

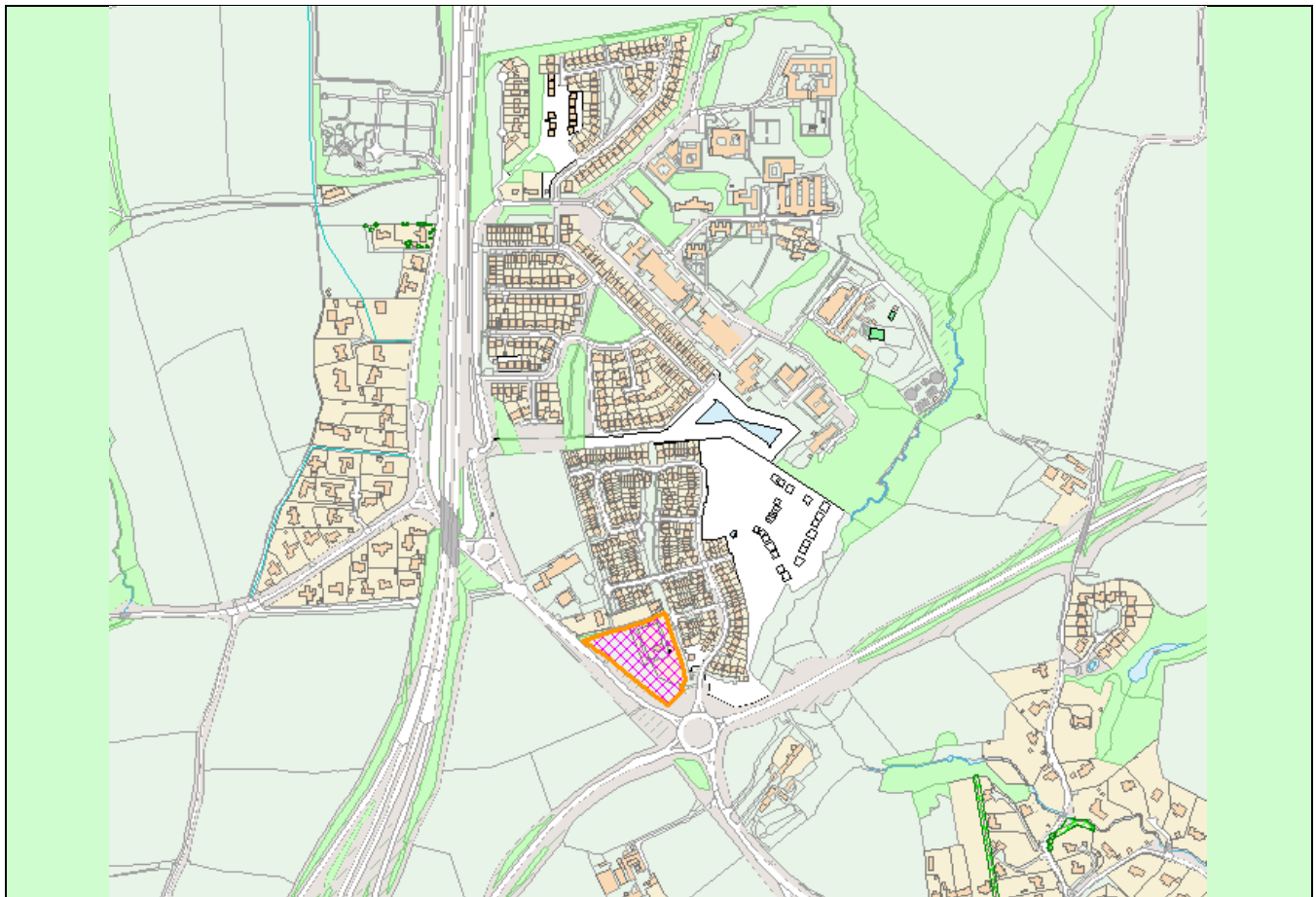


# Northumberland County Council

## Castle Morpeth Local Area Council Committee 13<sup>th</sup> March 2023

<b>Application No:</b>	20/01585/OUT		
<b>Proposal:</b>	Outline permission for the erection of up to 9 no. residential units (C3 use) (All Matters Reserved)		
<b>Site Address</b>	Butley Ben, North Lane End, Morpeth, Northumberland NE61 3JR		
<b>Applicant:</b>	Mr Jon Tweddell Coble Quay, Amble, Morpeth, Amble NE65 0FB	<b>Agent:</b>	None
<b>Ward</b>	Pegswood	<b>Parish</b>	Hebron
<b>Valid Date:</b>	27 May 2020	<b>Expiry Date:</b>	31 May 2022
<b>Case Officer Details:</b>	Name: Mr Richard Laughton Job Title: Planning Officer Tel No: 01670 622628 Email: richard.laughton@northumberland.gov.uk		

**Recommendation:** That this application be GRANTED permission subject to a s106 securing a financial contribution for affordable housing, education and open space.



## 1. Introduction

1.1 Under the provisions of the Council's current Scheme of Delegation, this application is being determined at Castle Morpeth Local Area Council as it raises significant planning issues.

## 2. Description of the Proposal

2.1 The application is seeking outline permission for 9 no. residential units with all matters reserved at Butley Ben, North Lane End, Morpeth.

2.2 The site is immediately to the north of the Northgate Roundabout which joins the Morpeth Northern Bypass to the A1, Morpeth. A new housing development that replaced the Northgate Hospital wraps around immediately to the north and east of the application site and north-west of the site is a veterinary practice and petrol station.

2.3 The existing site consists of a privately-owned parcel of land located within Fairmoor on the northern outskirts of Morpeth. The site consists of a detached dwelling with large gardens and a separate paddock. To the west of the site is an existing road off which the development would be accessed.

2.4 The submitted planning statement highlights that the site lies adjacent to a major housing development currently under construction. It considers that the application site is a natural extension to this built location and would 'round off' development in this area.

2.5 A previous identical application 18/02215/OUT was refused in Feb 2019 and dismissed at appeal due to the site being located within the general extent of the Green Belt extension around Morpeth.

2.6 The newly adopted Northumberland Local Plan does not define the site within the Green Belt.

## 3. Planning History

**Reference Number:** 18/02215/OUT

**Description:** Outline permission for 9 no. residential units (C3 use) (all matters reserved)

**Status:** Refused

**Reference Number:** CM/80/D/427

**Description:** Erection of additional bedroom, extension to conservatory and internal alterations to bathroom

**Status:** Approved

### Appeals

**Reference Number:** 19/00022/REFUSE

**Description:** Outline permission for 9 no. residential units (C3 use) (all matters reserved)

**Status:** Dismissed

#### 4. Consultee Responses

Hebron Parish Council	No response received.
Morpeth Town Council	Objection
Highways	No objection subject to conditions
Northumbrian Water Ltd	No objection subject to conditions
County Ecologist	No objections subject to conditions
North Trees And Woodland Officer	No response received.
Public Protection	No objection subject to conditions
Strategic Estates	No response received.
Affordable Housing	Contribution via a commuted sum required
Lead Local Flood Authority (LLFA)	No objection subject to conditions
Affordable Housing	Contribution agreed by commuted sum
NHS NORTH EAST & CUMBRIA ICB	No objections
Education - Schools	Contribution of £48,000 required
Environment Agency	No comments received

#### 5. Public Responses

##### Neighbour Notification

Number of Neighbours Notified	8
Number of Objections	6
Number of Support	0
Number of General Comments	0

##### Notices

General site notice, 9th June 2020  
No Press Notice Required.

##### Summary of Responses:

*Morpeth Town Council objects to this outline application to build nine exec-style houses on the Northern Bypass roundabout to the north of Morpeth*

*As the applicant notes, this site is outside the settlement boundary of Morpeth so the Neighbourhood Plan (MNP) policy Set1 applies.*

*We disagree with the applicant that Clause E of Policy Set1 applies and are surprised at the suggestion that NCC officers have given the applicant some comfort on this during pre-application discussions. Clause E allows for housing in accordance with NPPF para 55 (now para 78 in the 2018 NPPF) which says:*

*78: 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.*

*This paragraph relates solely to development in small villages where increased population may make a significant difference to the viability of local facilities. The new housing estates adjacent to Northgate Hospital have no local facilities, and so cannot in anyway be considered as a small settlement needing a population boost, while Morpeth cannot - by any stretch of the imagination - be considered a small village needing support for local services. We therefore argue that Clause E does not apply, and that the site is in the open countryside so should not be developed.*

*The presence of neighbouring housing estates which were granted planning permission in the virtual absence of any local planning policy do not in any way justify further housing development in this area.*

*MTC is concerned that approval for this outline application would be used to establish the principle of housing development on this site, so that the specification for nine "executive-style" houses could readily be set aside and an application for considerably more houses could be made.*

There have been 6 letters of objections received which have concerns relating to:

- Impact to wildlife/ecology/loss of trees
- Impact upon drainage
- Visual impact on developing the green space
- No need for more housing
- Noise and impact to amenity

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=QAXNXQQSGJ800>

## **6. Planning Policy**

Northumberland Local Plan (March 2022)

Policy STP 1 Spatial strategy (Strategic Policy)

Policy STP 2 Presumption in favour of sustainable development (Strategic Policy)

Policy STP 3 Principles of sustainable development (Strategic Policy)

Policy STP 4 Climate Change mitigation and adaption (Strategic Policy)

Policy STP 6 Green Infrastructure (Strategic Policy)

Policy HOU 2 Provision of new residential development (Strategic Policy)

Policy HOU 3 Housing requirements for neighbourhood areas (Strategic Policy)

Policy HOU 5 Housing Types and Mix

Policy HOU 8 Isolated Residential Development in the open countryside

Policy HOU 9 Residential development management

Policy QOP 1 Design principles (Strategic Policy)

Policy QOP 2 Good design and amenity

Policy QOP 4 Landscaping and trees

Policy QOP 5 Sustainable design and construction  
Policy QOP 6 Delivering well-designed places  
Policy TRA 1 Promoting sustainable connections (Strategic Policy)  
Policy TRA 2 The effects of development on the transport network  
Policy TRA 4 Parking provision in new development  
Policy ICT 2 New developments  
Policy ENV 1 Approaches to assessing the impact of development on the natural, historic and built environment (Strategic Policy)  
Policy ENV 2 Biodiversity and geodiversity 1  
Policy WAT 1 Water quality  
Policy WAT 2 Water supply and sewerage  
Policy WAT 3 Flooding  
Policy WAT 4 Sustainable Drainage Systems  
Policy POL 1 Unstable and contaminated land  
Policy POL 2 Pollution and air, soil and water quality  
Policy MIN4 Safeguarding waste mineral resources  
Policy MIN5 Prior extraction of minerals  
Policy INF1 Delivering development related infrastructure  
Policy INF5 Open Space and facilities for Sport and recreation  
Policy INF6 Planning Obligations

#### 4.3 Neighbourhood Planning Policy

Morpeth Neighbourhood Plan 2011-2031 (Made 10th May 2016)  
Policy Sus1- Sustainable Development Principles  
Policy Des 1 –Design Principles  
Policy Set1- Settlement Boundaries  
Policy Env1- Landscape and Wildlife Corridors  
Policy Tra3 – Transport Requirements for New Developments

#### 4.2 National Planning Policy

National Planning Policy Framework (2021) (NPPF)  
National Planning Practice Guidance (2020) (NPPG)

## **7. Appraisal**

7.1 The main considerations in the assessment of this application are:

- Principle of the development;
- Layout, scale and appearance;
- Impact on residential amenity;
- Highways
- Ecology
- Public Protection
- Flood Risk

### **Principle of Development**

#### *Spatial Strategy*

7.2 The site is located adjacent to the Morpeth Northern Bypass and the A192 which is in close proximity to Morpeth, Northgate Hospital and surrounding residential

development. The site lies on 'white land' within the Northumberland Local Plan (NLP) and Morpeth Neighbourhood Plan (MNP) and therefore, not allocated for development or designated for its environmental value.

7.3 The MNP Policies Map shows the application site is sandwiched in between a large housing site and allocated employment land although not within the Morpeth settlement boundary. MNP Policy Sus1 and Policy Set 1 supports the provision of new housing to be within settlement boundaries but subject to this being in accordance with housing criteria in para. 55 of the NPPF (now 79-80) which relates to isolated development. Given the surrounding development, the site is clearly not considered to be 'isolated'.

7.4 Prior to the adoption of the NLP, the site was recognised to be within the general extent of the Green Belt under the saved Northumberland Structure Plan Policy S5. Upon the recent adoption of the new NLP however, the site now falls within a more precisely defined wider Green Belt inset boundary under Policy STP7. Whilst the site is still recognised as being outside the Morpeth settlement boundary in the Morpeth Neighbourhood Plan, it is no longer within the Green Belt within the more recent Northumberland Local Plan which, should be afforded full weight in the planning balance.

7.5 NLP Policy STP 1(e) supports sustainable development within Green Belt inset boundaries as long as it is commensurate with the size of the settlement and does not impact upon its character or open countryside. The site is visually linked to the existing residential development in the Fairmoor/Northgate area so allowing for a modest scheme for dwellings to take place on 'white land' would be in proportion to the surrounding developed area and Morpeth itself without detrimental or encroachment of the open countryside. The application would appear a minor extension to the existing residential site and confined by the Morpeth bypass.

7.6 The existing site consists of a large, detached property which will be demolished in order to accommodate the scheme. It is painted/rendered white with some traditional features but is not designated as a heritage asset.

7.7 A previous identical application (Ref:18/02215/OUT) was refused in Feb 2019 by the Council on the grounds of its open countryside and Green Belt location under the MNP; saved Policy S5 and former Castle Morpeth Local Plan. It was dismissed at appeal (Ref: APP/P2935/W/19/3223193) on Green Belt grounds only and the inspector did not consider the site to be within an open countryside location as detailed in paragraphs 8-9 of the appeal decision:

*"8. The Council have stated that the appeal site is located outwith any defined settlement boundary and therefore constitutes open countryside land. The site is located directly adjacent to existing buildings to the north and east and is bound to the south and west by roads. The appeal site is therefore not in an isolated location. Part of the site consists of a building with a clearly defined curtilage. Given the position of the appeal site directly adjacent to built development as well as being contained by existing roads, I do not consider that the site lies within open countryside.*

*9. The proposal would not introduce development in an open countryside location and as such it would comply with Policies Sus1 and Set1 of the Morpeth Neighbourhood Plan 2016 and Policies C1 and H16 of the CMDLP which seek to reduce the risk of urban sprawl and coalescence between settlements".*

7.8 The appeal decision can be interpreted to conclude that whilst outside the defined settlement limits in the MNP, there would be no significant encroachment into the Open Countryside or impact on its intrinsic beauty due to the surrounding development. The location was not considered to conflict with the policies within the MNP and therefore the only outstanding issue was the Green Belt designation. As the adopted NLP does not allocate this site within the Green Belt, the application is acceptable in principle.

7.9 The site is near a Shell service station, Londis convenience store, quilt shop; a veterinary facility and large housing estate. It is sited reasonably close to sustainable transport links, some of which have been improved as part of the Morpeth Northern By-Pass. The principle of development is supported by the Policy STP 1 of the NLP as it lies within the Green Belt inset boundary and is recognised as a sustainable location.

### *Housing*

7.10 MNP Policy Hou3 and NLP Policy HOU5 seek to ensure a mix of housing is provided, including affordable housing. NLP Policy HOU 6 relates to affordable housing and this part of Morpeth is within a high value area, so it would be required to provide at least 25% of the homes as affordable units, which would equate to 3 (rounded up from 2.25) of the proposed 9 dwellings. Part 4 of Policy HOU6 nevertheless provides for a financial contribution to be paid, where clearly justified, in lieu of the required on-site affordable housing in accordance with Policy INF6 and the formula in Appendix D. The Council's Housing Enabling Officer agreed that a commuted sum would be acceptable for this scheme and secured by a S106. The commuted sum will be calculated at the reserved matters stage when the actual units and values will be known. As such, the application is in accordance with NLP Policy HOU6, INF 5 and appendix D.

### *Open Space*

7.11 NLP Policy INF 6 and Appendix H1 aims to secure open space in three strands for major developments:

- Amenity green space and natural and semi-natural green space (on-site)
- Parks and Gardens (Off-site)
- Provision for children and young people (off site)

7.12 The contribution for each strand is calculated depending on the size and proposed population of the scheme. As this application is at the outline stage. the open space provision is unable to be calculated as the type and size of dwellings is unknown. The open space contribution can be secured within a s106 agreement with a mechanism to agree the total sum at the Reserved Matters stage. The applicant agrees with this approach and therefore, the application is in compliance with Policy INF 6 and Appendix H1 of the NLP.

### **Design, Layout and Impact on Residential Amenity**

7.13 NLP Policy HOU 9 aims for residential development management to provide functional space and facilities for refuse and recycling storage which is appropriate for the development. The location and design of facilities should provide opportunities to

screen or reduce their visual prominence, not impact upon amenity, health or security; Policies QOP1 and QOP2 sets out the design criteria for new proposals and to ensure development will be required to provide a high standard of amenity for existing and future users of the development itself and not cause unacceptable harm to the amenity of those living in, working in or visiting the local area.

7.14 Policy Des1 of the Morpeth Neighbourhood Plan includes a list of criteria in terms of the design of new developments. Of particular relevance to this application, the policy states that proposals will be supported where:

- The design and layout of the development achieves a sense of place by protecting and enhancing quality, distinctiveness and character of settlements;
- Respecting or enhancing the character of the site and its surroundings in terms of its proportion, form, massing, density, height, size, scale, materials and detailed design features;
- Ensuring the development safeguards, respects and enhances the natural environment, the biodiversity, landscape and wildlife corridors and the countryside;
- Ensuring that the development does not cause an acceptable adverse impact on the amenities of occupiers of existing or proposed nearby properties;
- Incorporating sustainable drainage systems.
- These policies are consistent with the aims of the NPPF which has good design as one of the key aspects of sustainable development and which states that developments should respond to local character and history, and reflect the identity of local surroundings and materials.

7.15 The application reserves matters including the scale, layout and appearance of the scheme but it is considered that the site could accommodate up to 9 dwellings and ensure there can be sufficient curtilage to achieve adequate space and privacy standards. The appearance and scale would be assessed at the reserved matters stage but there is scope to provide appropriately designed dwellings to avoid impacting upon the visual amenity and remain sympathetic to both the rural character and built up area. There will be issues to consider in terms of the layout and orientation of the properties and boundary treatments. A scheme should be presented to ensure the site is not fully enclosed and integrates into the surrounding area.

7.16 Policy QOP 4 seeks landscaping design of high quality and aims to retain existing trees where unavoidable. There is no formal site layout however, the arboricultural report identifies the removal of large mature trees to the eastern, central corner of the site due to conflicting with an indicative site plan. There is the opportunity to retain the trees bounding the site and to adequately mitigate with replacement planting and additional soft landscaping and biodiversity enhancements.

7.17 The proposed dwellings would not adversely impact upon the residential amenity currently enjoyed by existing neighbours given the position and distances that can be provided and the layout can be designed to respect the amenity of future occupiers.

7.18 The application is therefore in accordance with Policy QOP 1, QOP2 of the NLP and Des1 of the Morpeth Neighbourhood Plan.

## **Ecology**



7.19 The submitted ecological report found the site to support mature trees, hedgerows (largely made up of non-native garden species), amenity grassland, a large house and semi-improved field.

7.20 Priority species including hedgehog were considered likely to use the site and appropriate mitigation suggested. The near-by SuDS pond was inspected for the likelihood of the presence of great crested newt and found to be newly created and largely dry, thus the conclusion being that this species is unlikely to be present. However, given that there is a SuDS pond so near (60m) to the site, the presence of amphibians cannot be entirely ruled out and as such there is a requirement for the works to be carried out under method statement for this group of species. There were no roosting bats found.

7.21 The ecological report also includes some broad recommendations for the loss of tree/hedgerow loss on site and lighting recommendations to ensure bats can continue to use the site during and post construction. However, there is no indication on the submitted plans on where/how this is to be achieved. Additionally, there is no mitigation/compensation for the loss of semi-improved grassland considered to be of parish value.

7.22 Paragraph 174 d) of NPPF states that planning applications should seek to minimise impacts on and provide net gains for biodiversity, this is echoed in Northumberland's Local Plan policy ENV2 (1) that requires development proposals affecting biodiversity to minimise their impact, avoiding significant harm through location and/or design. Where this cannot be avoided, applicants will be required to demonstrate that adverse impacts will be adequately mitigated or, as a last resort compensated for. This policy also seeks development to secure a net gain for biodiversity. As it stands the current application will result in a net loss of biodiversity through the loss of semi-improved grassland and areas of shrubs and trees. Furthermore, no net gain for biodiversity is provided. Net gain is often achieved (where all existing ecological issues have been either avoided, mitigated or compensated for) by the installation of a minimum of 1no. integrated bat box and 1no, integrated bird box in each dwelling. There is therefore a need for a biodiversity enhancement plan that broadly outlines how and where mitigation/compensation and biodiversity net gain will be achieved. The provision of suitable landscaping and installation of in-built bird and bat boxes is expected. This can level of enhancement can be achieved through securing further details by planning conditions and within the Reserved Matters application.

7.23 As such, the application is in accordance with NLP Policy ENV 2 and the NPPF.

### **Public Protection**

7.24 Policy POL 1 relates to unstable and contaminated land. Development proposals will be supported where it can be demonstrated that unacceptable risks from land instability and contamination will be prevented by ensuring the development is appropriately located and that measures can be taken to effectively mitigate the impacts.

7.25 Policy POL 2 relate to pollution and air, soil and water quality and development proposals in locations where they would cause, or be put at unacceptable risk of harm from, or be adversely affected by pollution by virtue of the emissions of fumes, particles, effluent, radiation, smell, heat, light, noise or noxious substances will not be

supported. Development proposals that may cause pollution of water, air or soil, either individually or cumulatively, are required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, people or biodiversity.

7.26 The application was accompanied by a noise assessment that identified the road traffic noise levels impacting the site. Based on the findings, the Public Health Protection Unit were consulted, that residents of dwellings should have access to openable windows for comfort ventilation and not reliant upon unsustainable methods of ventilation such as mechanical alternatives. The details of the internal room layout and where windows will be placed will require prior agreement at the reserved matters stage. It is expected that for other rooms, which cannot achieve the external noise limits, appropriate glazing and alternative ventilation shall be provided. The noise assessment has recommended an “acoustic barrier” in the form of a close-boarded fence. A condition has also been recommended to require prior details and this will only be necessary for a small section of the site which is depended on the proposed layout. The use of materials can be used other than timber fencing to achieve a more attractive barrier.

7.27 In terms of land contamination, the site has limited historical uses which have the potential to have contaminated the site, other than agriculture. A small quarry existed to the east of the site (Slatehill Quarries) and was last operational in the mid-19th Century, disused by 1897. The submitted Phase 1 (desk top study) has concluded that:

- No ground gas monitoring or ground gas protective measures are required.
- A basic Phase 2 (intrusive investigation) is required in relation to a thin layer of made ground associated with the existing dwelling on the site.

7.28 This is acceptable to the Public Health Protection Unit but it is recommend that further details are secured to conduct an asbestos survey and any further site investigations in relation to the “thin layer of made ground” does not begin until the dwelling known as Butley Ben is demolished and the site cleared of demolition material. Should any contaminated “soils” be identified, the applicant should propose how they are to deal with this and whether the importation of clean soils will be required.

7.29 The site does not appear to be impacted by any sources of ground gases (landfill or underground mining) and the Preliminary Contamination and Mining Risk Assessment has concluded that there is a very low risk from ground gases and no assessment is required for this development.

7.30 Overall, the application is acceptable in terms of noise to the future occupants, land contamination and risk from Ground Gas which can be mitigation and further assessed at the Reserved Matters stage. Subject to conditions, the application is considered acceptable in accordance with the NLP policies POL1 and POL 2 and QOP 2.

## **Highways**

7.31 Policy TRA 1 of the NLP states that the transport implications of development must be addressed as part of any planning application. Policies TRA 2 and TRA 4 seek to ensure any new application has no detrimental impact to the existing transport

network and provides adequate parking provision in accordance with the NCC standards within Appendix E of the Plan.

7.32 The site will need to provide connections to the existing pedestrian and cyclist infrastructure and will be required as part of the Reserved Matters application and secured by condition.

7.33 The level of traffic generated by the development is unlikely to impact upon the safety and operation of the surrounding road network. Whilst access is not for consideration as part of this application, the indicative site access shown in the plan is located away from the A197/A192 roundabout, which is acceptable. This is preferred to an access from the adjacent Persimmon development, which would be potentially too close to the roundabout. As such, a condition is requested to limit access to North Lane End, with the details submitted as part of the Reserved Matters applications. There are potential road safety issues with the proximity of a site access to the current transition point of the on-road to off-road cycleway introduced as part of the Morpeth Northern By-Pass but this can be suitably mitigated through the relocation of this transition further north on the former A192 and secured by condition relating to the access.

7.34 The internal layout of the development is not for consideration as part this outline application but will be determined at the Reserved Matters stage. The applicant is advised that car parking will need to be provided in accordance with Northumberland County Council parking standards and dimensional requirements as contained in Appendix E of the NLP. A condition is requested to secure car parking for the development.

7.35 The internal layout is not for determination as part of this application and will be considered as part of the subsequent Reserved Matters applications. The site access road shall be where a shared surface approach can be used. Footways 2.0m wide shall be provided from the junction into the site on both sides of the access road, which will be retained as 2.0m service strips if a shared surface is to be used.

7.36 The applicant is advised that refuse storage and servicing will need to be provide turning facilities for an 11.6m refuse vehicle. If the development is to remain private, then agreement with NCC Waste Services directly to enter private land will be required or alternatively a private waste collection service could be provided. A condition is requested to secure refuse storage and servicing for the development.

7.37 Overall, the application is in accordance with NLP Policies TRA 1, TRA 2 and TRA 3 with the issues for access, parking, refuse and highways subject to conditions and assessing the layout at the Reserved Matters stage.

### **Flood Risk**

7.38 The Lead Local Flood Authority (LLFA) had initial concerns with the proposed 5l/s discharge rate and a lower restriction to flows was assessed to compare the existing pre-development runoff rate and confirm the attenuation volume on site. Whilst an outline application, there is also still a commitment to incorporate sustainable drainage techniques within the development. As such can an analysis of SuDS techniques be undertaken and a commitment to include them where possible and practicable provided. Based on the amended documents submitted as part of the

application, the LLFA has no objections to the proposed development subject to conditions securing

7.39 Similarly, Northumbrian Water has no objections but requested further information to provide sufficient detail with regards to the management of foul and surface water. As such the application is in accordance with NLP Policy WAT 3 and WAT 4 the NPPF.

### **Other matters**

7.40 As the development would impact the educational infrastructure in the area, a contribution of £48,000 towards education for Secondary Middle and High Schools has been requested and then agreed with the applicant in accordance with NLP Policy 6 (Planning Obligations) and Appendix H2. This is to be secured within a s106 legal agreement.

### **Equality Duty**

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**

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

### **Human Rights Act Implications**

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.

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.

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**

8.1 The application is considered in principle and in accordance with spatial strategy policy STP1 of the NLP. The application has also secured financial contributions for Affordable Housing, Education and Open Space. All other matters are reserved with technical issues such as Highways, Ecology, Flood Risk, Land Contamination and Noise impacts considered to be suitably mitigated via condition or assessed under any subsequent Reserved Matters application. Overall, the application does not conflict with the policies within the NLP, MNP and the NPPF.

## **9. Recommendation**

That this application be GRANTED permission subject to a s106 securing a financial contribution to affordable housing, education and open space and the following conditions:

### Conditions/Reason

01. Approval of the details of the appearance, layout, landscaping and scale hereinafter called the reserved matters shall be obtained from the Local Planning Authority.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended)

02. Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended)

03. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended)

03. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved documents and plans. The approved plans for this development are:-

Location Plan LP\_862\_01

Reason: To ensure that the approved development is carried out in complete accordance with the approved plans

04. Prior to commencement of development a scheme to dispose of surface water from the development shall be submitted to and approved by the Local Planning Authority. This scheme shall i. Restrict discharge from the development to 3.9l/s (with a 75mm orifice) for all rainfall events up to and including the 1 in 100 year event, unless otherwise agreed by LLFA/EA/NWL and the local planning authority.  
ii. Adhere to the principles as set out in the flood risk assessment and drainage strategy from Coast Consulting reference 1843-01 Rev P3 (dated 29 October 2021).  
iii. Provide attenuation on site for the 1 in 100 year plus climate change event.  
iv. Incorporate source control and vegetated sustainable drainage techniques throughout the development wherever possible and practicable, justification for alternatives should be by means of a viability assessment. A particular reference is given to permeable paving within all private areas.  
The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the effective disposal of surface water from the development.

05. Prior to first occupation details of the adoption and maintenance of all SuDS features shall be submitted to and agreed by the Local Planning Authority. A maintenance schedule and log, which includes details for all SuDS features for the lifetime of development shall be composed within and be implemented forthwith in perpetuity.

Reason: To ensure that the scheme to dispose of surface water operates at its full potential throughout the development's lifetime.

06. Details of the disposal of surface water from the development through the construction phase shall be submitted to and agreed with the Local Planning Authority.

Reason: To ensure the risk of flooding does not increase during this phase and to limit the siltation of any on site surface water features.

07. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer or a suitably qualified professional must be submitted to and approved by the Local Planning Authority, to demonstrate that all sustainable drainage systems have been constructed as per the agreed scheme. This verification report shall include:

- \* As built drawings for all SuDS components - including dimensions (base levels, inlet/outlet elevations, areas, depths, lengths, diameters, gradients etc);
- \* Construction details (component drawings, materials, vegetation);
- \* Health and Safety file; and
- \* Details of ownership organisation/adoption details.

Reason: To ensure that all sustainable drainage systems are designed to the DEFRA non technical standards.

08. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

09. The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been undertaken by a competent and qualified consultant then submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:

a) As identified in the Preliminary Contamination and Mining Risk Assessment produced by FWS Geological & Geo-Environmental Consultants (Report Reference: 3447OR01 (Rev00) and dated 24/04/2018) further site investigations shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/ or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the Local Planning Authority without delay upon completion.

b) Thereafter, a written Method Statement (or Remediation Strategy) detailing the remediation requirements for the land contamination and/or pollution of controlled waters affecting the site shall be submitted and approved by the Local Planning Authority, and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority. The report must demonstrate that the soil in landscaped areas from the surface down to a minimum depth of 600 millimetres will provide a suitable growing medium as defined within BS 3882:2015 No deviation shall be made from this scheme without express written agreement of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and dwellings are minimised and to ensure that the development can be carried out safely without unacceptable risks to any future occupants.

10. The development hereby permitted shall not be occupied until two full copies of a full closure (Verification Report) report shall be submitted to and approved by the Local Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Reason: To ensure that risks from land contamination to the future users of the land and dwellings are minimised and to ensure that the development can be carried out safely without unacceptable risks to any future occupants.

11. If during redevelopment contamination not previously considered is identified, then an additional method statement regarding this material shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the method statement has been submitted to and approved in writing by the Local Planning Authority, and measures proposed to deal with the contamination have been carried out.

Reason: To ensure that risks from land contamination to the future users of the land and dwellings are minimised and to ensure that the development can be carried out safely without unacceptable risks to any future occupants.

12. The Reserved Matters to be submitted under Condition 1 shall include details of an acoustic design scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that internal noise levels of 35dB LAeq during the day and 30dB LAeq and 45dB LAMax during the night can be achieved in the main habitable rooms\* with windows in the open position. The scheme shall include internal room layouts to show that the main habitable rooms shall have access to a window which can be opened without causing the ingress of obtrusive noise above guidance levels. Thereafter, the approved acoustic design scheme shall be implemented in full before the occupation of the dwelling it relates to and retained in perpetuity.

\*A Habitable room being as defined within Approved Document F - Ventilation ISBN 978 1 85946 679 9

Reason: To ensure a commensurate level of protection against obtrusive noise.

13. The Reserved Matters to be submitted under Condition 1 shall include details of a 1.8 metre high acoustic barrier has been submitted to and approved in writing by the Local Planning Authority. The submission shall include a plan showing the location and extent of the acoustic barrier, a specification of materials to be used and the design of the barrier. The details shall be clear that the barrier will have a superficial mass of at least 10 kilogrammes per square metre. Thereafter, the approved acoustic screening shall be implemented in full before the occupation of the first dwelling, maintained as approved and retained in perpetuity.

Reason: To ensure a commensurate level of protection against obtrusive noise.

14. Development shall not commence until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

Reason: In the interests of visual amenity of the area, in accordance with the National Planning Policy Framework.

15. The development shall not be occupied until details of the proposed boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is occupied.

Reason: In the interests of visual amenity and highway safety, in accordance with the National Planning Policy Framework.

16. Prior to commencement of development details of the materials to be used in the construction of the external surfaces of the private drives and shared private drives shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.



Reason: In the interests of visual amenity, in accordance with the National Planning Policy Framework.

17. No dwelling shall be occupied until details of car parking area have been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details. Thereafter, the car parking area shall be retained in accordance with the approved details.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

18. Means of vehicular access to the permitted development shall be from North Lane End only.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

19. Development shall not commence until details of the proposed highway works to facilitate the site access junction to North Lane End, including amendments to the existing footway/cycleways and cycleway transition point and all associated works, have been submitted to and approved in writing by the Local Planning Authority. The building(s) shall not be occupied until the highway works have been constructed in accordance with the approved plans.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

20. No development shall commence until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases, completion sequence and construction standards that estate streets serving each phase of the development will be completed. The development shall then be carried out in accordance with the approved Estate Street Phasing and Completion Plan.

Reason: To ensure estate streets serving the development are completed in the interests of residential amenity and highway safety, in accordance with the National Planning Policy Framework.

21. No development shall commence until details of proposed arrangements for future management and maintenance of the proposed streets within the site have been submitted to and approved in writing by the Local Planning Authority. Following occupation of the first dwelling on the site, the streets shall be maintained in accordance with the approved management and maintenance details.

Reasons: To ensure estate streets serving the development are completed in the interests of residential amenity and highway safety, in accordance with the National Planning Policy Framework.

22. No development shall commence until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the amenities of the locality and users of the highway in accordance with the National Planning Policy Framework.

23. No dwelling shall be occupied until details of cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before each dwelling is occupied. Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be kept Available for the parking of cycles at all times.

Reason: In the interests of highway safety and sustainable development, in accordance with the National Planning Policy Framework.

24. Prior to occupation, details of surface water drainage to manage run off from private land shall be submitted to and approved by the Local Planning Authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the development is occupied and thereafter maintained in accordance with the approved details.

Reason: In order to prevent surface water run off in the interests of the amenity of the area and to ensure suitable drainage has been investigated for the development and implemented, in accordance with the National Planning Policy Framework.

25. No dwelling shall be occupied until details of refuse storage facilities and a refuse storage strategy for the development have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location and design of the facilities and arrangement for the provision of the bins. The approved refuse storage facilities shall be implemented before the development is brought into use. Thereafter the refuse storage facilities and refuse storage plan shall operate in accordance with approved details.

Reason: To ensure sufficient and suitable facilities are provided for the storage and collection of household waste in accordance with the National Planning Policy Framework.

26. Development shall not commence until a Construction Method Statement, together with supporting plan has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement and plan shall, where applicable, provide for:

- i. details of temporary traffic management measures, temporary access, routes and vehicles;
- ii. vehicle cleaning facilities;
- iii. the parking of vehicles of site operatives and visitors;
- iv. the loading and unloading of plant and materials;
- v. storage of plant and materials used in constructing the development

Reason: To prevent nuisance in the interests of residential amenity and highway safety, in accordance with the National Planning Policy Framework.

27. Notwithstanding the details submitted with the application, prior to the construction of any building above damp proof course level, a scheme to demonstrate how the development will minimise resource use, mitigate climate change and ensure proposals are adaptable to a changing climate to achieve sustainable design and construction in the design of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme and measures shall be implemented in full prior to first occupation and retained thereafter.

Reason: To achieve a sustainable form of development, and in the interests of the satisfactory appearance of the development upon completion, the character and appearance of the site and surrounding environment and the amenity of surrounding residents, in accordance with Policy QOP 5 of the Northumberland Local Plan and the National Planning Policy Framework.

28. No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological report ('Ecological Appraisal, Butley Ben, Fairmoor, Morpeth. E3 Ecology Ltd. October 2020') and this condition, including, but not restricted to;

i. Adherence to 'Bat Conservation Trust. Guidance Note 08/18. Bats and artificial lighting in the UK Bats and the Built Environment series'

ii. No demolition, development, tree felling or vegetation clearance shall be undertaken between 1 March and 31 August unless a suitably qualified ecologist has first confirmed that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.

iii. Root protection zones will be implemented around all retained trees and hedgerows in accordance with the guidance given in BS5837

iv. Installation of a minimum of No.1 integrated bat box and No. 1 integrated bird box in each dwelling. Numbers, types and positions of which to be submitted to and agreed in writing with the LPA at the development reaching Reserved Matters stage and fully implemented as approved.

v. At the development reaching Reserved Matters stage a Landscape & Ecological Management Plan (LEMP) to include; the landscape planting of the site, suitable drainage policy is required to negate potential impacts of wastewater and surface water run-off to the dry ditch to the east during and post-construction, provision of holes (13cm x13cm) in fences for hedgehog dispersal, and the removal and disposal of *Rhododendron ponticum*, shall be submitted for the written approval of the LPA. The plan shall detail the species and number of trees, hedgerows, shrubs and use only Northumberland native species. Once approved the plan shall be implemented in full during the first planting season (November March inclusive) following the commencement of development.

vi. Any deep (in excess of 300mm) excavations left open overnight to be either securely covered, fenced or provided with an earth or timber ramp not less than 300mm wide and no steeper than 45 degrees to provide an escape route for ground animals that might otherwise become entrapped.

vii. Production and implementation of a method statement outlining how the development will be carried out to ensure the protection of amphibians. To be submitted and approved by the LPA at the development reaching Reserved Matters stage.

Reason: to conserve and enhance the natural environment in accordance with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Species and Habitats Regulations 2017 (as amended), NPPF section 15 and Policy ENV2 of the Northumberland Local Plan.

29. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 1 year from the date of the planning consent, the approved ecological measures secured through above condition shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of bats or other protected or priority species or habitats and ii) identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: to conserve and enhance the natural environment in accordance with the Wildlife and Countryside Act 1981 (as amended), the Conservation of Species and Habitats Regulations 2017 (as amended), NPPF section 15 and Policy ENV2 of the Northumberland Local Plan.

## **Informatives**

The culverting of any watercourse or alternations of any existing culverted watercourse will require the prior written consent of Northumberland County Council, under the Land Drainage Act (1991). Please contact the FCERM team (fcerm@northumberland.gov.uk) for further information.

### ***Dust Management***

Dust minimisation and control shall have regards to guidance such as :  
The Institute of Air Quality Management has produced very current documentation entitled "Guidance on the Assessment of Dust from Demolition and Construction" available at: <http://iaqm.co.uk/guidance/>

Additionally, the Mayor of London's office has produced robust supplementary guidance document entitled "The Control of Dust and Emissions During Construction and Demolition" which is available at: <https://www.london.gov.uk/what-we-do/planning/implementinglondonplan/supplementary-planning-guidance/control-dust-and>

### ***Noisy Working during the Construction Phase***

During the construction period, there should be no noisy activity, i.e. audible at the site boundary, on Sundays or Bank Holidays or outside the hours:

Monday to Friday - 0800 to 1800  
Saturday - 0800 to 1300.

Any repeatedly noisy activity at any time may render the developer liable to complaints which could result in investigation as to whether a statutory nuisance is being caused.

***Restriction on Deliveries / Collections during the Construction Phase***

No deliveries or collections shall be made to or from the premises outside the hours of:

Monday to Saturday 0800 to 1800  
and not at all on Sundays or Bank Holidays.

***Statutory Nuisance***

The Public Health Protection Unit would advise that the prevention of nuisance is the responsibility of the developer and their professional advisors. Developers should, therefore, fully appreciate the importance of professional advice.

Failure to address the issue of noise, dust and light at the development stage does not preclude action by the Council under Section 79 of the Environmental Protection Act, 1990 in respect of statutory nuisance.

***Burning Materials Onsite***

There shall be no burning of any material associated with the construction phase on the site.

**Section 38 Agreement and adoption of highways** - You are advised to contact the Council's Highway Development Management team at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk) concerning the need for a Section 38 Agreement of the Highway Act 1980 relating to the adoption of new highways.

**Section 278 Agreement and works in adopted highway** - You are advised that offsite highway works required in connection with this permission are under the control of the Council's Technical Services Division and will require an agreement under section 278 of the Highway Act 1980. These works should be carried out before first occupation of the development. All such works will be undertaken by the Council at the applicant's expense. You should contact Highway Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk) to progress this matter.

**Highway condition survey** - You should note that a highway condition survey should be carried out before the commencement of demolition and construction vehicle movements from this site. To arrange a survey contact Highway Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk).

**Reminder to not store building material or equipment on the highway** - Building materials or equipment shall not be stored on the highway unless otherwise agreed. You are advised to contact the Streetworks team on 0345 600 6400 for Skips and Containers licences.

**Contact Local Highway Authority - Estate Street Phasing and Completion Plan** - The applicant is advised to obtain the written approval of the Local Highway Authority for the details required under condition 20, prior to the submission of such details to the Local Planning Authority in seeking to discharge the said condition. Such details, as may be submitted to the Local

Highway Authority, could be subject to technical and safety assessments / audits, which may result in changes to the layouts and alignments as shown on any indicative layout(s) approved by virtue of the planning permission. The applicant is advised that the Local Planning Authority may reject details submitted to them for the discharge of the condition without evidence of technical approval from the Local Highway Authority. You can contact the Highway Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk)

**Contact Local Highway Authority - Management and Maintenance**

**of Estate Streets** - The applicant is advised that to discharge condition 21 the Local Planning Authority requires a copy of a completed agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes. You can contact Highway Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk)

**Contact Local Highway Authority - Submission of details of**

**adoptable streets** - The applicant is advised to obtain a technical approval for all estate street details from the Local Highway Authority prior to the submission of such approved details to the Local Planning Authority to discharge condition 22 of this permission. You can contact the Highway Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk)

**Reminder to not deposit mud/ debris/rubbish on the highway** - In accordance with the Highways Act 1980 mud, debris or rubbish shall not be deposited on the highway.

**Road Safety Audits** - You should note that Road Safety Audits are required to be undertaken. Northumberland County Council offer this service. You should contact [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk) or 01670 622979.

**Containers Required for the Storage of Waste** - For new individual properties the following will be required to be provided:

- 240 litre wheeled bin for residual refuse
- 240 litre wheeled bin for recycling

Developers should be aware that an additional 240 litre brown bin may also need to be accommodated for garden waste which is a subscription seasonal scheme.

It should also be noted that, following the transfer of private drains and sewers in 2011, there may be assets that are the responsibility of Northumbrian Water that are not yet included on our records. Care should therefore be taken prior and during any construction work with consideration to the presence of sewers on site. Should you require further information, please visit <https://www.nwl.co.uk/developers.aspx>.

**Date of report: 24<sup>th</sup> February 2023**