

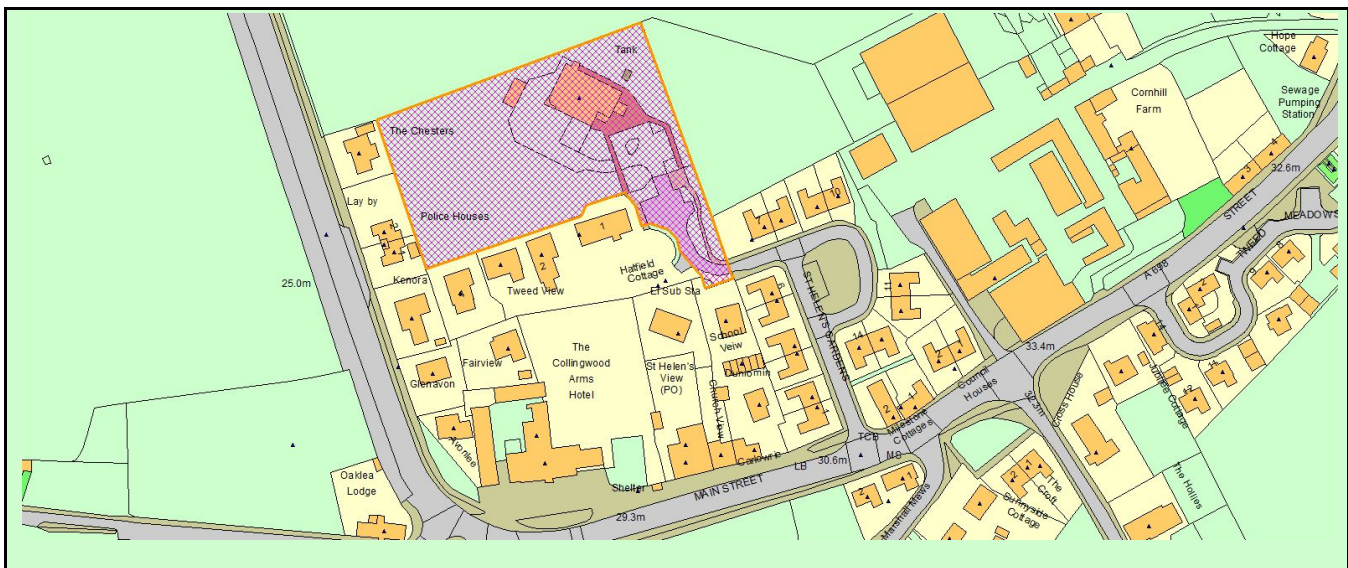
# Northumberland County Council

North Northumberland Local Area Committee  
18th October 2018

<b>Application No:</b>	17/03894/FUL		
<b>Proposal:</b>	Demolition of Existing School Building and Development of 23 Dwellings - Amended 04/10/18		
<b>Site Address</b>	Former Cornhill First School, St Helens Gardens, Cornhill-On-Tweed, Northumberland TD12 4UE		
<b>Applicant:</b>	Mr Chris Dodds Cameron House, Pinstree Way, Gateshead, NE11 9XW	<b>Agent:</b>	None
<b>Ward</b>	Norham And Islandshires	<b>Parish</b>	Cornhill-on-Tweed
<b>Valid Date:</b>	3 November 2017	<b>Expiry Date:</b>	31 August 2018
<b>Case Officer Details:</b>	Name: Mr Ragu Sittambalam Job Title: Planning Officer Tel No: 01670 622704 Email: <a href="mailto:Ragu.Sittambalam@northumberland.gov.uk">Ragu.Sittambalam@northumberland.gov.uk</a>		

## Recommendation:

That this application be REFUSED for the reasons recommended.



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## 1. Introduction

- 1.1 Under the provisions of the Council's Scheme of Delegation, this application forms part of a Council land sale which has been reviewed by the Head of Service concluding that the application should be referred to the North Northumberland Local Area Council.

The application is recommended for REFUSAL.

- 1.2 The application has been amended as follows;

- 21/11/17 - Submission of Construction Management Plan
- Submission of Preliminary Ecological Assessment
- Submission of Tree Survey
- 12/12/17 - Submission of an Archaeological Desk-Based Assessment
- 15/12/17 - Revised Site layout, landscaping and boundary treatment plans submitted
- 05/02/18 - Submission of an Archaeological Geophysical Survey
- 07/02/18 - Submission of an Acoustic Survey
- 04/05/18 - Submission of an Archaeological Trenching Report
- 21/05/18 - Revision to Site Plans and submission of drainage information
- 04/10/18 - Revision to Site Plans to address highway issues with swept path analysis.

## 2. Description of the Proposals

- 2.1 The application site is set to the west end of Cornhill-On-Tweed a small village accessed at the intersection between the A697 and the A698 sitting to the west side of the Scottish-English border. The land is set to the north of Main Street, the main thoroughfare running through the settlement with the land accessed through St Helen's Gardens onto an lane that terminates at a parking area outside the former Cornhill First School.
- 2.2 The land is raised at the developed portion with trees to the eastern boundary. The site is bordered by existing residential development to the south and west with open countryside to the north and east. The land is currently vacant but has been left open and subsequently used informally by the public.
- 2.3 On site is the school building to the east with playing fields to the west. The site is approximately 0.78ha enclosed by boundary fencing.
- 2.4 The application seeks planning permission to;
- Demolish the existing school buildings on site.
  - Form an access as per the existing onto an estate road that would run north and then to the west toward a junction north and south to access plots.
  - Erect 23 no. dwellings of a mix as follows;
    - 8 no. 2-bedroom semi-detached properties with a gable roof some of which would benefit from a garage.
    - 15 no. 3-bedroom properties (7 detached) with a mix of gable and pitched roof units some of which would benefit from a garage.

- The dwellings would be constructed of a mix of two different bricks treatments with concrete tiles in grey or red. Driveways would be formed from crushed aggregate with timber screen fencing between exposed boundaries to other dwellings (back-back/road facing) or post and wire between plots (side-side).

2.5 The site is subject to the following environmental constraints;

- Impact Risk Zone to SSSI.

### 3. Planning History

**Reference Number:** C/91/B/741

**Description:** Construction of replacement first school with alterations to site access

**Status:** Permitted

**Reference Number:** C/91/B/741A

**Description:** Details of landscaping submitted pursuant to condition no. 3 of planning permission 91/B/741 in respect of replacement first school

**Status:** Permitted

**Reference Number:** C/03/00266/CCD

**Description:** Construction of extension

**Status:** Permitted

**Reference Number:** 03/00266/CCD

**Description:** Erection of single storey extension

**Status:** Application Returned

### 4. Consultee Responses

<p>Cornhill Parish Council (2nd Consultation)</p>	<p>Objection;</p> <p>The amended information provided by Gleeson Regeneration Ltd (Gleeson) on 09 May 2018 regarding this proposal is that the number of proposed units will be reduced from 24 to 23 and an open area created in one corner of the site.</p> <p>The amendments do not deal with our objections to the original proposal, which we submitted on 5 December 2017. In summary, these were that it would deprive the community of an important amenity, and it would not address the Village's own housing requirements.</p> <p>We made suggestions in our submission about how the proposal could be amended so as to address these objections. The suggestions were:</p> <p>Alternative amenity land should be made available to the community within the Village to compensate for the loss of the playing fields.</p>
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	<p>Our original submission explained the rationale for that suggestion. We also now refer you to our response to a request for comments on the proposed disposal of the former First School site, dated 25 April 2018, from Paul Urwin, Senior Surveyor, Strategic Estates, Northumberland County Council. A copy of this is attached.</p> <p>Our objection is supported by Sport England, which also objects to the proposed development because it does not address the loss of the playing field by replacing it elsewhere in the community.</p> <p>As regards the detail of the amended plan, the open area in the site plan cannot be considered alternative amenity land for the wider community. It is too small to compensate for the loss of the large playing fields, and also would not be accessible to non-residents of the proposed development.</p> <p>In order to bring the proposal more into alignment with identified local needs, the development should be amended so that:</p> <ul style="list-style-type: none"> <li>● The number of dwellings is reduced;</li> <li>● Local residents (i.e. residents of Cornhill and adjoining parishes) should be given right of first refusal to purchase; and</li> <li>● 6 properties should be operated as social housing units, available to rent by local residents (as defined).</li> </ul> <p>None of these points have been addressed.</p> <p>Further, the amendment does not incorporate any response to the concerns expressed by other interested parties, principally the risk of flooding and poor drainage, inadequate access to the site, the implication of increased traffic during- and post-construction, and crucially the lack of amenities to serve the anticipated residents, especially schools and poor public transport.</p> <p>Given the lack of response to objections raised to the original proposal, we continue to object to the planning application.</p>
<p>Cornhill Parish Council (1st Consultation)</p>	<p>Objection;</p> <p>Cornhill Parish Council (CPC) thinks that the proposal by Gleeson Regeneration Ltd (Gleeson) to build twenty-four (24) 2 and 3 bedroom two-storey dwellings on the Old School site in Cornhill on Tweed (Cornhill) does not produce a measurable benefit for the Village. In fact, it deprives the community of an amenity, while not addressing the Village's own housing requirements.</p> <p>The suggested benefits in the Economic Benefits Report prepared by Gleeson, do not apply in the small, rural community of Cornhill. This contrasts with the quantifiable and measurable benefits for Gleeson, Northumberland County Council (NCC) and the purchasers of the properties. Our view is that the development should be required to generate a measurable benefit for all parties involved. The proposals that follow would provide benefits to Cornhill and should therefore form part of any approval that might be forthcoming.</p> <p>The site of the proposed development has been used for recreation by villagers for more than 50 years. When the School was open, they were granted free access to the playing fields by the School Governors. After the closure of the School, the gates were left open and the site has since been used on a daily basis. It has been our understanding that access to part of the site would continue, based on minutes of the CPC meeting of 21st. July</p>

	<p>2014. These records that John Marshall, Senior Surveyor, NCC, had advised the Chairman of the intention of NCC to erect 10-12 affordable houses on the site and to gift some of it to CPC via a Community Asset Transfer, to be maintained as a play area.</p> <p>We have referred to the Education &amp; Skills Funding Agency publication "Decisions on the disposal of school land" (as at 01/12/2017). We note that no decision is recorded there on the Old School site. Accordingly, we propose that should NCC proceed to dispose of the School site, this should be on the terms outlined above, or that proceeds of sale be applied to making alternative amenity land available to the community, within the Village.</p> <p>The Village's own housing needs were identified in the 2014 Cornhill on Tweed Housing Needs Survey commissioned by 4 Housing. Based on a thorough analysis of conditions in Cornhill, adjoining parishes and other key parishes in the locality, this survey identified the need for up to 12 new homes for sale and/or rent. The survey specifically took account of local people on agricultural wages.</p> <p>Therefore, we are concerned that 24 houses for sale is significantly in excess of local demand and NCC's intentions previously advised to us, and that the tenure offered does not meet the needs of lower paid workers, who may prefer to rent. In order to bring the Gleeson proposal more into alignment with identified local needs and previous undertakings, we propose that:</p> <ul style="list-style-type: none"> <li>• The number of dwellings be reduced;</li> <li>• Local residents (i.e. residents of Cornhill and adjoining parishes) should be given right of first refusal to purchase; and</li> <li>• 6 properties be operated as social housing units, available to rent by local residents (as defined).</li> </ul>
<p>Sport England (SE)</p>	<p>Objects;</p> <p>A response has been prepared to Sport England's objection by White Young Green, acting on behalf of the applicant. The response makes the following conclusion;</p> <p><i>"there is no relevant land allocation on the site that would preclude it from being developed for residential use. It is therefore considered that, in this instance, there is no requirement for SE to respond to this application as, based on the statutory definitions of a playing field and a playing pitch, the site does not contain a playing pitch. In addition, the evidence provided in this note clearly demonstrates that the site has not performed any function as a playing field in the last five years. As such, we request that SE reconsider their current response to the application on the basis of the information set out in this note."</i></p> <p>Needless to say, we fundamentally disagree with the response and its conclusions. We consider that the Council was correct to consult Sport England. We wish to maintain our objection and would suggest that the only issue which you may wish to reflect upon is whether Sport England's objection has been made on a statutory or non-statutory basis.</p> <p>In order to clarify our stance, I will seek to address the matters raised in the WYG note.</p>

	<p>It is regrettable that the 2011 Playing Pitch Strategy did not identify the school as having a playing pitch at the time it was prepared. We have found other such omissions across Northumberland. The 2011 PPS was carried out by a consultancy from outside of the region who would have required considerable assistance from the Council to ensure that all playing pitches (and not just those offering or being used by community sports teams) featured in the analysis. It does not appear that this was forthcoming at the time. Work being undertaken on the replacement PPS involves a Steering Group made up of key internal and external partners (including Education and Estates) should mean that fewer sites are missed this time around. Once again however we consider that this is reflective of problems in preparing the PPS in 2011 rather than proof that the site has never contained a playing pitch.</p> <p>The WYG note seems to make the mistake that if the playing field hasn't had a pitch marked out for the last 5 years, then it ceases to be a playing field. This is a misnomer – no change of use has taken place – so the land is still playing field. The 5-year rule simply dictates whether Sport England is a statutory or non-statutory consultee. In this case however it is important to note evidence from the Parish Council (attached) that the site has been open for local residents to use for recreational purposes since the school closed. Such use may have included formal sports, and for this reason we would suggest that you err on the side of caution and afford our objection full statutory weight. Even if this hadn't been the case, Sport England ask that you view the 5-year rule as it was intended in the legislation, and that is to cover instances where sites have fallen out of use due to lack of demand. Frequently however landowners have prevented sites from being used and stopped maintaining them (so that they can't be used) and then waited for the 5 years to elapse in order to try and side-step Sport England's statutory role. Where evidence of such actions exist, and the 5 year period has expired, we request that Local Planning Authorities still consult Sport England on a statutory basis. Either way, on this application we consider that Sport England's response should be afforded statutory weight.</p>
Affordable Housing (AH)	<p>Obligation Required; 4 Discount Market Value Homes</p> <p>Cornhill is an area of low demand with low turnover of affordable rented homes. It has limited local amenities.</p> <p>The inclusion of 4 no.DMV homes is the preferred option (or a commuted sum if valid reasons for taking this route can be presented) if viability allows and should be detailed in a section 106 agreement.</p> <p>The application site is not considered to be a suitable location for affordable rented homes based on evidence from Homefinder and feedback from Bernicia housing who have homes for rent adjacent the site.</p> <p>In addition feedback from RP's indicate that this is not a suitable location for a limited number of shared ownership homes.</p> <p>This leaves the option of providing affordable homes on site as Discount Market Value or a commuted sum to provide alternative affordable housing. It is understood that a viability case for not providing any contribution to</p>

	<p>affordable housing has been presented and agreed by the NCC Strategic Estates.</p> <p>Should this not be the case and viability allows, DMV homes have sold well throughout Northumberland and could be provided at the applicant/developers risk. It is understood the applicant provides low cost homes however DMV homes should be provided at 30% discount from market values and evidence should be supplied to support the valuations. For a development of this size, 15% of 23 is 3.45 homes and as DMV is a more financially beneficial tenure for developers this should be rounded up to 4 units on site.</p> <p>If a commuted sum is taken this can be calculated using the council's published protocol.</p>
Education	<p>No Obligation Required;</p> <p>We have sufficient surplus places in the 3 Catchment area Schools so would not seek a Education contribution in respect of this application.</p>
County Archaeologist (CA)	<p>No Objection;</p> <p>The archaeological assessment identified that no significant archaeological features are present within the proposed development site. There are therefore no objections to the proposed development on archaeological grounds and no archaeological work will be required.</p>
County Ecologist (CE)	<p>Objects; Further Information Required</p> <p>The bat report (<i>'Bat Survey - Cornhill First School, Cornhill-on-Tweed, Final Report'</i>, EcoNorth Ltd., 27.10.18) states that <i>'....further bat activity surveys or a checking survey may be required should demolition or development plans not be available and finalised within 12 months of bat activity surveys described within this report.'</i></p> <p>The last bat activity survey was completed at dawn on 25th August 2017 so considerably more than 12 months have now elapsed.</p> <p>The survey works recorded 4 confirmed roost locations (comprised of small numbers of common and soprano pipistrelle bats and bats of unknown species) and 2 potential roost locations.</p> <p>A Natural England European Protected Species Mitigation Licence will be required before works can commence and without the checking survey it is unlikely that a licence would be granted given that 4 known and 2 potential roost would be destroyed by the proposed works.</p> <p>As a result the application should not be determined without the benefit of the checking survey. A checking survey could be carried out at any time of the year though it is likely that it would need to be accompanied by a detailed method statement for works providing conditions with respect to bats have not changed significantly.</p>
Natural England	No Objection;

(NE)	Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.
Public Health Protection (PHP)	No Objection; Conditions & Informatives Advised  In principle the Public Health Protection Unit does not object to this proposal subject to the measures detailed in the application documents being implemented as stated. We also recommend to the Local Planning Authority that the recommended conditions, comments and informatives be included in any decision notice.
Highways Development Management (HDM)	Final HDM comments will be provided at the committee meeting.
Northumbrian Water Ltd (NWL)	No Objection; Condition Advised  We would have no issues to raise with the above application, provided the application is approved and carried out within strict accordance with the submitted document entitled Drainage Assessment. In this document it states that, should more sustainable options not be available, foul and surface water will discharge to the existing sewer at manhole 6401, with surface water being restricted to 25.07l/sec.  We would therefore request that the requested condition be attached to any planning approval, so that the development is implemented in accordance with this document.
Lead Local Flood Authority (LLFA)	No Objection; Conditions Advised  Previously we objected to the development on flood risk and drainage grounds. Following this previous objection additional updated information has been submitted with the application.  Following a comprehensive review of this information we are in a position to remove our objection to the development. We ask that the submitted documents are added to the list of approved documents and that the the recommended conditions are appended to any granted planning permission.

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	40
Number of Objections	22
Number of Support	0
Number of General Comments	3

### Notices



Site notice - General site notice 8th November 2017  
Press notice - Berwick Advertiser 9th November 2017

### Summary of Responses:

5.1 22 objections were received raising the following issues;

- Limited access to services.
- Potential for second homes.
- Quantity of houses proposed on the site is too high.
- Development would be out of character.
- Significant increase to the number of dwellings in Cornhill.
- Overdevelopment of site.
- No affordable housing provision.
- Loss of amenity from school field.
- No areas of open space.
- Highway safety
- Concerns over proposed access route into the site
- Drainage issues and flooding.

5.2 Further issues such as loss of view and impacts over the construction period were also raised but are not material planning issues.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=OYDY3GQSK6300>

## **6. Planning Policy**

### 6.1 Development Plan Policy

BLP - Berwick-upon-Tweed Borough Local Plan (1999)

F1 Environmental Wealth  
F3 Tweed Valley Area of High Landscape Value  
F10 Protected Species  
F30 Planning Obligation  
F31 Social and Economic Welfare  
M14 Car Parking Standards

### 6.2 National Planning Policy

NPPF - National Planning Policy Framework (2018)  
PPG - Planning Practice Guidance (2014 as updated)  
Viability

### 6.3 Other Documents/Strategies

Northumberland Five-year Supply of Deliverable Sites: 2017 to 2022 (2017)  
Northumberland Strategic Housing Market Assessment (SHMA - October 2018)

## 6.4 Emerging Policy

Northumberland Local Plan - Draft Plan for Regulation 18 Consultation (2018)

## **7. Appraisal**

- 7.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF operates under a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay.

The adopted Development Plan where the site is located comprises the saved policies of the Berwick-Upon-Tweed Borough Local Plan (1999).

The Northumberland Local Plan was published in draft for consultation on 04/07/18, in accordance with Paragraph 48 of the NPPF; the policies contained within the document at this stage carry minimal weight in the determination of planning applications.

- 7.2 The main issues in the consideration of this application are;

- Principle of Development
  - Sustainability
  - Housing Land Supply
  - Summary
- Loss of Playing Field
- Planning Obligations
  - Affordable Housing
  - Education
  - Viability
  - Summary
- Visual Impact
  - Landscape
  - Design
- Archaeology
- Amenity
  - Neighbour Issues
  - Noise
- Natural Environment
  - Ecology
  - Contaminated Land
- Transport
- Water Management
- Other Issues
  - Public Consultation
- Procedural Matters

## Principle of Development

### *Sustainability*

7.3 The application seeks to develop an existing school site within a residential area of Cornhill-On-Tweed. Objections received on this ground are appraised in this section of the report.

7.4 *F1 of the BLP gives primary importance is given to development that sustains and enhances environmental wealth, including its landscape and coast, native biodiversity and human heritage.*

*F3 of the BLP is underpinned by F1 as an area based policy that supports development that;*

*i) within or immediately adjoining an existing settlement;*

*v) that it accords with policies elsewhere within the plan.*

*Policy F31 alongside F1 allows weight to be given to proposals that enhance the quality of life of communities or to complement the range of social or economic functions which any of them performs.*

7.5 The application seeks development within the settlement which would have access to a limited service base without use of private car. The development is considered to contribute to the settlement socially and economically.

7.6 *Paragraph 84 of the NPPF sets out that planning decisions involving the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*

7.7 The proposal would redevelop a disused school site within the settlement. As previously developed land, the site is considered to be an appropriate location for development.

7.8 *Paragraph 78 of the NPPF sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.*

7.9 Whilst Cornhill has access to a limited service base within the settlement, it benefits from access to larger service bases at Coldstream (1.4 miles west), Norham (6.7 miles north) and Milfield (7.3 miles south). In this respect it is considered that development within Cornhill would not only contribute to services within the village but also contribute to the vitality of other neighbouring villages.

7.10 From this, the site is considered to be a suitable location to support new residential development

## *Housing Land Supply*

- 7.11 In accordance with the NPPF, the Council is required to identify and update annually a supply of specific deliverable sites sufficient to provide five year's worth of housing against their housing requirement. The five year housing land supply position is pertinent to proposals for housing in that paragraph 11 (d) and corresponding footnote 7 of the NPPF indicates that the presumption in favour of sustainable development applies where a Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.12 *Paragraph 73 of the NPPF sets out that Local Planning Authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies.*

*Paragraph 74 of the NPPF clarifies what is required to demonstrate a five year supply of deliverable housing sites.*

- 7.13 As set out in paragraph 73 of the NPPF, where the strategic policies are more than 5 years old, local planning authorities should measure their housing land supply against their local housing need. In accordance with the standard methodology, Northumberland's local housing need figure is currently 717 dwellings per annum. Against this requirement, and taking into account the supply identified in the Council's latest Five Year Supply of Deliverable Sites 2017 to 2022 report, the Council can demonstrate a 12.1 years supply of housing land. Therefore Northumberland clearly has more than a 5-year housing land supply, and as such, in this context, the presumption in favour of sustainable development does not apply.
- 7.14 This supply position updates that presented in the Council's Position statement following withdrawal of the draft Core Strategy (Nov 2017), and in the Five Year Supply of Deliverable Sites 2017 to 2022 report (Nov 2017) which used an Objectively Assessed Need of 944 dwellings per annum, informed by superseded evidence. While the draft Northumberland Local Plan includes a housing target of 885 dwellings per annum, given that the plan is not yet adopted, this target has not been used for the calculation of the Council's five year housing land supply position, as to do so would not reflect the NPPF.
- 7.15 The housing land supply figure is a minimum and not a maximum, new development on sites that would alter or extend settlement limits are subject to a balanced assessment to consider whether development is sustainable having regard to Paragraph 8 of the NPPF.

## *Summary*

- 7.16 It is considered that the proposed location and scale of development would be sustainable in relation to economic and social considerations. It would deliver economic benefits through new housing in the area and in social terms would deliver market housing in an appropriate location to a partially previously developed site, which would help to sustain the existing community and associated services, as well as being able to contribute to improvements to

existing services. Its environmental role is subject to assessment of further considerations.

- 7.17 The principle of development in this location is therefore considered acceptable in accordance with F1, F3 and F31 of the BLP and the NPPF.

#### Loss of Playing Field

- 7.18 The application site includes a playing field associated with the former school, Sport England (SE) has been consulted. The site has remained open and is well used by the public. Following objection from SE the applicant provided further submission with SE maintaining their objection.

- 7.19 *Paragraph 83 of the NPPF states that planning policies and decisions should enable:*

*d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

- 7.20 SE has objected to the proposal noting that the site is not designated or identified within the 2011 playing pitch strategy but stating that the size of the site is such that a pitch is capable of being accommodated. The land has been used by the public and provides an open space provision within the village.

- 7.21 *Paragraph 97 of the NPPF sets out that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

*a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or  
b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or  
c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

*Annex 2 of the NPPF states that Open space is defined as;  
All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.*

- 7.22 The applicant has supplemented their submission with a justification for why SE should not be considered as a statutory consultee. Irrespective of this, the NPPF position on development on existing open space including playing fields is clear with the applicant not providing significant overriding justification to conform with the exceptions to permit development with limited open space provided within the proposals. For clarity, the area of development that is

unacceptable is the playing field land only and is considered both as playing field and open space.

- 7.23 On this basis the loss of open space/playing field has not been suitably mitigated and forms a reason for refusal.

#### Planning Obligations

- 7.24 *F30 of the BLP seeks where necessary to secure a planning obligation to ensure that due regard is given to the environment and the interests of the local community. Developers will be required to provide appropriate infrastructure, or other consequential educational, social, recreational, sporting or community facilities and nature conservation benefits commensurate with the scale of the development.*
- 7.25 *Paragraphs 54 and 56 of the NPPF sets out that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Obligations must meet all of the following tests;*
- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development.*

- 7.26 The following planning obligations have been assessed in respect of this application which are to be secured by legal agreement pursuant to s106 of the Town & Country Planning Act 1990 (as amended).

#### *Affordable Housing*

- 7.27 The application has not put forward on-site affordable housing. The application has been subject to consultation with Affordable Housing (AH).
- 7.28 *Paragraph 64 of the NPPF stipulates that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.*
- 7.29 The Northumberland SHMA Update (June 2018) provides detailed market analysis of housing needs at the County level, and across local Housing market sub-areas. It also provides up-to-date evidence of affordable housing need in Northumberland. The SHMA identifies an annual net shortfall in affordable housing across Northumberland of 151 dwellings per annum over the period 2017 to 2022, and recommends that 50% of affordable homes are provided for rent, and 50% provided as affordable home ownership products.
- 7.30 The updated SHMA, helped inform the 20% affordable homes requirement in the draft Northumberland Local Plan. Until the implications of the updated

SHMA have been considered further, the Council will not normally seek an affordable housing contribution in excess of 15% unless other up to date evidence indicates a higher contribution is required to meet local need.

7.31 However, pending Cabinet ratification, at the present time of writing 15% of new homes will continue to be suggested to be provided as affordable housing products in line with the evidence from the previous 2015 SHMA.

7.32 As a major residential development AH have sought an on-site affordable housing provision 4 discounted market value (DMV) units on the basis that despite the calculation of units for development being 3.45, that DMV offers a financially preferable option to the developer. AH consider that based on the location and scale of the development, that discount market value units would more likely be sought on a future development based on available information.

#### *Education*

7.33 In respect of major housing applications, issues of school capacity and the impacts of new development are considered through consultation with Education. Contributions where necessary, are sought for physical infrastructure improvements based on capacity. Issues raised during consultation are addressed in this section.

7.34 *Paragraph 94 of the NPPF states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities going on to;*

*a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications.*

7.35 Education has responded to consultation setting out that the catchment schools are under capacity so a contribution has been sought.

#### *Viability*

7.36 The developer has put forward that the requested obligations would amount to a sum that would render the scheme unviable with a report submitted in support of this. In assessing this aspect, a viability appraisal has been carried out by an independent consultant who has cross examined a breakdown of costs provided by the applicant and produced a report in response.

7.37 *Paragraph 57 of the NPPF states that Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended*

*approach in national planning guidance, including standardised inputs, and should be made publicly available.*

- 7.38 *Paragraphs 7-19 of the PPG on Viability sets out the basis for assessing viability in decision taking which includes how planning obligations can be handled where issues of viability arise.*
- 7.39 The applicant's report shows that the development would deliver a profit of less than 20% in the absence of any obligations. The independent assessment concludes that there would be a deficit of £60,000 based on the capped pricing of the properties set out by the applicant. The findings therefore shows that the required obligations could not be provided as part of a viable development.
- 7.40 The NPPF sets out that the weight given to the viability assessment is a matter for the decision maker, in the absence of any evidence to show otherwise, the position on viability is accepted and no contributions are required by virtue of this development. The obligation requested is considered reasonable to forgo given the sales valuation of the properties, which if recommended for approval should be secured for first disposal in a future legal agreement.
- 7.41 The properties are not considered affordable but an appropriate level of restriction is considered reasonable given that affordable housing is not being provided. It is likely that a legal agreement would offer provision for inflation in the final disposal price.

#### *Summary*

- 7.42 The applicant has made a case that the development with the obligations proposed would not be viable, this has been independently assessed which concurs with the applicant's submission. From this it is concluded that the anticipated profit of the scheme would be sufficient to ensure the development's delivery in the absence of an affordable housing provision.

#### Design

- 7.43 Design considers the appearance of the development independently and as part of the immediate streetscene. The site sits within the settlement surrounded immediately by predominantly single storey dwellings of a gable form of brick and render with pantile roofs. There is a wider mix of single and two storey dwellings to the west. Issues raised in relation to design have been considered in this section.
- 7.44 *F3 of the BLP permits development that accords with its surroundings by virtue of its scale, density, height, massing, layout, materials, hard and soft landscaping including indigenous species, means of enclosure and access.*
- 7.45 *Paragraph 127 of the NPPF states that Planning decisions should ensure that developments:*



*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*  
*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)*

- 7.46 The application proposes a series of units differing in appearance with some that would be semi-detached, gable formed and gable fronting set around an estate road toward a cul-de-sac arrangement. It is considered that as a streetscene independently, there are no significant issues of design arising from the development.
- 7.47 Over the course of the application the scale of the proposal was reduced from 24 to 23 dwellings, notably the development was not considered be wholly in keeping with the architectural context. Notwithstanding this, the applicant was requested to provide bungalows as a housetype to provide some variation in the massing of the development in an attempt to mitigate the overall number by responding to development that was immediately adjacent which has not been reflected in the amended scheme.
- 7.48 There are considered to be significant concerns over the character and appearance of the development. The final proposal is not considered to accord with the site's surroundings nor is it considered to sympathetic to local character and history; presenting a suburban form of development that fails to take into account the massing, scale and appearance of a rural village that is characterful in its historic core. Whilst it is appreciated that the site is of a scale and number to maintain its own style, the development plan and NPPF requirements shows that there should be regard to the wider area.
- 7.49 Therefore whilst in isolation the development is considered acceptable, there is considered a significant design and character impact that is significant and therefore forms a reason for refusal, conflicting with F3 of the BLP and Paragraph 127 of the NPPF.

#### Archaeology

- 7.50 The site is considered to retain potential for unrecorded archaeological features of significance. The site has been subject to archaeological evaluation in at the recommendation of the County Archaeologist (CA) following assessment of a submitted Desk Based Assessment. The evaluation involved trial trenching which has been assessed by the CA.
- 7.51 *Paragraph 189 sets out that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.*
- 7.52 The CA has raised no objection to the proposal requiring no further work. The archaeological impact of the proposal has therefore been suitably mitigated in accordance with F1 of the BLP and the NPPF.

## Amenity

### *Neighbour Issues*

- 7.53 The assessment of neighbour issues seeks to appraise whether a development would have an adverse impact on properties nearby in terms of appearing overbearing, impacting privacy or issues arising from a proposed use. Issues raised over the consultation period in respect of this have been considered in this section.
- 7.54 *Paragraph 127 of the NPPF states that planning decisions should;*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
- 7.55 As part of the consultation response from Highways Development Management (HDM), a construction method statement has been approved that secures details of on site operations during the construction period. This in turn would ensure good practise having regard to amenity issues for nearby occupants prior to completion of the development. The Lead Local Flood Authority (LLFA) have also requested a condition to manage surface water drainage over the construction period.
- 7.56 Given the density of development, location relative to existing development and detailed layout, there are not considered to be significant issues arising in terms of amenity in terms of privacy or from buildings appearing overbearing with suitable degrees of separation between properties to the south and western boundaries to existing dwellings. The internal layout is such that there would not be substantial internal amenity issues.
- 7.57 The neighbour issues arising from the proposal are considered acceptable in accordance with the NPPF.

### *Noise*

- 7.58 The site is in close proximity to the A698 with the development introducing sensitive receptors. The application was supplemented with a noise assessment which has been subject to assessment by Public Health Protection (PHP).
- 7.59 *Paragraph 170 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by:*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.*

- 7.60 PHP has raised no objection but have identified that in the absence of any form of noise barrier that the dwellings would provide sufficient attenuation for noise at its edge. Conditions have been requested to secure details of an acoustic design scheme to ensure that this is robustly demonstrated for the finished properties.
- 7.61 The noise impact of the proposal can therefore be suitably mitigated in accordance with the NPPF.

### Natural Environment

#### *Ecology*

- 7.62 The site comprises a disused building with grass field with some tree coverage but has a disused building within the grounds. The application has been submitted with an ecological appraisal which has been reviewed by the County Ecologist (CE). Objections received relating to this has been addressed in this section of the report.
- 7.63 *F10 of the BLP permits development with conditions or binding agreements to secure the protection of species and compliance with any statutory species-protection provisions which apply.*
- 7.64 Paragraph 170 of the NPPF sets out that planning decisions should contribute to and enhance the local environment by;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures
- 7.65 The CE has reviewed the submitted information and due to the time elapsed since the application's submission a further checking survey is required in order to grant a Natural England European Protected Species Mitigation License which is required due to four confirmed bat roost locations with two potential roosts. The applicant is in the process of undertaking a checking survey, which will be clarified with Members at committee.
- 7.66 Whilst the ecological impact of the proposal could be suitably mitigated, that insufficient information is present to conclude this.
- 7.67 The application is therefore in conflict with F10 of the BLP and the NPPF.

#### *Contaminated Land*

- 7.68 Given the site is previously developed, there is considered to be potential for contaminated land with sensitive receptors (residential dwellings) proposed. The submission includes a Ground Gas Assessment which has been subject to review by the Council's Public Health Protection team (PHP).
- 7.69 *Paragraph 178 of the NPPF states that decisions should ensure that;*

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation.*
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessment.*

*Paragraph 179 of the NPPF states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*

- 7.70 PHP has raised no objection subject to conditions to deal with potential contamination (should it be found).
- 7.71 From this, it is considered that the contaminated land issues can be successfully mitigated in accordance with the NPPF.

#### Transport

- 7.72 The site would be accessed from the existing school entrance onto an estate road that would terminate at a turning head/shared surface area. The application has been subject to consultation with Highways Development Management (HDM). Objections received on this issue have been considered within this section.
- 7.73 *Paragraph 109 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- 7.74 HDM have raised no objection to the proposal setting out that the former use as a school there are not considered to be significant issues of highway capacity arising from the introduction of the development to this location especially given its former use.
- 7.75 HDM do however raise concerns regarding certain aspects of the internal layout of the development. The points outstanding are currently being discussed with the applicant and final HDM comments will be provided at the Committee meeting.

#### Water Management

- 7.76 The site is located within Flood Zone 1 and proposes foul water and surface disposal via mains drainage subject to consultation with Northumbrian Water (NWL). The application is for major development to which the Lead Local Flood Authority (LLFA) is a statutory consultee to ensure that water management can be successfully undertaken on site and that there will not be an increased chance of flooding elsewhere. There will be on site impacts of

the development and off-site impacts in terms of water displacement. The application has been submitted with a Drainage Strategy and associated plan which sets out principles of drainage pertaining to the site.

7.77 *Paragraph 94 of the NPPF states that Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply demand considerations.*

7.78 Both NWL and the LLFA have raised no objection to the proposal with the LLFA recommending conditions relating to how surface water will be managed over the construction period and adoption/maintenance details for Sustainable Drainage Systems.

7.79 Overall it is considered that water management can be successfully be undertaken on site in accordance with the NPPF.

#### Other Issues

##### *Public Consultation*

7.80 In response to issues raised by Cornhill Parish Council and members of the public; it is considered that the issues raised are reflected in the appraisal and the reasons for refusal.

#### Procedural Matters

##### *Equality Duty*

7.81 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

##### *Crime and Disorder Act Implications*

7.82 These proposals have no implications in relation to crime and disorder.

##### *Human Rights Act Implications*

7.83 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful

enjoyment of their property shall not be interfered with save as is necessary in the public interest.

- 7.84 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 7.85 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## 8. Conclusion

### Planning Balance

- 8.1 The location of development is considered a suitable location for new residential properties on previously developed land within the settlement.
- 8.2 *Paragraph 8 of the NPPF sets out the three overarching objectives (economic, social and environmental) stating that they are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure gains across each of the different objectives).*
- Paragraph 9 of the NPPF sets out that the objectives are not criteria which every decision can or should be judged and that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so take local circumstances into account, to reflect the character, needs and opportunities of each area.*
- 8.3 The proposal has demonstrated that the requested obligations would not result in a viable scheme to deliver new development. An independent review has concurred with this position on the basis that first disposal prices are fixed. The planning obligations are therefore not considered a requirement in this application.
- 8.4 The site including its playing field is not allocated within the development plan or playing pitch strategy, however it is accessible, used by the public and in consultation with Sport England is considered to have sporting capacity to be considered as a playing field within the NPPF as well as open space. The redevelopment of the playing field has not been mitigated in accordance with

the exceptions set out in the NPPF resulting in a significant social and environmental impact.

- 8.5 Whilst the appearance and type of development is acceptable independently. Taken in context and character of Cornhill-On-Tweed, is considered incongruous with the location and rural nature of the settlement which would have an adverse environmental impact.
- 8.6 The application has presented insufficient information to conclude that a Natural England License would be granted. A further checking survey is therefore required which in its absence results in a significant environmental impact.
- 8.7 Overall, the benefits provided would not to outweigh the social and environmental impacts of the proposal. The proposal is therefore not considered sustainable development in the context of the NPPF.

### Summary

- 8.8 The main planning considerations in determining this application have been set out and considered above stating accordance with relevant Development Plan Policy. The application has also been considered against the relevant sections within the National Planning Policy Framework (NPPF) and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.
- 8.9 The scale of the proposal would ordinarily require planning obligations as part of the approval. The application has been independently assessed in terms of viability which has concluded that the imposition of planning obligations would render the scheme unviable. The development is therefore considered to be acceptable and in accordance with Paragraph 57 of the NPPF.
- 8.10 Notwithstanding the above and the suitability of the site for new development; the application proposes an inappropriate form of development that would deviate from the character of the area introducing a development form that would be incongruous of a rural village and therefore whilst in-principle residential development in this location would be acceptable. The development put forward is not considered compatible with the site context in terms of type and scale.
- 8.11 In addition, the application proposes development that would result in the loss of a playing field that would not been shown to be surplus to requirements, mitigated with further provision or provide an alternative provision that would outweigh its loss.
- 8.12 The application therefore conflicts with the development plan and national planning policy and is therefore recommended for refusal

## 9. Recommendation

That this application be REFUSED for the following reasons:

### Reasons

#### 01. Character Impact

The application presents development that would not reflect the local character or distinctiveness of Cornhill-On-Tweed, presenting development of an incongruous quantity, scale and overall design that would have an adverse impact on the historic rural village. The application therefore conflicts with Policy F3 of the Berwick-Upon-Tweed Borough Local Plan and the National Planning Policy Framework.

#### 02. Loss of Open Space/Playing Field

The application proposes development that would result in the loss of a publicly accessible playing field that would not comply with any of the exceptions to permit building on open space, recreational land or playing field. The application has not demonstrated that the the open space has been shown to be surplus to requirements, mitigated with replacement provision or proposed alternative provision that would outweigh its loss. The application is therefore contrary to Paragraph 97 of the National Planning Policy Framework.

#### 03. Insufficient Information - Ecology

The application is required to provide up-to-date bat activity or checking survey since the original survey was carried out. A Natural England European Protected Species Mitigation License will be required before works can commence and without this it is considered unlikely that a licence would be granted given that 4 known and 2 potential roosts would likely be destroyed by the proposed works. The application therefore conflicts with F10 of the Berwick-Upon-Tweed Borough Local Plan and the National Planning Policy Framework.

**Date of Report:** 08.10.2018

**Background Papers:** Planning application file(s) 17/03894/FUL