent overdevelopment of area, but will go ahead with project if permission is granted for this development;
- there are 62 new dwellings being built in Springwell village, so no need for one extra property;

It should be noted at this point that the potential for the construction of new development to be disruptive to existing residential properties is not a reason to refuse planning permission, although the timing of building works and the working arrangements can be restricted through appropriately worded conditions in the event Members are minded to approve the application.

#### EXTERNAL CONSULTATION

Northumbrian Water - no objection to proposed development.

#### **POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
 B\_2\_Scale, massing layout and setting of new developments  
 H\_22\_Residential development within the curtilage of an existing house  
 T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising



T\_22\_Parking standards in new developments  
EN\_14\_Development on unstable or contaminated land or land at risk from landfill/mine gas

## **COMMENTS:**

### **ISSUES TO CONSIDER**

The National Planning Policy Framework (NPPF) provides the current Government's planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity and encourage the effective use of land by re-using land that has been previously developed (i.e. brownfield land), provided that it is not of high environmental value.

The relevant guidance of the NPPF detailed above feeds into policies EN10, B2, H22 and T14 of the City Council's adopted Unitary Development Plan (1998), which are consequently considered to be pertinent to the determination of this application.

With regard to the above, it is considered that the main issues to consider in the determination of this application are as follows:

1. the principle of the proposed development;
2. the impact of the proposed development on the amenity of existing dwellings;
3. the level of amenity afforded to residents of proposed dwellings;
4. the impact of the proposed development on visual amenity;
5. the impact of the proposed development on highway and pedestrian safety;
6. implications of developing a site adjacent to land previously used for industrial purposes;
7. the impact of the development on trees/ecology of the locality;

#### **1. Principle of proposed development**

The development site is identified as 'white land' on the proposals map of the City Council's adopted Unitary Development Plan (1998) and as such the proposal is subject to policy EN10. This policy dictates that where the UDP does not indicate any proposals for change, the existing pattern of land use is intended to remain and development in such areas must be compatible with the principal use of the neighbourhood. Given that the vicinity of the development site is characterised by residential dwellings, the proposal is considered to comply with the requirements of policy EN10 and, in principle, is therefore broadly acceptable.

Regard must also be had, however, to policy H22 of the UDP, which refers specifically to residential development within the curtilage of an existing dwelling. It should be noted that the glossary to the NPPF states that 'previously developed land' excludes private residential gardens; indeed, paragraph 53 states that planning authorities should consider setting out policies to resist inappropriate development of residential gardens, for example where such development would harm the character of an area. In broad alignment with aforementioned paragraph 53 of the NPPF, policy H22 states that the erection of

dwelling within the curtilage of an existing property will only be acceptable if it is not detrimental to general amenity and to the established character of the locality.

With regard to the above, it is therefore considered that although garden areas are excluded from the NPPF's definition of 'previously developed land', the development of such sites is not unacceptable provided the scheme is not detrimental to the established pattern of built development within the locality. In cases where the development does not have undue harm on the character of the area, the loss of private garden space to residential development may not be inappropriate, especially where few opportunities exist for similar schemes within the locality. The relationship between the proposed development and the character of the surrounding area is considered further in the next section of this report.

## 2. Impact of proposed development on residential amenity

Policy B2 of the UDP also requires that new development respects residential amenity and retains acceptable levels of privacy. Supplementary Planning Guidance and the 'Residential Design Guide' Supplementary Planning Document to the UDP provide spacing standards to which new residential development should adhere, in order to achieve acceptable levels of privacy and provide adequate levels of outlook. The SPG and SPD state that a distance of 21 metres should be maintained between main living windows of residential buildings, and 14 metres between main living windows and an elevation free of main living windows.

The front elevation of the proposed dwelling is positioned a minimum of 22 metres from the front elevations of the dwellings of Lismore Terrace, in excess of the 21 metres required by the SPG and SPD. Given this separation distance, it is considered that the amenity of residents of Lismore Terrace will be unduly affected by the proposed development in terms of their outlook and privacy. Nor would the dwelling cause overshadowing of these properties given that the development site lies to the north-east of Lismore Terrace.

The west elevation of 2 Woodbine Cottages does feature two windows facing the proposal site and given that the south-east elevation of the proposed dwelling will be positioned only 5.1 metres away, their outlook will undoubtedly be significantly reduced. However, neither window appears to be part of the original cottage, with one in the side wall of a single-storey side extension and the other in the side wall of a two-storey rear extension. Accordingly, the loss of outlook from these windows and any overshadowing of the rooms served by these windows caused as a result of the proposed development cannot be given significant weight. In addition, the proposed dwelling will not lead to any significant overshadowing of the rear garden of 2 Woodbine Cottages given that it will maintain the building line and depth of the existing cottages, whilst the absence of windows in its side elevation will prevent direct overlooking of no. 2's rear garden.

Consideration must also be given to the impact of the development on the property immediately to the north of the proposal site, 'Moorgate', a large bungalow standing on the higher ground beyond the garden. The occupier of 'Moorgate' has objected to the application on the grounds that the proposed rear windows to the two dwellings will overlook the rear garden and a number of main living rooms the property. The applicant has, at the request of the Council, submitted a section through the development site (received 5th February 2013)

to illustrate the difference in levels between the development site and the land forming 'Moorgate's' plot. The section gives the level of the development plot as being 3.8 metres below 'Moorgate's' garden at the nearest point between the footprint of the new dwelling and the rear corner of 'Moorgate', with the fence on top of the embankment having a height of 1.8 metres. The proposed dwelling, as noted in the opening section of this report, is also to be sunk 1 metre into the garden. The embankment at the end of the garden of 2 Woodbine Cottages is also well vegetated, with a number of mature trees along the top of the slope.

The rear elevation of the proposed dwelling faces north-eastwards, whereas the rear elevation of 'Moorgate' faces south-eastwards, and it is considered that this relationship will serve to prevent any direct and intimate view into 'Moorgate's' rear living rooms from the new dwelling's rear windows. The difference in site levels and the screening provided by the trees and vegetation along the top of the slope further improves the situation.

With regard to overlooking of 'Moorgate's' rear garden, the section through the site submitted by the applicant shows the eaves level of the new dwelling as being below the top of the fence on top of the embankment, with the first floor rear windows obviously set below the eaves. The section drawing is considered to illustrate that anyone standing at the first floor rear windows will not be able afforded an outlook over the top of the fence and into the garden of 'Moorgate' and consequently, its privacy will not be harmed by the development.

With reference to the above comments, it is considered that the impact of the proposed dwellings on the amenity of the surrounding properties of Lismore Terrace, Woodbine Cottages and 'Moorgate' is acceptable, in accordance with the requirements of aforementioned policy B2 of the UDP.

### 3. Level of amenity afforded to occupiers of proposed property

The City Council's 'Residential Design Guide' Supplementary Planning Document (SPD) and section 2.7 of the 'Development Control Guidelines' Supplementary Planning Guidance (SPG) state that space around dwellings is necessary to permit satisfactory living conditions (hygiene, natural light, comfort) and to help to determine the visual character of the development. Outlook is an important amenity to be enjoyed in a residential property and at least one elevation should have rooms which permit pleasant middle to long distance views.

The dwelling will be afforded satisfactory outlook from main living rooms to both the front and rear of the property, whilst room sizes are satisfactory. In addition, the property will be afforded a reasonable level of external amenity space, with a rear garden of a size comparable to those of Woodbine Cottages. It is therefore considered that residents of the new dwelling will be afforded a satisfactory standard of accommodation, in accordance with the requirements of the aforementioned SPD and SPG.

### 4. Impact of development on visual amenity

Policy B2 of the Council's UDP also requires new development to respect visual amenity and to take into account the character and appearance of the locality. In addition, as noted earlier in the report, policy H22 of the UDP requires development within garden areas to respect the established character of the locality.

The garden to the side of 2 Woodbine Cottages provides a relatively attractive area of private green space, but the site does occupy a secluded, 'backland' location and as such is not of great prominence within the locality. In addition, the pattern of built development in the immediate locality is relatively inconsistent and there are significant amounts of private open space (i.e. the allotment plots in front of Lismore Terrace and woodland/scrub to the north-west of the site) adjacent to the site which will continue to give the vicinity quite a green and open feel. As such, it is considered that the development of this site will not be unduly detrimental to the character and appearance of the area.

The erection of the dwelling is also considered to be generally appropriate with regard to the pattern of built development in the locality. Although detached, the property will respect the building line formed by the frontages of Woodbine Cottages and will essentially lead to the formation of a short row of dwellings in combination with the two existing cottages, an arrangement which is generally reflective of the terraces found in the immediate area. As such, the dwelling will not appear as incongruous in terms of its situation and its relationship with the two neighbouring properties. The massing of the dwelling is acceptable when viewed next to the existing cottages and the elevation treatment is significantly improved from the previously refused scheme, with the vertical emphasis on fenestration found to the facades of Woodbine Cottages carried through to the new dwelling. The use of stonework to the front elevation, natural slate for the roof and incorporation of stone cills and lintels to front windows of the new dwelling will also serve to give the property an appearance and finish which is reflective of the adjacent existing dwellings.

The application no longer includes the proposed use of the garden/allotment plot between Lismore Terrace and Woodbine Cottages as a parking area, an aspect of the initial proposal which was considered unacceptable and formed a reason to refuse the previous application.

It is acknowledged that a number of the objectors to the proposed development have concerns in respect of the impact of the scheme on the character of the locality and suggest that the new dwelling will appear as overly large and incongruous. However, and with regard to the above comments, it is considered that the erection of the dwelling will not be unduly detrimental to the character of the locality whilst its appearance in relation to the neighbouring existing properties at Woodbine Cottages is now considered to be satisfactory. As such, the proposed development is considered to be compliant with the requirements of aforementioned policies B2 and H22 of the UDP.

## 5. Impact of development on highway and pedestrian safety

Policy T14 requires proposals for new development to be readily accessible by pedestrians, cyclists and users of public transport; not cause traffic congestion or highway safety problems on existing roads; make appropriate safe provision for access and egress by vehicles, pedestrians, cyclists and other road users; make provision for the loading and unloading of commercial vehicles and indicate how parking requirements will be accommodated. Policy T22 states that in deciding the appropriate level of car and cycle parking to be provided in connection with a development proposal, the Council will have regard to: development type (e.g. scale, use, catchment, user characteristics) and locational characteristics (e.g.

accessibility by modes other than private car, population density, historic character).

As noted in the 'Proposal' section of this report, the original application for two dwellings was refused planning permission partly on the grounds of concerns relating to highway and pedestrian safety, particularly in respect of the increased use of the narrow, unadopted access road and track leading to the development site and the additional traffic using the junction with substandard visibility at Peareth Hall Road.

In assessing the highway and pedestrian safety implications of the proposed development, regard has been given to a recent appeal decision received by the City Council in respect of a refused planning application which proposed the erection of one dwelling on land to the rear of Springwell Village Club, Springwell Village (application ref. 11/01818/OUT, appeal ref. APP/J4525/A/11/2167530). This site is considered to be comparable to the current application site in that it can only be reached via an unadopted access track with poor visibility at its junction with the main Springwell Road. The City Council decided to refuse planning permission on the basis that the increased use of this access track (which is considerably longer and in worse condition than that leading to Woodbine Cottages) would lead to highway and pedestrian safety concerns given it is not wide enough to allow vehicles to pass each other, has no pedestrian footway or street lighting and has substandard visibility at the junction with the main road.

The applicant subsequently decided to appeal the Council's refusal of app. ref. 11/01818/OUT with the Planning Inspectorate. The Planning Inspector ultimately dismissed the appeal, but in doing so gave little weight to the Council's concerns regarding the increased use of the access track itself, despite its substandard width and the lack of a footway and streetlighting, suggesting that the additional journeys associated with one new dwelling would not pose a highway and pedestrian safety risk. The only concern of the Planning Inspector was in respect of the visibility at the junction with Springwell Road, which is constrained by the presence of a garden fence adjacent to the end of the lane, with even limited additional usage of the junction considered to represent a hazard to highway safety at this point.

The impact of the current proposal on highway and pedestrian safety has been given full consideration by the City Council's Network Management section. The comments received in response to consultation note that Peareth Hall Road is a 'C'-class road and bus route and that visibility at the junction with the access to Lismore Terrace and Woodbine Cottages is substandard. There have, however, been no reported traffic accidents at this location and it is considered that the presence of one additional dwelling would not significantly increase the vehicular movement at the junction. Although the previous application for two dwellings was refused, the comments state that the proposal for one dwelling is considered acceptable and that a reason for refusal based on highway and pedestrian safety grounds would be unsustainable in an appeal situation.

A number of objectors have also suggested that the one in-curtilage parking space associated with the proposed dwelling would not be enough to cater for the residents of a five-bedroom property. However, the Council's adopted Residential Design Guide Supplementary Planning Document (SPD) and the Development Control Guidelines Supplementary Planning Guidance (SPG) only

require the provision of one in-curtilage parking space per new dwelling created, with no additional spaces required for larger dwellings or those with multiple bedrooms. The proposed development is compliant with the Council's parking guidelines and so the level of dedicated parking associated with the scheme is considered to be appropriate and acceptable.

With regard to the above comments and having had regard to the findings of the Planning Inspector in respect of the aforementioned comparable appeal decision, it is considered that although the vehicular and pedestrian access to the development site is not ideal, the additional vehicular journeys associated with the erection of one new dwelling will not result in conditions which are prejudicial to highway and pedestrian safety either on the access track/road or at the junction with Peareth Hall Road. Furthermore, the parking and servicing arrangements are satisfactory for development of this nature. The proposal is therefore considered to be compliant with the requirements of policies T14 and T22 of the UDP.

6. The development of a site which is adjacent to land previously used for industrial purposes

Policy EN14 of the UDP states that where development is proposed on land which there is reason to believe is contaminated or potentially at risk from migrating contaminants, the Council will require the applicant to carry out adequate investigations to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of contamination would allow development subject to preventative, remedial or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

In respect of the initial application, the City Council's Environmental Health advised that the proposal site is adjacent to one which has previously accommodated an industrial use that may have resulted in contamination of the land. It is possible that the proposal site has been exposed to migrating contaminants and as such, further information is required to determine the condition of the land. Consequently, a comprehensive desktop study and, where necessary, site investigation should be undertaken to ascertain whether the land is contaminated prior to the commencement of development. If a hazard or hazards are identified on the site from any form of contaminant, the results of the survey shall be utilised to undertake a site specific risk assessment to consider risks to water resources, surrounding land, wildlife, building materials, future users of the site and any other persons.

The current application has been accompanied by supporting contaminated land desktop studies, which have found no evidence of potential contamination of the development site. It recommends, however, that intrusive ground investigation is carried out at the site to determine if potential pollutant linkages identified in the report are of any significance. The Council's Environmental Health section suggests that the recommended ground investigation can be required by the imposition of an appropriately worded condition in the event Members are minded to approve the application.

With regard to the above, it is considered that the implications of the proposed development in respect of potential contamination of the land from previous industrial uses is acceptable, subject to the aforementioned imposition of

condition(s) in respect of ground investigation. The proposal is therefore compliant with the requirements of policy EN14 of the UDP.

## 7. Impact of proposed development on trees/ecology

Policy CN17 of the UDP states that the Council will encourage the retention of trees which make a valuable contribution to the character of the area and the retention of trees in all new development will be required where possible, whilst policy CN22 of the UDP states that development which would adversely affect any animal or plant species afforded special protection by law, or its habitat, will not be permitted unless mitigating action is achievable.

Some objectors to the scheme have raised concerns in relation to the loss of trees and green space at the site and/or the impact the development will have on the ecology of the locality. The garden of 2 Woodbine Cottages generally comprises a lawn, but the embankment at its rear features some fairly dense vegetation and mature trees. However, this land would form part of the gardens of the two dwellings rather than being cleared for development purposes. As such, it is considered that the site could be developed without requiring the felling of trees at the site, and would not appear likely to lead to the loss of a habitat of animal or plant species protected by law.

## CONCLUSION

With regard to the above comments, it is considered that the principle of the proposed development is acceptable, as is its impact on visual amenity, the amenity of existing neighbouring residential dwellings, the character of the locality, highway and pedestrian safety and trees and ecology. Furthermore, the implications of the development in respect of potential land contamination is also acceptable. The proposal therefore accords with the requirements of policies EN10, B2, H22, T14, T22, CN17 and EN14 of the UDP and the application is consequently recommended for approval, subject to the conditions set out below.

## **RECOMMENDATION: Approve**

### **Conditions:**

- 1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time.
- 2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

the location plan received 06.01.2012,  
the proposed site plan received 30.01.2012 (drawing no. CS10-01-03),  
the proposed floorplans received 02.02.2012 (drawing no. CS10-01-01),

the proposed front elevation received 02.02.2012 (drawing no. CS10-01-02),  
the proposed elevations received 02.02.2012 (drawing no. CS10-01-02),  
the existing site sections received 05.02.2013 (drawing no. CS10-01-04),  
the proposed site sections received 05.02.2013 (drawing no. CS10-01-05),

In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

- 3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.
- 4 No development shall take place until a scheme of working has been submitted to the satisfaction of the local planning authority; such scheme to include days and hours of working, siting and organisation of the construction compound and site cabins, routes to and from the site for construction traffic, and measures to ameliorate noise, dust, vibration and other effects, and so implemented, in the interests of the proper planning of the development and to protect the amenity of adjacent occupiers and in order to comply with policy B2 of the UDP.
- 5 Notwithstanding any specifications on the submitted plans details of all walls, fences or other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development is commenced. The agreed boundary treatment shall be completed before occupation or in accordance with an agreed timetable, in the interests of visual amenity and to comply with policy B2 of the UDP.
- 6 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and treatment of hard surfaces which shall include indications of all existing trees and hedgerows on the land, and details for their protection during the course of development. The agreed scheme of landscaping shall then be implemented in accordance with the timings detailed in condition 7 of this approval, unless otherwise agreed in writing with the Council as Local Planning Authority, in the interests of visual amenity and to comply with policy B2 of the UDP.
- 7 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the buildings or the completion of the development whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation, in the interests of visual amenity and to comply with policy B2 of the UDP.



8 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 9-11 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition number 12 has been complied with in relation to that contamination, in order to ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.

9 Unless otherwise agreed in writing by the Local Planning Authority, development must not commence until an intrusive ground investigation and risk assessment, in addition to the assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site (site characterisation), whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health
  - property (existing or proposed) including building, crops, livestock, pets, woodland and service line pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments.
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'. The assessment/investigation is necessary to ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan.

10 Unless otherwise agreed by the Local Planning Authority, development must not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in

writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation, in order to ensure that the risks from land contaminated to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy EN14 of the Unitary Development Plan

- 11 The remediation scheme approved under Condition 10 (Submission of Remediation Scheme) must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS 23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority, in order to ensure that risks from land contamination to the future users of the land and neighbouring land are minimise, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy (EN14) of the Unitary Development Plan.
- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition number 9 (Site Characterisation), and when remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition number 10 (Submission of Remediation Scheme), which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared which is subject to the approval in writing of the Local Planning Authority in accordance with condition number 11 (Implementation of Approved Remediation Scheme). If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until this condition has been complied with in relation to that contamination, in order to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks.
- 13 The area indicated on the approved site plan for the parking and manoeuvring of vehicles shall be laid out in accordance with the plan

before the dwelling is occupied. The area shall then be available for such use at all times and shall be used for no other purpose, in the interests of highway safety and to comply with policy T14 of the UDP.

- 14 The construction works required for the development hereby approved shall only be carried out between the hours of 08.00 and 18.00 Monday to Friday and between the hours of 08.00 and 13.00 on Saturdays and at no time on Sundays or Bank Holidays in order to protect the amenities of the area and to comply with policy B2 of the UDP.
- 15 Notwithstanding the provisions of the current Town and Country Planning (General Permitted Development Order), or any statutory instrument which revokes and re-enacts the provisions of that Order, no extensions or other development shall be undertaken to the dwelling hereby permitted without the prior written consent of the Local Planning Authority, in order that the Local Planning Authority may retain control over the development. and to comply with policy B2 of the UDP.

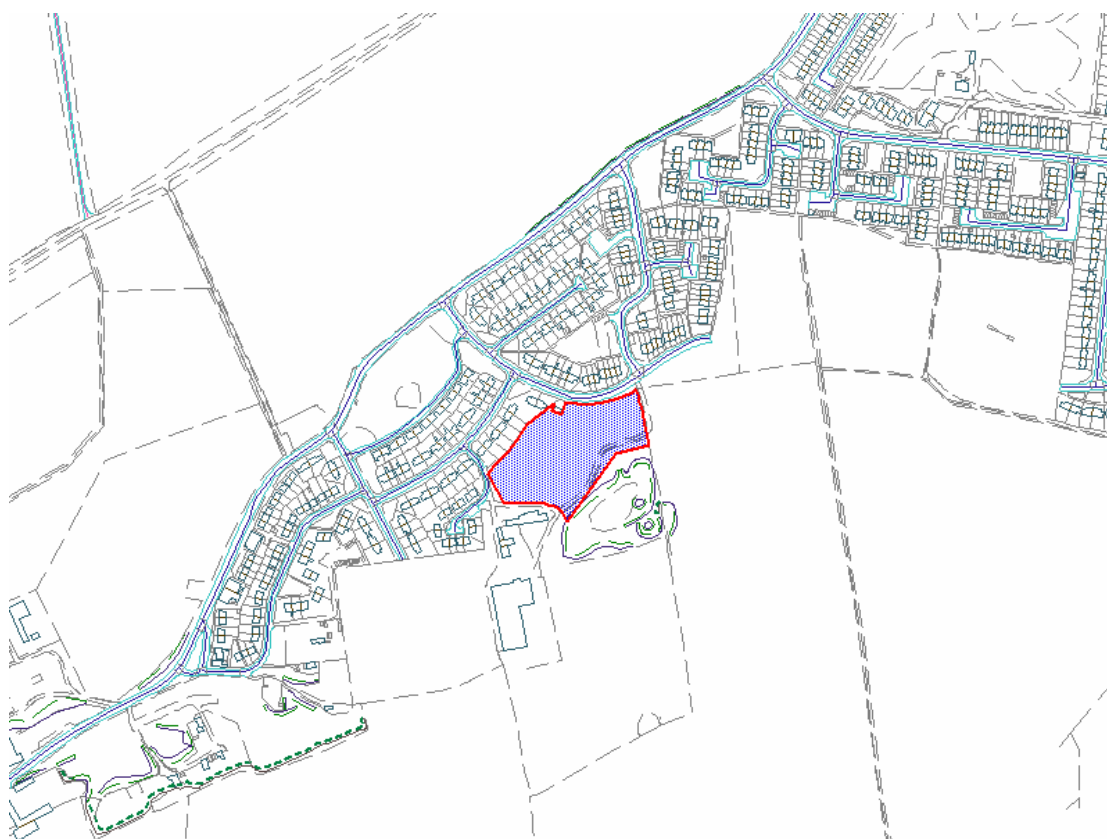
**Reference No.:** 12/01125/OUT Outline Application

**Proposal:** **Proposed residential development comprising 40no. residential dwellings with associated landscaping and access.**

**Location:** Coal Bank Farm Weardale Street Hetton le Hole Houghton-Le-Spring DH5 0DX

**Ward:** Hetton  
**Applicant:** Mr Colin Ford  
**Date Valid:** 23 January 2013  
**Target Date:** 24 April 2013

### Location Plan



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### PROPOSAL:

The application proposals pursue outline planning permission (some matters reserved) to provide the following:

40 no new residential dwellings which are made up of the following schedule:

27no. 2 Bed terraced units  
10no. 3 Bed semi-detached units

3no. 4 Bed detached units with garage parking facilities

Access arrangement to Ennerdale Street  
Associated soft landscaping areas

The proposed site is 0.9ha and lies within flood risk zone 1 so would therefore not require a flood risk assessment.

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted

#### **CONSULTEES:**

City Services - Network Management  
County Archaeologist  
Hetton Town Council  
Environment Agency  
Northumbrian Water  
Force Planning And Police Architectural Liaison Officer  
Street Scene (Environmental Service)

Final Date for Receipt of Representations: **24.12.2012**

#### **REPRESENTATIONS:**

Neighbours

One letter of objection has been received the objectors concerns are listed below:-

- 1 - What access will the plant and machinery use
- 2 - Lack of privacy
- 3 - the disruption to the neighbour
- 4 - Noise and mess from construction traffic
- 5 - Time taken to build development
- 6 - Why this plot of land when he has more suitable sites.
- 7 - Rural area the proposed development would be a blight on the landscape.

Consultee Responses:-

Northumbrian Water - Acceptable in principle subject to conditions in respect of surface and foul water disposal.

Environmental Health - Acceptable in principle subject to conditions in respect of land contamination and coal risk assessment.

Environment Agency - No objections in principle subject to conditions in respect of land contamination and surface/foul water drainage.

## **POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

B\_2\_Scale, massing layout and setting of new developments

T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

H\_21\_Open space requirements in new residential developments (over 40 bed spaces)

H\_15\_Encourage / negotiate for accessibility standards in housing developments

T\_20\_Manage the highways system by regulation and physical improvement.

CN\_18\_Promotion of nature conservation (general)

H\_16\_Negotiation for affordable housing in major developments

## **COMMENTS:**

The key issues under consideration are:-

1. The principle of development
2. Highway issues (Not a reserved matter)
3. Ecology
4. Flood Risk
5. Land Contamination
6. Section 106 contribution

The application is accompanied by the following documents:

Design and Access Statement

Extended Phase 1 Habitat Survey;

Phase 1 Desk Top Study

1. The principle of development (Outline with some matters reserved)

The proposal is for the development of 40 residential units. The site is greenfield in nature and is located adjacent to the urban area. The site is identified as a new housing site in the UDP and relates to Policies H15 and H21.

The Strategic Housing Land Assessment (SHLAA) provides a basis for the housing chapter in the forthcoming LDF, and is used as a material consideration, in determining planning applications for housing development. The site has also been identified in the SHLAA as a 1-5 year potential residential sit.

Residential proposals should be in accordance with the aims of UDP Policy B2 and NPPF in terms of delivering high quality design and in respect of providing housing choice in terms of a mix of housing type and tenure. The Strategic Housing Market Assessment 2008 (SHMA) identifies a need for all housing types in the Hetton area, but there is a particular need for 4 bed properties and in particular a need for detached and semi-detached properties. The need for terraced dwellings in the locality has been satisfied.

The proposed principle of the development is considered acceptable and as such is considered to comply with policies H15 and H21 of the adopted Unitary Development Plan.

Issues 2- 6 remain under consideration. It is anticipated that consideration of the issues outlined above will be concluded prior to the meeting of the Development Control Sub-Committee and will be reported on a Supplementary report accordingly.

**RECOMMENDATION: Deputy Chief Executive to Report**

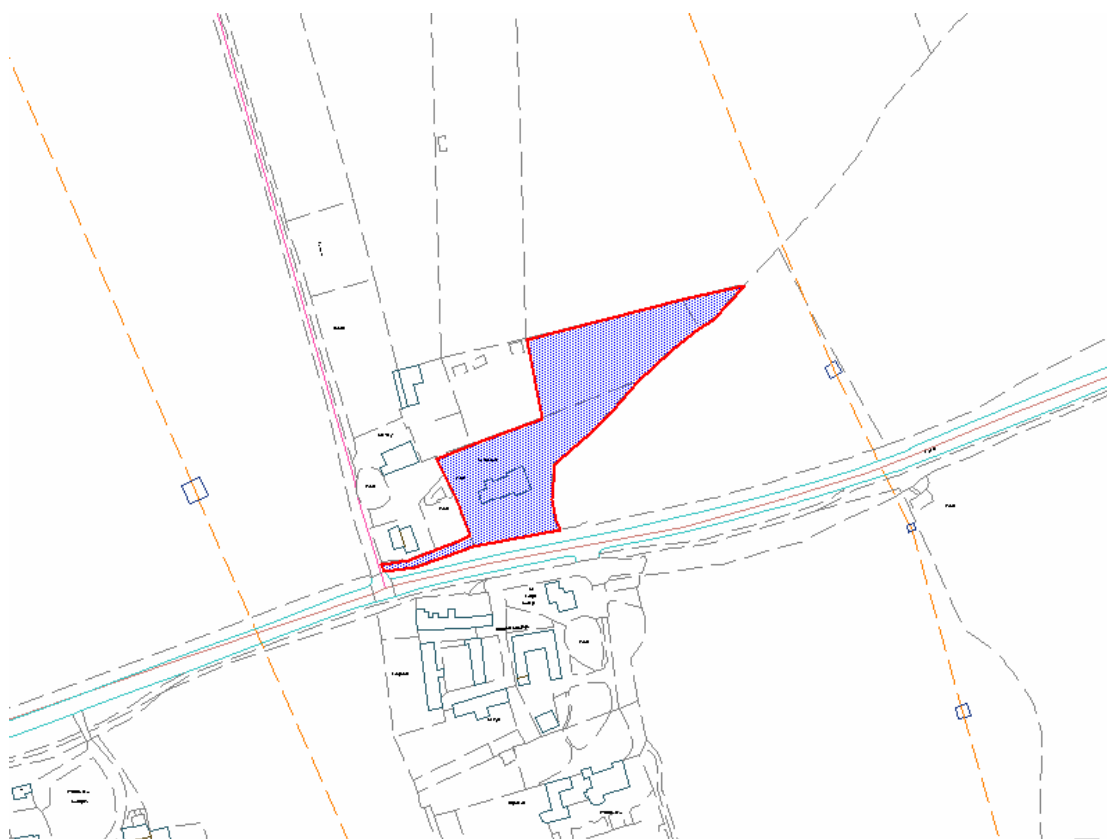
**Reference No.:** 12/03273/FUL Full Application

**Proposal:** **Change of use of agricultural land to kennels and erection of timber building to accommodate 10 dogs. (RETROSPECTIVE)**

**Location:** Land Adjacent To Dean Croft Bungalow Warden Law  
Houghton-Le-Spring DH5 8LX

**Ward:** Copt Hill  
**Applicant:** Mr Keith Hixon  
**Date Valid:** 6 December 2012  
**Target Date:** 31 January 2013

### Location Plan



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### PROPOSAL:

The site to which the application relates is an area of land to the east of Dean Croft Bungalow, Warden Law. Although the application indicates that the land subject to the application is in the ownership of the resident of Dean Croft, it is evident that it falls outside of the defined residential curtilage of this property. The application plans indicate that a large area (approximately 5.25 hectares) to the north of Dean Croft also falls within the ownership of the applicant, although is not directly associated with this application.



To the west of the application site is a residential dwelling, The Croft and land to the north of this property is owned and parts of it are used by the owners of The Croft as a campsite and also for the keeping of livestock. To the south of the site, the other dwellings within Warden Law are separated from the application site by the B1404 road, which links Houghton-le-Spring to Seaham.

Planning permission is sought retrospectively for the change of use of agricultural land to provide kennels and the erection of a timber building to accommodate 10 dogs. The submitted information indicates that the proposed use of the building would be to house retired racing greyhounds. Although the application is made retrospectively in that the building has already been erected, at the time of a site visit by Council Officers on 8 January 2013, no dogs were housed within the building and the associated use of adjacent land as an exercise area has not commenced.

The building which has been erected is 16 metres long, 4.2 metres wide and is erected with a pitched roof to a height of 2.8 metres. The building has been constructed on a concrete pad measuring 110 square metres in area and is erected in timber with softwood cladding and a corrugated roof. Whilst the building is primarily a timber building, the majority of the north elevation and part of the east elevation are largely of metal appearance comprising 10 galvanised dog cages. The remainder of the building is identified on the submitted plan as providing a feed/preparation room.

The submitted plans indicate that through the removal of a post and rail timber fence to the north of the site of the building, the land immediately surrounding the new building and the adjacent paddock would be brought into use as an exercise area for the dogs to be housed in the building. Based on the Council's electronic mapping system, this area extends to a total of approximately 0.33 hectares.

This application would normally have been determined under the Council's Scheme of Delegation, but has been referred to the Sub-Committee for determination at the request of Councillor Heron.

#### **TYPE OF PUBLICITY:**

Press Notice Advertised  
Site Notice Posted  
Neighbour Notifications

#### **CONSULTEES:**

City Services - Network Management  
Street Scene (Environmental Service)  
Copt Hill - Ward Councillor Consultation

Final Date for Receipt of Representations: **10.01.2013**

## REPRESENTATIONS:

### Neighbours and Interested Parties

Following the consultation process, a number of representations have been from nearby residents of The Croft, Long Croft and Lodge Cottage and interested parties (The Campaign to Protect Rural England) as follows:

#### The Croft

The owners of this property submitted an e-mail in objection to the application on 17 December 2012 and therein it is set out that the writers object to the proposal for the following reasons:

- The proposal relates to the siting of 10 large metal fronted greyhound kennels on agricultural land within the Green Belt. The kennels have already been erected, although there are no dogs currently on site. The kennels are overly large, intrusive and not in keeping, being of a commercial size and appearance.
- The writers are the owners of a smallholding known as The Croft, Warden Law and have a pedigree flock of Zwartble sheep and a certified campsite, accepting five caravans/motorcaravans and up to ten tents and any one time.
- The effect of dogs housed and exercised within sight, sound and scent of the sheep would cause distress to both as the two are totally incompatible. Due to the topography of the site, there is no way to mitigate this impact, whilst the writers' lambing shed is also close to the kennels. Due to the length of open aspect boundary fencing, it would be impossible for the writers to contain their sheep so as to guarantee their safety and as such, approval of the application would prevent the owners of The Croft from breeding sheep on their land, which they have done for 10 years, supplying meat to the local restaurant - The Copt Hill.
- Immediately behind the kennels is another agricultural livestock field.
- The campsite at The Croft was opened on 25 May 2012 and has proven to be successful, being the only campsite within Sunderland. There have been associated benefits to the local community particularly the local bar/restaurant - The Copt Hill and public transport services. The adverse impact of the proposal upon the campsite arising from the visual impact and noise nuisance of the proposed kennels would totally remove the public amenity of the site and force its closure, as visitors are unlikely to return to a site which could not be considered to be peaceful and quiet. Closure of the site would be contrary to the aims of the Unitary Development Plan to encourage tourism.
- The writers consider any further development at Dean Croft to be unacceptable. There are already at least 10 shed type structures in various stages of dilapidation on the site and vast swathes of hardstanding which have already impacted in terms of surface water towards The Croft, whilst the application proposal would see the addition of further hardstanding. Any further sprawl onto the agricultural land which is bound

by other agricultural land and a conservation area is inappropriate and unacceptable.

- The proposed development is sited no more than 50 metres from the boundary of land associated with The Croft, would result in unacceptable intrusion, not only to livestock and visitors to the caravan site, but also to the owners/occupiers of The Croft who live and work around the property.
- The noise of barking dogs would spoil the owners' privacy and enjoyment of The Croft, whilst the exercising of greyhounds in clear sight, sound and scent of sheep would be harassment of livestock and unreasonable use of land.
- The development would also have an unreasonable impact on the residential amenity of other residents of Warden Law.

Further to this e-mailed objection, the owner of The Croft sent a further letter, received 3 January 2013 enclosing a copy of an e-mail from a potential visitor to the campsite and also an opinion from a vet. The content of these letters are as follows:

In respect of the comments made by the potential visitor to the campsite, these are as follows:

- The site is natural, beautiful and idyllic to which the writer has already returned a number of times. The site amenities are kept spotlessly clean.
- The site is a credit to the owners, who have actively encouraged their guests to visit local attractions.
- The kennels would be most detrimental to the overall tranquillity of the site and could potentially cause unnecessary disruption and unacceptable levels of noise to the site's clients. The presence of kennels next to the site would impede the writer's future visits to the campsite.

In respect of the comments of the vet, these are as follows:

- Greyhounds are highly motivated to chase anything that might be considered prey. Being able to see prey animals and not being able to chase them will cause them to become very stressed and possibly even start exhibiting unnatural behaviours as a coping mechanism.
- Siting kennels as proposed might be detrimental to the welfare of the prey animals but would certainly affect the greyhounds and the vet would advise against building kennels where the dogs could see prey all the time.

Subsequently, further representations were received from the occupier of The Croft on 12 February 2013 as follows:

- The location plan submitted is incorrect as the plan includes within the red line, the driveway providing access to the property, which falls within the ownership of the occupiers of The Croft. Land Registry information has been provided to show this. The red line also includes an area of

hardstanding and three sheds which are not part of the application site and the red line does not reflect the site plans provided.

- The site plan and Design and Access Statement contain contradictory information with the site plan referring to the availability of car parking for a minimum of 8 cars on site and the Design and Access Statement referring to parking for up to 8 cars. The area marked as car parking presently accommodates a climbing frame and hen sheds.
- If the site plan is correct, would this mean that an additional planning application would be submitted for more hardstanding? If the Design and Access Statement is correct would parking take place on the agricultural land adjacent to the garden area? Why would a minimum of 8 cars be required in connection with retired racing greyhounds and would this be a highways issue?
- There are queries and observations in respect of many issues within the Design and Access Statement.
- In respect of use, the Design and Access Statement specifies the use of the building as being to house retired racing greyhounds. The writer considers this to be untrue on the basis of conversations with the Dogs Trust and the Retired Greyhounds Trust who advise that retired greyhounds would never be kept in outdoor kennels in sight of prey animals.
- In respect of appearance, the Design and Access Statement indicates a single storey agricultural appearance, but no farm animal would be kept behind metal bars. The appearance of the building is that of a commercial, overly large racing/breeding greyhound kennel.
- In respect of parking, the Design and Access Statement and Site Plan are contradictory and should be clarified.
- In respect of refuse, the Design and Access Statement suggests disposal of animal waste by biological breakdown. This is not a credible solution with 10 dogs defecating on approximately half an acre of land in close proximity to an operating campsite.
- In respect of noise, the Design and Access Statement states that the building is sited so as to face away from other buildings. It faces the field, sheep and campsite at The Croft. The statement also makes reference to a corridor in the building providing a buffer between the kennels and the rear of the property, but to the rear is another livestock field. Planting a conifer hedge would not serve to reduce noise. Reference is made to protecting occupiers of North Farm from noise, but no reference is made to The Croft.
- The Design and Access Statement refers to the preparation of a management plan to help control the issue of noise to cover a twice daily feeding and exercise arrangement. The writer does not consider that this is an option for noise management, but a minimum requirement for the keeping of any animal. The statement also suggests the installation of an electronic high pitched sound emission device audible only to dogs. The

writer does not consider this to be a serious option. The statement proposes 24 hour attendance on site with the owner living at Dean Croft. The writer suggests that just because the applicant lives on site, it does not mean that he will always actually be on site. The occupiers of Dean Croft are rarely seen and no-one is seen exercising the existing animals.

- The application documentation is not fit for purpose. Considering the anomalies in the application, the benefit of the doubt should not be given to the applicant and these should be corrected.

Also accompanying the representation received on 12 February 2013 were a number of Land Registry documents and plans in respect of the ownership of the driveway access to the application site, as well as a letter to the occupier of The Croft from the Council's Tourism Development Officer congratulating her on the opening of the campsite, as well as copies of a number of positive reviews of the campsite from visitors over the last year.

#### Long Croft

The owners of this property submitted a letter in objection to the application on 3 January 2013 and therein it is set out that the writers object to the proposal for the following reasons:

- The fields around the property are for agricultural use. Sheep, cattle and occasionally horses are grazed there and there may be effects on the dogs due to their presence and vice versa, raising welfare concerns.
- The neighbouring property to Dean Croft recently opened as a camp site, which is unique to Sunderland and has attracted many new visitors to the area. The enthusiastic comments of these visitors will spread the fame of the City and recruit more visitors to the City's attractions. As caravaners, the writers would be deterred by a site where kennels were in close proximity.
- As consent is sought for 10 kennels, the writer wonders what the purpose of the proposal is 'boarding or breeding' as the writer is aware of the residents of Dean Croft already having a number of dogs. In either case, this would lead to an increase in turning traffic on a stretch of the B1404 where there have been several accidents in the recent past.

#### Lodge Cottage

The owner of this property submitted an e-mail on 9 January 2013 raising the following concern:

- The potential noise from constantly barking dogs, especially at night, when residents are trying to sleep.

#### Campaign to Protect Rural England

The Campaign to Protect Rural England have submitted a letter, received 7 January 2013 and wish to object to the application for the following reasons:

- The proposals are for development in the Green Belt. The proposed development does not appear to fall within any of the exceptional situations listed in paragraphs 89 or 90 of the National Planning Policy Framework (NPPF) that may make the development acceptable in a Green Belt. In addition, the writer states that the proposal may lead to annoying noise from barking dogs that would affect the tranquillity of the area. The writer therefore suggests that the proposal is inappropriate development as set out by paragraph 87 of the NPPF.
- There will be a negative impact upon the residential amenity of those living in the area.
- The uses are incompatible with the existing surrounding land uses, in particular the smallholding breeding and rearing sheep and the campsite also on that property. While the writer notes that the campsite is a recent development in the Green Belt, they consider that it is probably permitted development and falls within the exceptions listed by paragraph 89 of the NPPF.
- The Design and Access Statement makes reference to disposing of animal waste through biological breakdown. In view of the dangers which can be associated with dog faeces, the writer would wish to see a more detailed statement on how exactly this would be achieved. Which biological process would be used and where would the facility be sited? What provision is to be made for odour control? Will there be any provision to control the cleanliness of the exercise and other areas to prevent build up of uncollected faeces.
- The Design and Access Statement is minimal and should have some photographs to show the actual buildings involved and their setting.

## Consultees

### Environmental Health

Comments received in response to consultation with the Environmental Health Team state that due to the distance to the nearest residential property, it is likely that dogs barking will be audible and may interfere with the amenity of residents. Limited information has been submitted with regard to how a noise disturbance to nearby residents will be prevented, with suggested measures including the use of conifers, although this is likely to have little effect upon reducing noise levels from the kennels.

The Environmental Health Team therefore recommend that further information be sought from the applicant detailing how the noise from dog barking will be mitigated during the day and night. This should include details of the construction of the kennels, including the sound insulation properties of the building within which the dogs are to be housed, as well as calculations to demonstrate that noise from any barking dogs will be contained within the building and will not cause a nuisance to nearby residents. In addition, detail should be included as to how the sound of dogs barking outside the kennels will be mitigated to prevent disturbance to residents both during the day and night. The effectiveness of such measures should be demonstrated.

Furthermore, it is noted within the application that dog waste is to be disposed of by biological breakdown. Further information is required with regard to the exact method and equipment that will be used to achieve this together with the measures to be used to prevent odours.

## Network Management

The Network Management Team has been consulted in respect of highway safety and car parking issues. No objection has been made to the proposal in response to this consultation, although a comment was made to the effect that the site takes access from the B1404, which is a well used derestricted road linking Houghton-le- Spring with Seaham. This access is considered substandard in terms of visibility to the left due to a crest in the road. Direct access for the property is taken via a very tight right turn from the B1404.

## **POLICIES:**

In the Unitary Development Plan the site is subject to the following policies;

B\_2\_Scale, massing layout and setting of new developments  
CN\_2\_Purpose of the Green Belt in Sunderland  
CN\_3\_Control of development within the Green Belt  
CN\_5\_Safeguarding the visual amenity of the Green Belt  
CN\_15\_Creation of the Great North Forest  
CN\_18\_Promotion of nature conservation (general)  
CN\_21\_Developments affecting designated / proposed LNR's, SNCI's or RIGS  
CN\_22\_Developments affecting protected wildlife species and habitats  
EC\_8\_Support for tourist and visitor attractions.  
EN\_1\_Improvement of the environment  
EN\_5\_Protecting sensitive areas from new noise/vibration generating developments  
EN\_10\_Proposals for unallocated sites to be compatible with the neighbourhood  
HA\_17\_Maintenance of a Green Belt  
T\_14\_Accessibility of new developments, need to avoid congestion and safety problems arising

## **COMMENTS:**

The main issues to be considered in determining this application are:-

- 1) Principle of the Development.
- 2) Siting and design.
- 3) Wildlife and Countryside Issues
- 4) Environmental Issues
- 5) Highway Issues.
- 6) Other Issues raised in objection.

- 1) Principle of the Development.

As of 27 March 2012, the National Planning Policy Framework (NPPF) became a material consideration in the determination of planning applications and

superseded a large number of previous planning policy guidance notes and statements. Paragraph 11 of the NPPF states that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 expands upon this and advises that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

As the site lies within the Tyne and Wear Green Belt, Section 9 of the NPPF, as well as policies CN2, CN3, CN5 and HA17 of the Council's Unitary Development Plan (UDP) are applicable to the proposed development.

The NPPF states that the Government attaches great importance to Green Belts. In particular, paragraph 79 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 identifies five purposes of Green Belt as follows:

- To check the unrestricted urban sprawl of large built up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 87 of the NPPF states that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 89 goes on to state that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- Buildings for agriculture and forestry;
- Provision of appropriate facilities for outdoor sport and recreation and for cemeteries; as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.



Paragraph 90 states that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These are:

- Mineral Extraction;
- Engineering Operations;
- Local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- The re-use of buildings provided that the buildings are of permanent and substantial construction; and
- Development brought forward under a Community Right to Build Order.

As an expansion of the above, the Council has planning policies relating to developments in the Green Belt within the adopted UDP.

Therein, policy CN2 seeks to ensure that a Green Belt will be maintained which will:

- Check the unrestricted sprawl of the built up area of Sunderland.
- Assist in safeguarding the countryside from further encroachment.
- Assist in the regeneration of the urban area of the City.
- Preserve the setting and special character of Springwell Village.
- Prevent the merging of Sunderland with Tyneside, Washington, Houghton-le-Spring and Seaham.

As an expansion of this, policy HA17 states that a Green Belt will be maintained to the west, north and east of Penshaw and Shiney Row and to the east of Newbottle and Houghton-le-Spring. It is defined to the north by the River Wear, to the south by the B1404, to the west by the City Boundary and to the east by the A19.

Policy CN3 sets out that the construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:

- Agriculture and Forestry;
- Essential facilities for outdoor sport and recreation, for cemeteries and for other uses of land which preserve the openness of the Green Belt;
- Limited extension, alteration or replacement of existing dwellings;
- Limited infilling in, or redevelopment of existing major developed sites identified elsewhere in part II of the plan;
- The extraction of minerals provided that high environmental standards are maintained and that the site is well restored;
- The re-use or conversion of an existing building providing that the building is of substantial construction and capable of conversion without major or complete reconstruction and it does not have a materially greater impact than the present use of the openness of the Green Belt.

Policy CN5 dictates that care must be taken to ensure that the visual amenities of the Green Belt will not be injured by proposals for development within or conspicuous from the Green Belt.

On the basis that the site lies within the Tyne and Wear Green Belt, the principle of the proposed development must be given careful consideration with regard to

the national and local planning policies set out above. The types of development which are not considered to be inappropriate within the Green Belt are set out above and as set out in paragraph 89 of the NPPF and policy CN3 of the UDP, development which does not fall into these criteria is harmful to the Green Belt and should not be approved other than in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

As such, given that the application is for kennels and the associated use of adjacent land for keeping retired racing greyhounds which the submitted information indicates would be for the personal use of the applicant, it is not connected with any agricultural use of the land, it does not serve the purposes of outdoor sport or recreation, it is not an extension to an existing building or the replacement of an existing building. It is not a proposal for infilling in an existing village, being on the edge of the built development on this side of the B1404 and is not a redevelopment of an existing previously developed site. Furthermore, it is not considered that any of the criteria of paragraph 90 of the NPPF as set out above are relevant to this proposal.

The proposed building stands on a concrete pad on land adjacent to, but separated from the domestic curtilage of Dean Croft Bungalow. The property lies to the north of the B1404 and the building lies to the east of Dean Croft and The Croft, which are the main buildings of note to the north of this section of the B1404. Although there is some screening along the B1404, at the time of a site visit on 8 January 2013, the building was visible from this road and obviously stands beyond the residential curtilage and other existing buildings at Dean Croft to the point whereby it is now the most easterly building on the site.

This, combined with the nature of the building, whereby it does not fall into any of the uses defined as not inappropriate within the Green Belt within the NPPF and UDP is such that it is considered to be harmful to the Green Belt by way of reduction in openness and detriment to visual amenity and no very special circumstances for its erection have been demonstrated. As such, it is considered that with due regard to the provisions of the NPPF (paragraphs 79-80 and 87-90) and the relevant UDP policies (CN2, CN3, CN5 and HA17) as set out above, the principle of the proposed development is unacceptable and creates conditions prejudicial to the aims of including land within the Green Belt through loss of openness and detriment to visual amenity.

## 2) Siting and design.

Paragraph 17 of the NPPF sets out 12 core planning principles identified by the Government as being important. Within these principles, it is identified as being important that Local Planning Authorities should always seek to secure high quality design.

As an expansion of this, paragraph 56 of the NPPF identifies that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Furthermore, paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy B2 of the UDP dictates that the scale, massing, setting and layout of new developments should respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy. Furthermore, UDP policy EN10 states that all proposals for new development in areas where the proposals map does not identify any proposals for change will need to be compatible with the principal use of the neighbourhood.

Notwithstanding the conclusions reached above in respect of the principle of the development on land within the Green Belt, due regard has been given to the siting and design of the building and the proposed use of adjacent land for exercising dogs, with particular reference to its inter-relationship with existing adjacent surrounding occupiers and land uses.

In respect of proximity to adjacent residential dwellings, the proposed building is offset from the dwelling on the site of The Croft by in excess of 80 metres and the site of The Croft, which is a working small holding and an operating campsite by approximately 20 metres at its closest point. In respect of proximity to properties on the opposite (south) side of the B1404, the nearest dwelling to the proposed building is The Lodge, which is approximately 60 metres away. The land proposed to be used as the dog exercise area is offset from The Croft by approximately 40 metres from the dwelling and 20 metres from the site and 80 metres from Lodge Cottage.

In respect of the inter-relationship with The Croft, the building containing the kennels is screened from easy view from the dwelling itself by Dean Croft Bungalow, although views of the building are possible from the small holding, field and campsite operating on land at The Croft. These views are towards the front elevation of the building, which incorporates the entrances to the galvanised dog cages. In the circumstances and having assessed the proposal from the site of The Croft, it is not considered that its appearance when viewed from The Croft and its associated land is such that a refusal of planning permission for this reason would be sustainable in the event of an appeal against such a decision as the building is sufficiently offset from the boundary shared between the properties that it is not unacceptably visually detrimental to outlook or residential amenity so as to justify a refusal of planning permission on that basis.

In respect of The Lodge, this property is 60 metres away from the proposed building and set at a lower level on the opposite side of the B1404. Although views of the building are available from this vantage point, it is not considered that detriment to the amenities of residents of this property would occur sufficient to warrant a recommendation to refuse the application for this reason.

The main impact upon amenity likely to arise from the use of the land adjacent to the building as an exercise area for dogs is through noise and other environmental effects, the impact of which are considered below.

For this reason, the siting and design of the building, in respect of its relationship with surrounding land uses, adjacent residential occupiers and visitors to the campsite is considered to be such that a refusal of planning permission on the basis of the appearance and proximity of the building and the use of the associated land as an exercise area for the dogs which reside therein is unlikely to be sustained in the event of an appeal. This is notwithstanding the findings in respect of the unacceptability of the proposal in principle as set out above and

also any considerations of environmental issues, which themselves raise separate amenity concerns and are considered in detail below.

### 3) Wildlife and Countryside Issues.

The site lies within the Green Belt and additionally, as set out in UDP policy CN15 is part of an area wherein the Council has identified a commitment to creating the Great North Forest (on land between and around the main urban areas) and which are in accordance with other policies of the UDP. Development which adversely affects the creation of the forest will be resisted.

Furthermore, the site is in close proximity to Warden Law Local Wildlife Site, which is a Site of Nature Conservation Importance (SNCI) and also a number of strategic rights of way. The application site is within 500 metres of, or includes, significant habitats (ponds, trees, hedgerows and grasslands). Protected local biodiversity action plan species are also relevant in this context; for example, great crested newts, badgers, bats and birds.

Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment in a number of ways included within which is the aim to minimise impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 expands upon this and states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles. Included therein is where significant harm would result from a development and cannot be avoided, adequately mitigated or compensated for, planning permission should be refused.

As the site is in close proximity to the SNCI, UDP policy CN21 is applicable and states that development which adversely affects designated local nature reserves of SNCIs will not normally be permitted.

Additionally, UDP policy CN18 seeks to ensure the promotion of the interests of nature conservation throughout the City with areas of nature conservation interest being protected and enhanced. Measures identified to achieve this goal include encouraging landowners to adopt management regimes sympathetic to nature conservation, especially in wildlife corridors, making provision in development proposals for the preservation of habitats or creation of compensatory habitats and seeking opportunities in new development proposals or other schemes for new habitat creation.

Policy CN22 states that development which would adversely affect any animal or plant species afforded special protection by law, or its habitat either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, the overall effect will not be detrimental to the species and the overall biodiversity of the City.

Given the nature of the development, in the assessment of this application, it was considered that more information is required in order to fully justify the proposal with respect to legislation and policies within the NPPF and UDP. It was therefore considered that to fully assess the application, the applicant should provide an ecological impact assessment detailing any necessary mitigation and enhancement measures.

The applicant was advised of the additional information requirements by letter and has responded to the effect that given the issues which have been identified with the principle of the development as set out above i.e. the development is unacceptable in principle within the Green Belt, he wishes to consider the costs of the required works further and may look to supply the information in the event of an appeal against a refusal of planning permission.

Given that no information is available at the present time in respect of the inter-relationship between the building as erected, the proposed use of the adjacent land as an exercise area for the dogs and the adjacent SNCI and associated potential for the presence of protected species, the application fails to adequately address these issues and therefore cannot be considered to be acceptable with due regard to paragraphs 109 and 118 of the NPPF and UDP policies CN18, CN21 and CN22 as set out above.

#### 4) Environmental Issues.

Paragraph 120 of the NPPF states that in order to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

Paragraph 123 seeks to ensure that planning decisions should aim to:

- avoid noise from giving rise to adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions;
- recognise that development will often create some noise;
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

UDP policy EN1 seeks to secure improvements to the environment through minimising all forms of pollution. Policy EN5 states that where development is likely to generate noise sufficient to increase significantly the existing ambient sound or vibration levels in residential or other noise sensitive areas, the Council will require the applicant to carry out an assessment of the nature and extent of likely problems and to incorporate suitable mitigation measures in the design of the development. Where such measures are not practical, planning permission will normally be refused.

The comments of the Environmental Health Team are set out above identifying two areas where the submitted information is insufficient to allow full consideration of the proposal - the noise impact and the means of disposal of dog waste. Additional information has been requested from the applicant to further assess the likely environmental impacts of the development in this regard.

The applicant was advised of the additional information requirements by letter and responded to the effect that given the issues which have been identified with the principle of the development as set out above, he wishes to consider the

costs of the required works further and may look to supply the information in the event of an appeal against a refusal of planning permission.

Given that the submitted information in respect of noise and the disposal of animal waste is considered to be insufficient to adequately address the issues, the proposal cannot be considered to be acceptable with due regard to paragraph 123 of the NPPF and UDP policy EN5 in respect of noise and paragraph 120 of the NPPF and UDP policy EN1 in respect of the means of disposal of dog waste.

#### 5) Highway Issues.

UDP Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met.

As detailed above, the Network Management Team have offered no objection to the proposal although did note that the existing access to the site is substandard. Notwithstanding this comment, it is considered that as the application is made for kennels to house retired greyhounds to be kept by the existing occupier of Dean Croft, on this basis, significant levels of extra traffic would not be likely to arise so as to render the proposal unacceptable in highway safety terms.

As such, the proposal is considered to adequately accord with UDP policy T14 as set out.

#### 6) Other Issues raised in objection.

A number of other issues have been raised in objection to the proposal, although it is not considered that many of these are matters which are material to the determination of planning applications.

Objections have been made and supported by a vet in respect of the compatibility of keeping greyhounds in close proximity to other animals, i.e. the flock of sheep kept by the occupiers of The Croft. Concern has also been raised over the suitability of the proposed building for the keeping of greyhounds. Whilst the points made in these objections are noted, they relate primarily to animal welfare issues which would be subject to legislation outside of the remit of the planning system, although the potential noise implications are considered above.

The comments in respect of the potential detriment which may be caused to the amenities of the campsite operating at The Croft are noted, as are the aims of the UDP in encouraging tourism within Sunderland, as set out in policy EC8 wherein it is stated that the Council will seek to safeguard attractions, refusing proposals which would adversely impact upon tourist attractions. Notwithstanding these aims, the closest part of the proposed exercise area for the dogs as identified on the application plans is in excess of 30 metres from the campsite at The Croft, with the kennel building itself set further away. Whilst the building and exercise area would be visible from the campsite, for the reasons set out above, by reason of the distance by which it is offset from this area of The Croft, it is not considered that a refusal of planning permission could be sustained based upon the inter-relationship between the proposed development and the campsite. It is not considered that the proposal would cause unacceptable harm to the viability of

the campsite as a tourist attraction, through loss of amenity due to the presence of the building and the exercise area, although noise and other environmental impacts, which have not been given full consideration by the applicant may be detrimental for the reasons set out above.

The matters raised in respect of previously laid hardstanding and surface water run off are able to be separated from the matters raised in consideration of this proposal, although will be reviewed separately to determine whether any other breaches of planning control have occurred at the application site.

In respect of the land ownership issues raised by the occupier of The Croft regarding the access drive to Dean Croft Bungalow, these were raised with the applicant and notice has now been served on the owner of The Croft as owner of this land. Additionally, the parking arrangements have been clarified by the applicant showing the distribution of spaces around the curtilage on an amended plan. These clarifications are such that the level of information available is sufficient to allow for a full consideration of the application.

Objection has been made on the basis of suspicions by residents that the building and land would not be solely for the personal use of the applicant to house retired greyhounds. Whilst these concerns are noted, the application must be considered on the basis on which it has been submitted and were planning permission to be granted, it would be on the basis upon which it has been applied for i.e. the housing of retired racing greyhounds for the benefit of the applicant only. Any deviation from this would potentially render the use of the building and land in breach of planning permission and liable to enforcement action.

## Conclusion

In light of the above, notwithstanding that the proposal does not impact detrimentally upon the amenities of residents and adjacent land uses so as to warrant a refusal of planning permission on that basis and is acceptable in respect of highway safety, the proposal is considered to represent inappropriate development in the Green Belt, where no very special circumstances have been demonstrated in its favour. As such, it is considered to be contrary to the aims of paragraphs 79-80 and 87-90 of the NPPF and policies CN2, CN3, CN5 and HA17 of the adopted UDP.

Additionally, insufficient information has been submitted to allow full consideration to be given to the ecological and environmental issues associated with the development and as such, the proposal fails to accord with paragraphs 109, 118, 120 and 123 of the NPPF as well as UDP policies CN18, CN21, CN22, EN1 and EN5

Members are therefore recommended to refuse the application for the reasons set out below:

## **RECOMMENDATION: Refuse**

### **Reasons:**

- 1 The proposed development is considered to be inappropriate development in the Green Belt and no very special circumstances have been

demonstrated which support the proposal. As such, the proposal is contrary to the advice provided in paragraphs 87-90 of the National Planning Policy Framework and policy CN3 of the Unitary Development Plan.

- 2 The extent and siting of the proposed kennels would result in a reduction in the openness of the Green Belt and, as such, is considered to be contrary to the advice provided in paragraphs 79-80 of the National Planning Policy Framework and policies CN2 and HA17 of the Unitary Development Plan.
- 3 The proposal would be detrimental to the visual amenities of the Green Belt by reason of the size and position of the building and, as such, would be contrary to policy CN5 of the Unitary Development Plan.
- 4 The information submitted in support of the application fails to adequately consider the likely noise impact of the development upon the amenities of nearby properties and as such is contrary to paragraph 123 of the National Planning Policy Framework and policy EN5 of the Unitary Development Plan.
- 5 The information submitted in support of the application fails to adequately consider the manner in which dog waste arising from the development would be disposed of and as such does not satisfactorily demonstrate that odour arising from the proposed use of the land will be adequately controlled and as such may be to the detriment of the residential amenity of near neighbouring properties contrary to the paragraph 120 of the National Planning Policy Framework and policy EN1 of the Unitary Development Plan.
- 6 The information submitted in support of the application fails to adequately consider the inter-relationship of the proposed development, and use of the land as kennels and an associated exercise area, with the Warden Law Local Wildlife Site which is a Site of Nature Conservation Importance. The application fails to adequately consider any potential impact upon species afforded statutory protection by law and as such is contrary to paragraphs 109 and 118 of the National Planning Policy Framework and policies CN18, CN21 and CN22 of the Unitary Development Plan.



## ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE OR PLANNING AND HIGHWAYS COMMITTEE

	APPLICATION NUMBER AND WARD	ADDRESS	APPLICANT/DESCRIPTION	DATE SITE VISIT REQUESTED	LAST ON AGENDA	COMMENTS
1	11/03177/EXT1  Washington East	Willows Reservoir, east of 23 Edison Road, Swan Ind Estate, Washington	<b>R &amp; L Wales</b>  Application for a new planning permission to replace extant planning permission (05/03963/SUB) for use of existing lake and land for trout/pike lake and associated development.	N/A	N/A	Pending consideration
2	11/02018/FUL  Copt Hill	Land Adjacent To 9 Grange View Newbottle Houghton-Le-Spring DH4 4HU	<b>Mr Peter Conway</b>  Erection of a detached dwelling (RETROSPECTIVE)	N/A	N/A	Pending consideration
3	12/02310/HYB	Land At Philadelphia Complex/Philadelphi a Lane Houghton-Le-Spring	<b>Esh Development</b>  HYBRID APPLICATION Detailed planning application for change of use and refurbishment of listed former power station and annexe with associated internal and	N/A	N/A	Pending Further Consideration

## ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE OR PLANNING AND HIGHWAYS COMMITTEE

	Copt Hill		external works to create learning and enterprise building (Use Classes B1 and /or D1 and ancillary A3), refurbishment of a further 5 listed buildings and 2 non listed buildings comprising internal and external works for uses within Classes B1 and/or B2 and/or B8.			
4	11/02362/OUT  Hetton	Land At North Road Hetton le Hole Houghton-Le-Spring	<b>Eppington Ltd</b>  Outline application for residential development with all matters reserved. (Environmental Statement Received 13.08.12)	N/A	N/A	Pending Further Consideration
5	12/03140/FUL  Copt Hill	Site of former Broomhill Estate, Hetton le Hole	<b>Hellens Investments (Eppleton) LLP</b>  Erection of 157, 2, 3 and 4 bedroom dwellings, associated garages, roads and infrastructure, private gardens, means of enclosure, public open space and equipped areas of play.	N/A	N/A	Pending Further Consideration

## ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE OR PLANNING AND HIGHWAYS COMMITTEE

6	10/02944/FUL  Copt Hill	Down At The Farm Haining Law Farm Stoneygate Houghton-Le-Spring	<b>Mr William Weightman</b>  Change of use of existing agricultural buildings from barns to provide visitor amenity facilities. Erection of new visitor amenity building and creation of new access road, car parking area and associated landscaping.	N/A	N/A	Pending Further Consideration
7	12/03142/FUL  Copt Hill	Land To The East Of Former Broomhill Estate Hetton le Hole Houghton-Le-Spring	<b>Hellens Investments (Eppleton) LLP</b>  Erection of 78, 3 and 4 bedroom dwellings, associated garages, roads and infrastructure, creation of private gardens, means of enclosure, public open space and equipped areas of play.	N/A	N/A	Pending Further Consideration
8	12/03137/OUT  Washington North	Phase 1 The Peel Centre Glover Washington	<b>Peel Land And Property Investments PLC</b>  Application for the erection of a 9,292 sq. m food superstore on stilts, together with undercroft car parking, petrol filling station and associated works.	N/A	N/A	Pending Further Consideration

## ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE OR PLANNING AND HIGHWAYS COMMITTEE

9	12/00791/VAR  Hetton	Units 6 Hetton Lyons Industrial Estate Hetton le Hole Houghton-Le-Spring	<b>Mr Gary Maw</b>  Variation of Condition 4 (Parking Layout) and Removal of Condition 15 (Footpath link to be provided) of previously approved application 04/02160/FUL (Erection of construction waste recycling centre).	N/A	N/A	Pending Further Consideration
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## Appeals Received Hetton Houghton and Washington

Between 01/01/2013 and 31/01/2013

Team	Ref No	Address	Description	Date Appeal Lodged
HO	13/00001/ADVT	Pizzalicious North View Terrace Houghton-Le-Spring DH4 5NN	Retention of an illuminated fascia sign and 2no. internally illuminated gable elevation signs.	22/01/2013

## Appeals Determined Hetton Houghton and Washington

Between 01/01/2013 and 31/01/2013

Tea	Ref No	Address	Description	Appeal Decision	Date of Decision
W	12/00019/NO	6 South View Gateshead			
NDE	NE9 7PY		Request for sycamore to be felled.	ALLOW	02/01/2013

**DEVELOPMENT CONTROL (HETTON, HOUGHTON  
AND WASHINGTON) SUB-COMMITTEE**

**27 FEBRUARY  
2013**

**RESPONSE TO THE DEPARTMENT FOR COMMUNITIES AND LOCAL  
GOVERNMENT CONSULTATION ON PLANNING PERFORMANCE AND  
THE PLANNING GUARANTEE.**

**REPORT BY THE DEPUTY CHIEF EXECUTIVE**

**1.0 PURPOSE OF THE REPORT**

- 1.1 To endorse the response to the DCLG consultation of November 2012, "Planning Performance and the Planning Guarantee" which is appended to this report.

**2.0 BACKGROUND**

- 2.1 The Growth and Infrastructure Bill which was introduced to Parliament on 18 October 2012 contains a number proposals which build upon existing planning reforms.
- 2.2 The intent of the Bill is to help deliver more new homes and more jobs and to *"cut through rigid processes and unnecessary paperwork"*. It is expected that the Bill will be enacted by April 2013.
- 2.3 The consultation period which ended on 17 January 2013 seeks the views of local planning authorities (LPAs) and others over proposals that the performance of LPAs should be assessed on the basis of speed and quality of decisions in relation to planning applications.
- 2.4 The consultation also sets out and seeks views on proposals for introducing a planning guarantee whereby a maximum period of 12 months for determination of a planning application, including any appeal would be introduced.

**3.0 ANALYSIS OF THE KEY ISSUES IN THE CONSULTATION**

- 3.1 The most significant proposal within the consultation is in respect of major planning applications, and the proposal that an applicant be able to apply to the Planning Inspectorate to get planning permission in the first instance, thus effectively bypassing the Council, as the statutory LPA. The proposal is intended to apply where an LPA has been placed in special measures and is formally designated by the Secretary of State as "very poor".

- 3.2 The grounds for such a designation are proposed to be where;
- 30% or fewer major applications have been determined within 13 weeks over a two-year period or
  - the proportion of major decisions overturned on appeal is greater than 20 per cent over two years.
- 3.3 The Government anticipates that the proposed legislation will stimulate an increased focus on performance within LPAs and will help to ensure that the proposal to introduce a planning guarantee (ie a planning decision within 12 months including time taken for any appeal) will be met.
- 3.4 As a further means of ensuring that decisions are made within the guarantee period the Government also proposes amendment of secondary legislation to require a refund of the planning application fee if no decision has been made on a scheme within 26 weeks. This proposal in respect of LPAs impacts upon all 3 categories of planning application *ie* major, minor and other applications and applies also to the Planning Inspectorate in relation to major applications
- 3.5 Other main details from the consultation document outline that:
- Designations would be made annually and would last for one 1 year. A designated authority would need to demonstrate a sufficient degree of improvement before the designation is lifted.
  - Thresholds for the speed of decisions made would be raised after the first year to ensure that there is "a strong but achievable incentive for further improvement"
  - Any LPA with a whole year of planning decisions data missing would automatically be designated as "very poor" performing
  - In return for carrying out the decision making element, the Planning Inspectorate would receive the fee normally gathered by the designated LPA. Notwithstanding the loss of fee income the designated LPA would still be expected to carry out all technical administrative support (such as consultations) together with any negotiations on Section 106 agreements.
  - Applications would be exempt from any statistical return where they are undertaken under a Planning Performance Agreement or are the subject of post application agreements to extend the timescale for determination
  - In the case of designated LPAs, Government would monitor performance in determining the remaining applications and consider the steps taken by the LPA to improve in its capacity and capability before making a judgment as to whether the improvements were sufficient to warrant removal from the special measures.
  - In choosing to opt for submission directly to the Planning Inspectorate, where allowed, the developer loses any right of appeal.
- 3.6 It is proposed that initial designations will be made in October 2013 using performance data from the financial years 2011/12 and 2012/13.

- 3.7 Placing LPAs under special measures based upon poor planning performance is not new. This Council was identified as a Standards Authority for 2005/06 in respect of minor and other applications and in 2006/07 for major applications. However under previous administration poor performance was penalised by inability to share in the windfall of Planning Delivery Grant. Poor performance under current proposals cuts to the heart of the planning budget by potentially taking away estimated fee income.
- 3.8 Sunderland's performance against the suggested thresholds over the 2011/2012 and 2012/2013 period is as follows :
- Major planning applications determined (up to Nov 2012 ie 20 months) is 66.3% - well above the suggested benchmark of 30%
  - There have been no major planning appeals overturned so as it currently stands there would be no measurement against the quality of decision making criteria.
- 3.9 However, the proposal to bypass the LPA as the first point of the decision making process is entirely new and raises some key issues of both principle and practicality:
- Democratic control of planning is one of the founding principles of the planning system. The proposal would introduce a new kind of planning where the substantive right to have a decision taken by a democratically elected LPA is transferred to an unelected body.
  - Invariably, most major applications are the subject of pre-application discussions between the LPA and the prospective applicant (which in Sunderland's case generates a fee). This front loading of applications is a major factor in reducing the time taken in the decision making process. It is unclear as to whether the Planning Inspectorate would take on this pre application advisory role.
  - Adequate resourcing of the LPA is a critical factor in terms of performance. Any loss of the application fees to the Planning Inspectorate would result in less investment in the service and merely perpetuate poor performance.
  - There is a danger in the sole use of metrics to measure planning performance as the bare figures are unable to tell the whole story of why planning applications get delayed which in many cases is down to circumstances outside the control of the LPA
  - To meet performance targets, there could be a temptation to determine applications quickly rather than work with applicants to address issues. The National Planning Policy Framework requires LPAs to "*look for solutions and not problems*" implying the quality of the development could rank higher than the speed of the decision.
  - There could be a major disconnect between the decision-making on applications dealt with by the Planning Inspectorate and any Section 106 negotiations which would still be undertaken by the LPA. Invariably, it can be the slow turnaround of Section 106 Agreements that is often the main reason for slow decision-making in the first place.



## **4.0 THE NEXT STEPS**

- 4.1 It is intended that after consideration of the consultation responses a summary of those responses will be published. The consultation responses will help inform debate as the Bill passes through Parliament. Any intended implementation of proposals arising would be enacted through policy and secondary legislation, the final form of which would need to reflect Parliaments decisions on the Bill.

## **5.0 RECOMMENDATIONS**

- 5.1 Committee is recommended to note comments highlighted within this report and endorse the response to DCLG which is contained within Appendix 1.

## **6.0 BACKGROUND PAPERS**

- 6.1 *Planning performance and the planning guarantee* – DCLG November 2012

**Response of Sunderland City Council and the North East Councils to:**

**Planning Performance and the Planning Guarantee: Consultation**

***Question 1: Do you agree that local planning authority performance should be assessed on the basis of the speed and quality of decisions on planning applications?***

Agree that speed of decision making is important but needs to be balanced against ensuring that quality of development is not compromised as a result.

Local Planning Authorities are well used to performance targets and they do have a place within the planning system focussing the attention of both the LPA and also the applicant when the requirement for additional information arises as a result of the consultation process.

It must be recognised that some proposals do take longer than others and the complexity of cases can vary enormously requiring differing degrees of engagement to ensure a quality decision.

Agree with the intention of maintaining the current statutory time limits for determining planning applications, unless an extended period has been agreed in writing between both parties.

Agree that in identifying and addressing poor performance Government focus only on major applications as these types of application are the most important for stimulating growth, encouraging redevelopment and creating employment.

It should however be noted that most LPAs frequently work with applicants beyond the 13 weeks when necessary in an attempt to find solutions to issues, balancing the benefits of the scheme against the impacts (as stated in the National Planning Policy Framework).

Where this has led to planning permission being granted the developer is often happier with a positive outcome at say week 15 as opposed to a refusal or pressure to withdraw an application at week 13.

Also many major schemes by their nature require a Section 106 Agreement and planning decisions can not be issued until these are signed. The drafting and checking of such agreements can take time even when schemes have had pre application discussions. This delay often takes applications beyond the 13 week threshold.

When attempting to assess the quality of decision it is important to take account of the whole of the decision making process from pre application engagement to determination and not focus solely on the final outcome.

The proposal to determine quality based upon the success rate at appeal is not a true reflection or way of assessing LPAs as the trigger only assesses those LPAs who have refused applications and does not attempt to measure quality in all of the decision making process. ie including approvals.

In the case of a refused application taken to appeal it must be recognised that the fact an Inspector may come to a different view to a LPA does not mean the decision was incorrect, equally if an appeal is dismissed by an Inspector it does not follow that the applicants scheme was without merit and poorly made.

Planning is ultimately about judgements and subjectivity and what weight a decision maker gives to component elements of a scheme weighing up benefits and impacts. To potentially designate a LPA as poorly performing due to having lost a number of appeals even though the judgements made were fair and reasonable (but ultimately not agreed by an Inspector) would seem wrong when compared to the alternative of approving all major applications (in 13 weeks) irrespective of their quality and impacts.

**Question 2: *Do you agree that speed should be assessed on the extent to which applications for major development are determined within the statutory time limits, over a two year period?***

There are no objections over assessment of speed of determination of major applications over a 2 year period.

**Question 3: *Do you agree that extensions to timescales, made with the written consent of the applicant following submission, should be treated as a form of planning performance agreement (and therefore excluded from the data on which performance will be assessed)?***

Agree that applications with planning performance agreements are all excluded from the data on which performance is assessed. However the means of recording this information will need to be established.

**Question 4: *Do you agree that there is scope for a more proportionate approach to the form and content of planning performance agreements?***

Agree due to the differing complexity of major schemes.

Some major schemes are strategic and very complex and as such it follows a planning performance agreement will need to reflect that in its nature.

**Question 5: *Do you agree that quality should be assessed on the proportion of major decisions that are overturned at appeal, over a two year period?***

The proposal to determine quality based upon the success rate at appeal is not a true reflection or way of assessing LPAs as the trigger only assesses those LPAs who have refused applications and does not attempt to measure quality in all of the decision making process. ie including approvals.

There needs to be more clarity around how the measure would be calculated. Is the proposal that the quality of decision be assessed solely against the number of appeals over a 2 year period which are overturned, or is it the number of appeals overturned expressed as a percentage of the total number of major planning application decisions determined by the LPA?

In the case of a refused application taken to appeal it must be recognised that the fact an Inspector may come to a different view to a LPA does not mean the decision was a poor one, equally if an appeal is dismissed by an Inspector it does not follow that the applicants scheme was without merit and poorly made.

Planning is ultimately about judgements and what weight a decision maker gives to component elements of a scheme weighing up benefits and impacts. To potentially designate a LPA as poorly performing due to having lost a number of appeals even though the judgements made were fair and reasonable (but ultimately not agreed by an Inspector) would seem wrong when compared to the alternative of approving all major applications (in 13 weeks) irrespective of their quality and impacts.

Another issue that needs clarification is in the case of a split decision, whereby the substantive reason for refusal of the scheme is accepted but whereby the Inspector has the power to allow a discreet element of a scheme (a power the LPA does not have). In such cases where a split decision is made this should not be counted as an allowed appeal and instead should be recorded as a split decision.

**Question 6: *Do you agree with the proposed approach to ensuring that sufficient information is available to implement the policy?***

Agree that this seems appropriate and should ensure information submissions are made in a timely way.

The minimum standard suggested will provide certainty to LPAs around actions necessary to address poor performance.

**Question 7: *Do you agree that the threshold for designations should be set initially at 30% or fewer of major decisions made on time or more than 20% of major decisions overturned at appeal?***

Agree in respect of the threshold for speed of determination but do not agree with the approach to the way in which quality of decisions are intended to be determined as described above.

**Question 8: *Do you agree that the threshold for designation on the basis of processing speeds should be raised over time? And, if so, by how much should they increase after the first year?***

In principle yes but it would appear reasonable to first see how many authorities are designated under the proposed initial thresholds and then assess performance nationally so that a body of evidence can be assessed to judge average performance before setting new absolute thresholds. This will prevent artificially high or low thresholds being set.

The other key issue is the capacity of the Planning Inspectorate to handle increased workload, as potentially the proposals will simply move the problem to a different determining body.

**Question 9: *Do you agree that designations should be made once a year, solely on the basis of the published statistics, as a way to ensure fairness and transparency?***

Agree.

**Question 10: *Do you agree that the option to apply directly to the Secretary of State should be limited to applications for major development?***

Agree. Again there is a concern over the capacity of the Planning Inspectorate to deal with the potential number of applications.

**Question 11: *Do you agree with the proposed approaches to pre-application engagement and the determination of applications submitted directly to the Secretary of State?***

Further clarity is required in respect of the pre application process and how it is to be co-ordinated by the Secretary of State to ensure all relevant matters are dealt with including community and Member engagement and cost recovery for LPAs who are engaged in the process.

LPAs should be fully reimbursed for carrying out all administrative duties.

Further clarity is needed around S106 agreements including all negotiations and costs associated with their completion.

**Question 12: *Do you agree with the proposed approach to supporting and assessing improvement in designated authorities? Are there specific criteria or thresholds that you would propose?***

Agree. No objections to the proposed approach for support and assessment of designated authorities

**Question 13: *Do you agree with the proposed scope of the planning guarantee?***

Agree

**Question 14: *Do you agree that the planning application fee should be refunded if no decision has been made within 26 weeks?***

Do not agree with the proposal that the planning fee should be refunded if a decision is not made within the 26 week period as significant resources will have been committed to the application at this point.