



# Northumberland

## County Council

### Virtual Tynedale Local Area Committee: 9 February 2021

<b>Application No:</b>	20/01708/FUL		
<b>Proposal:</b>	Construction of 17 dwellings at a mix of 3 three bed properties, Ten 4 bed properties and 4 three bed affordable homes.		
<b>Site Address</b>	Land North And East Of Ashlynd House, Church Lane, Wark, Northumberland		
<b>Applicant:</b>	Mr J Thompson c/o Agent	<b>Agent:</b>	Mr Milburn 4 Dukes Road , Hexham, NE46 3AW, Northumberland
<b>Ward</b>	Humshaugh	<b>Parish</b>	Wark
<b>Valid Date:</b>	9 June 2020	<b>Expiry Date:</b>	8 September 2020
<b>Case Officer Details:</b>	Name: Ms Melanie Francis Job Title: Senior Planning Officer Tel No: 01670 625549 Email: melanie.francis@northumberland.gov.uk		

**Recommendation:** That this application be REFUSED permission



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## 1. Introduction

1.1 Under the Virtual delegation scheme, the application was referred to the Director of Planning and Chair and Vice of the Tynedale Local Area Council Planning Committee who agreed that the application raises wider community issues and so should be considered by Members of the Virtual Tynedale Local Area Council Planning Committee.

## 2. Description of the Proposals

2.1 Planning permission is sought for the construction of 17 dwellings, including affordable housing, an access road and landscaping to the east of Church Lane, Wark. The site is an L-shaped area of farmland of some 1.3 hectares in size, located on the northern edge of the village of Wark, adjacent to the B6320 and to the south-east of the church. Access to the site would be off the B6320 close to the existing field entrance.

2.2 The development would consist of three 3-bedroom dwellings, ten 4-bedroom dwellings and four 3-bedroom affordable dwellings. The properties would be located in a linear arrangement on the north-south axis with gardens to the rear. One house would be built to the south of the proposed access with houses along the northern edge built in a less formal pattern to those backing onto the fields to the east. The houses would be constructed of natural stone, slate roofs, UPVC sliding sash windows and timber entrance doors. Boundary treatments include one metre high dry stone walls, plus post and rail and timber fencing.

2.3 The development includes four house types:

*House type 1* – 4 bedroom detached with porch and chimney. 8 metres in height to apex. Internal floor space some 127 metres square

*House type 2* – 4 bedroom detached with porch, chimney and gabled roof windows to front and rear. 7 metres in height to apex. Internal floor space some 145 metres square

*House type 3* – 3 bedroom detached bungalow with porch and chimney. 5.5 metres in height to apex. Internal floor space some 96 metres square

*House type 4* – 3 bedroom semi-detached houses with chimneys. 8 metres in height to apex. Internal floor space some 75 metres square

The development would include single, double and twin garages. A landscape buffer zone would be created along the northern side of the site covering some 140 metres in length and 10 metres in width which would be planted with native woodland species including a mix of blackthorn and hawthorn, oak trees, silver birch and Scots Pine. The hedgerow to the east would be retained. Two SuDs detention basins have been incorporated into the design.

2.4 The site is an existing agricultural field which is under grass. It is a relatively level area of land but does slope downhill towards the south-east. The site lies to the north and west of a number of detached and semi-detached dwellings with generous gardens, and on the southern edge of the site lies St Michael's Mount, a cul-de-sac of semi-detached bungalows. On the southern and eastern boundary, adjacent to Braeside, but located outside the site, there are a number of mature trees which are subject to a Tree Preservation Order.

2.5 The site abuts the built-up area of the settlement of Wark but it is located in the open countryside.

2.4 Submitted with the application were the following reports:

- Design and Access Statement (idpartnership) April 2020
- Geotechnical and Environmental report (Dunelm), 6 December 2018
- Arboricultural Impact Assessment (All About Trees), July 2020 Method Statement
- Flood Risk and Drainage Assessment report, C J Emm Ltd, April 2020
- Flood Risk and Drainage Assessment Addendum, CJ Emm Ltd, July 2020
- Preliminary Highway Works Plan
- Construction Method Statement
- Geophysical survey (Archaeological Services Durham University), May 2019
- Archaeological evaluation (Archaeological Services Durham University), June 2019
- Heritage Statement, May 2020
- Planning Statement, June 2020
- Transport Transport Statement, Planning Technical references and appendices
- Preliminary Ecological Appraisal (Sterna Ecology), December 2018

### 3. Planning History

**Reference Number:** 19/00006/OUT

**Description:** Outline permission for up to 17 dwellings including affordable housing and access road and other ancillary works (some matters reserved including Appearance, Landscaping, Layout and Scale)

**Status:** Withdrawn

### 4. Consultee Responses

Highways	No objection subject to conditions
Wark Parish Council	No response received.
Affordable Housing	No objection as exceeds affordable housing requirement
Waste Management - West	No response received.
Education - Schools	No requirement for a contribution
Lead Local Flood Authority (LLFA)	No objection subject to conditions
County Ecologist	No objection subject to conditions
West Tree And Woodland Officer	No objection subject to conditions
Public Protection	No objection subject to conditions
Northumbrian Water Ltd	The application does not provide sufficient detail in relation to management of foul and surface water and so request a condition.
Fire & Rescue	No response received.

Service	
Architectural Liaison Officer - Police	No objection. Happy with proposed layout but number of observations and queries regarding the boundary treatments.
Northumbria Ambulance Service	No response received.
Environment Agency	No response received.
County Archaeologist	No objection and no archaeological work is required
Building Conservation	Causes less than substantial harm

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	33
Number of Objections	13
Number of Support	24
Number of General Comments	1

### Notices

General site notice: expired 4 August 2020

Press notice: expired 16 July 2020

### Summary of Responses:

There have been 13 letters of objection with discuss the following :

- Unsafe access with no evidence of appropriate visibility splay
- The adjoining B6320 is narrow and twisty with a blind summit outside the village
- Increase in car use within the village
- Impact on the countryside as it is an expansion rather than an infill
- Design not suitable
- Would not meet local people's needs in terms of affordability
- No demand for further housing
- Bus service limited and so would result in more cars
- High school in Hexham and school buses already full
- It is taking the view away from others
- Increased noise and light disturbance to adjoining residents
- The SHLAA states that the site is not suitable
- Houses should have smaller ecological footprint. Should be zero carbon or zero emission designs
- Proposed substation too close to existing dwellings
- Houses would use grassy track leading to St Michael's Mount which would be distressing for elderly people who live in St Michael's Mount
- Wark already has outstanding permissions for new housing
- The Council has more than a five year supply of housing land and so need to release more land
- Westacres was refused as contrary to development plan and so this application should also be refused
- Site in open countryside outside the proposed settlement boundary

- Development would be prominent on edge of Tyne river and visible from Birtley and public footpaths
- Would cause harm to character of village
- The site floods every winter from surface water
- Contrary to development plan policy
- Would result in housing closer to existing dwellings than previous withdrawn scheme
- Will lead to further development in the future
- There are better brownfield sites in the North Tyne that could be used for housing
- Proposed footpath too narrow
- No recreational space for children

The 24 letters of support cover the following issues:

- Younger residents need more affordable houses and elderly residents need families closer
- Other villages have been allowed to expand
- The school and shop need sensible population growth as well as other village facilities
- Site provides sensible, sympathetic development
- Wark School relies on family housing in and around the village and numbers have dwindled because of lack of new developments
- The village needs new homes to help regeneration
- Local people have to move as no suitable accommodation in Wark

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

<https://publicaccess.northumberland.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

## **6. Planning Policy**

### **6.1 Development Plan Policy**

*Tynedale Core Strategy (adopted October 2007)*

GD1 The general location of development  
 GD2 Prioritising sites for development  
 GD5 Minimising flood risk  
 BE1 Principles for the built environment  
 H1 Principles for housing  
 H2 Housing provision and management of supply  
 H3 The location of new housing  
 H4 Housing on greenfield land  
 H5 Housing density  
 H7 Meeting affordable housing needs  
 H8 Affordable housing on market housing sites  
 NE1 Principles for the natural environment

*Tynedale Local Plan Policies (April 2000, saved Policies September 2007)*

GD2 Design criteria for development, including extensions and alterations  
GD4 Range of transport provision for all development  
GD6 Car parking standards outside the built-up areas of Hexham, Haltwhistle, Prudhoe and Corbridge  
BE22 The setting of listed buildings  
BE29 Development and preservation  
H15 Additional small housing developments within the rural area  
H23 Affordable housing rural exception sites  
H29 Protection of character of low density housing  
H32 Residential design criteria  
NE27 Protection of protected species  
NE33 Protection of trees, woodlands and hedgerows  
NE34 Tree felling  
NE35 Tree Preservation Orders  
NE37 Landscaping in developments  
CS27 Sewerage  
LR11 Outdoor sports facilities for new development  
LR15 Play areas in new residential development

## 6.2 National Planning Policy

*National Planning Policy Framework (2019)*  
*National Planning Policy Guidance (as updated 2018)*

## 6.3 Emerging Planning Policy

*Northumberland Local Plan - Publication Draft Plan (including Proposed Minor Modifications) (Regulation 19) (submitted on 29th May 2019)*

STP1 Spatial strategy  
STP 3 Principles of sustainable development  
ENV2 Biodiversity and geodiversity  
ENV 3 Landscape  
ENV 7 Historic environment and heritage assets  
HOU2 Provision of new residential development (Strategic Policy)  
HOU5 Housing type and mix  
HOU6 Affordable housing provision  
HOU7 Exception sites  
HOU9 Residential development management  
QOP1 Design principles  
QOP2 Good design and amenity  
QOP3 Public realm design principles  
QOP4 Landscaping and trees  
QOP5 Sustainable design and construction  
QOP6 Delivering well designed places  
TRA2 The effects on the transport network  
TRA4 Parking provision in new development  
WAT3 Flooding  
WAT4 Sustainable drainage systems

## **7. Appraisal**

7.1 The main issues in the determination of this application are:

Principle of development  
Housing land supply  
Siting, design and layout  
impact on the character of the area and adjoining countryside  
Impact on adjoining residential amenity  
Highway issues including access and parking  
Impact on adjoining trees  
Ecology  
Impact on archaeology  
Impact on listed buildings  
Flooding, foul and surface water drainage  
Education provision  
Contamination  
Sports and play

### Principle of development

7.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration. The Allendale Neighbourhood Plan, the Tynedale Core Strategy and the Tynedale Local Plan remain the development plan and as outlined in paragraph 12 of the NPPF is the starting point for decision making. Paragraph 213 of the NPPF does, however, advise that the weight given to Local Plan policies depends on their degree of consistency with the NPPF.

7.3 The Draft Northumberland Local Plan has been published. In line with paragraph 48 of the NPPF, the amount of weight that can be given to the emerging Local Plan depends upon the stage of the plan, the level of unresolved objections and its consistency with the NPPF. The emerging Northumberland Local Plan was submitted for Examination on the 29 May 2019 and it is at examination stage. This is referred to as the '*Northumberland Local Plan - Publication Draft Plan (Regulation 19) and proposed minor modifications, submitted on 29 May 2019*'. At this stage some weight can be given to the emerging Local Plan policies.

7.4 The application site is a greenfield site consisting of agricultural pasture land which lies to the north of the existing built-up area of the village of Wark and is considered as being within the open countryside.

7.5 Policy GD1 of the Tynedale Core Strategy sets out the principles for the location of new development with the main focus for development being the main towns, followed by local centres, then smaller villages, with development in the open countryside being limited to the reuse of existing buildings. The Tynedale Local Development Framework Proposals Map does not show a settlement boundary around Wark, although the Core Strategy states that the open countryside is defined as everywhere outside the built up area of a town or village and includes sporadic groups of buildings.

7.6 Wark is classified as a smaller village within the Core Strategy and Policy GD1 states that in principle small scale development only is appropriate to smaller villages. The policy considers that smaller villages have a role to play in accommodating some new developments but on a small scale in keeping with their character.

7.7 Policy H1 of the Core Strategy provides the principles for housing which includes limiting housing to main towns, local centres and smaller villages with adequate services. Policy H3 establishes the criteria for a sustainable village and states new housing will only be located in smaller villages where there are adequate services, including at least a school or shop selling food to meet day-to-day needs and either a village hall/community centre or a pub. There must also be a public transport connection to a larger settlement with a wider range of services. Wark has a wide range of services including a school, shops, a village hall, a number of pubs and a bus service. Therefore the proposal would in principle accord with Core Strategy Policy H3.

7.8 In a recent appeal decision (APP/P2935/W/20/3255406) for a housing development on the western edge of the village of Wark, the Inspector considered that as the site is located outside the built-up-area of the village it is within the open countryside and would conflict with Tynedale Core Strategy Policy GD1. The Inspector went on to list the services that are located in Wark, plus the public transport to larger settlements and said that it would be classified as a 'smaller village' within the terms of GD1. The Inspector did, however, consider that this is not consistent with the NPPF as it *'in effect sets a blanket restriction on new built development in the open countryside'*. The Inspector went on to say that he considered that Policy GD1 is out of date on that basis. He also considered that Policies H1 and H3 of the Core Strategy are supportive of housing development in smaller villages with adequate services, such as Wark, and he considered that it met the aims of these policies in respect of the sustainable distribution of housing development. The Inspector also noted that his conclusions on this were contrary to the views of another Inspector who had previously dismissed an appeal on that site, on the basis that its development was contrary to open countryside policies.

7.9 In respect of the NPPF, paragraph 77 of the NPPF discusses rural exception sites that will provide affordable housing to meet identified local needs, and the need to consider that whether by allowing some market housing these sites would help facilitate this. This site would, however, have a greater proportion of dwellings that would be market housing rather than affordable and so the proposal cannot be supported by paragraph 77.

7.10 Paragraph 78 of the NPPF states 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'*. It is this policy to which the Inspector, as discussed in paragraph 7.9 above, was referring to.

7.11 In the emerging Local Plan, Policy STP 1 regards Wark as a service village where a proportionate level of housing will be provided, and be the focus for investment in rural areas to support the provision and retention of local retail, services and facilities. The Emerging Local Plan has a settlement boundary for Wark but the application site is located outside the settlement boundary, as mentioned by objectors to the application, and the site therefore falls within an area defined as open countryside. Criteria g of Policy STP 1 considers new development in the open countryside and states that development in the open countryside will only be supported if it can be demonstrated that it fulfils one of a number of criteria. None of these policy criteria are applicable in this proposal and so the application does not accord with Policy STP 1. Whilst the plan is at an advanced stage, there are a number of unresolved objections to Policy STP 1 that are currently being considered

through the examination process and this reduces the weight that can be given to this policy at the present time though the application as presented would be contrary to this emerging policy.

7.12 The housing policies within the Emerging Local Plan includes HOU 7 which covers exception sites, both entry-level exception sites for first-time buyers or renters which is not applicable on this site; plus small-scale rural exception sites which again is not relevant as there are only four affordable housing units, whereas to accord with this policy the development has to be predominately for affordable housing. Turning to the Tynedale Local Plan, Policy H15 (additional small housing developments within the Rural Area) is not relevant as the site, because of its size, could not be regarded as small scale housing in the rural area, as outlined in Local Plan Policy H15, or as a rural exception site as discussed in Local Plan Policy H23. The issue of affordable housing is discussed below.

### Affordable housing

7.13 Although the Tynedale Core Strategy, namely Policy H8 requires 30-50% of dwellings on relevant sites to be affordable homes, as this Strategy was prepared some time ago, it is more appropriate to look at more recent up-to-date evidence and emerging policies. Emerging Local Plan Policies HOU 5 and HOU 6 require that development proposals should be assessed in terms of how well they meet the housing needs and aspirations identified in the most up-to-date Strategic Housing Market Assessment (SHMA) or local housing needs assessment. The Emerging Local Plan notes at paragraph 7.35 that the latest SHMA Update (June 2018) identifies a countywide net affordable housing need shortfall of 151 dwellings per annum over the period 2017-2022, which equates to a residual 17% affordable housing need in terms of the draft Plan's overall average annual housing requirement for the plan period 2016-2036. Prior to the adoption of the new Local Plan the minimum affordable housing requirement being applied countywide is currently 17%.

7.14 The Affordable Housing Officer has commented that the provision of 4 affordable homes exceeds the 17% on-site affordable housing requirement. Four 3-bed houses would be for discount market sale (DMV) which complies with the NPPF minimum of 10% of the overall site and is considered to be an acceptable offer. The Affordable Housing Officer has said that the DMV properties should be sold at 70% OMV. The Affordable Housing Officer has stated that if consent is granted, a s106 Agreement should include a requirement for an Affordable Housing Statement which should be submitted to the Council before development commences which should set out the agreed tenure mix and plots for affordable homes any alternative tenure options, the timing of their delivery in the context of the overall housing development, arrangements for their transfer to a Registered Provider and for them to remain as affordable housing in perpetuity, any arrangements for the marketing of affordable home ownership products, and the basis on which the affordable homes will be occupied. This would be in accordance with Tynedale Core Strategy Policies H1, H7, H8, Tynedale Local Plan Policies H23, H26 and H27.

### Effective use of land and densities

7.15 The proposed dwellings would be on a greenfield site. Policy GD2 of the Tynedale Core Strategy sets out a sequential approach for the location of new development, advising that priority should be given to the development of previously developed sites within built up areas, followed by other sites within the built up area and then other suitable sites adjoining built up areas. In addition, Policy H4 of the

Core Strategy states that housing development on greenfield sites will not be permitted unless all of the dwellings are affordable, they would meet an identified local need for such housing and there is a lack of alternative previously developed sites; or the site is allocated for housing.

7.16 Whilst this approach is in general conformity with the NPPF, which seeks to encourage the effective use of land by reusing land that has been previously developed, there is no requirement for local planning authorities to adopt a sequential approach to the location of new housing development. Paragraph 117 of the NPPF states that *'planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land'*. It is therefore considered that limited weight can be given to Policies GD2 and H4, which in advocating such a sequential approach, do not completely align with current national planning policy.

7.17 The NPPF also discusses achieving appropriate densities. At this site, the development would result in a density of 13.7 dwellings per hectare which is below the site density of 30 dwellings per hectare as set out in Core Strategy Policy H5. However, in the context of this site, which is on the edge of the settlement and adjacent to properties with generous plots, the density proposed for this site is not inappropriate.

#### Housing land supply

7.18 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. As identified in the Northumberland Strategic Housing Land Availability Assessment (September 2019), the Council can demonstrate a plentiful five-year housing land supply from 'deliverable' sites against the County's minimum Local Housing Need figure. Using the 2014-based household projections for the 2020-2030 period, together with the then latest updated 2019 affordability ratio, now gives a minimum Local Housing Need of 651 dwellings per annum (Figure 3). Allowing for the 5% buffer therefore means that the forecast updated 'deliverable' 5-year supply for 2020-2025 would equate to a 10.9 years housing land supply. Therefore, in the context of Footnote 7 of the NPPF, part d of the presumption in favour of sustainable development does not apply.

7.19 Therefore, in the context of Footnote 7 of the NPPF, the presumption in favour of sustainable development does not apply.

#### The Planning Balance – principle of development

7.20 The site abuts, but is not within the built up area of Wark. Core Strategy Policies GD1, H1 and H3 do not permit new housing in the open countryside, and the site is outside the settlement boundary of the Emerging Draft Local Plan. However, the services within the village of Wark do provide 'adequate services' as defined in the Core Strategy and would be considered as a sustainable location in the context of the NPPF. Many of the supporters of the application reference that some expansion of Wark is needed to protect existing services and it would provide new housing for young families. The provision of affordable housing would also exceed the 17% on-site affordable housing requirement as currently requested. Reference must also be

made to the recent appeal decision at Westacres (APP/P2935/W/20/3255406) where the Inspector considered that Policy GD1 was out of date on that basis; and also considered that Policies H1 and H3 of the Core Strategy are supportive of housing development in smaller villages with adequate services, such as Wark. However, he also noted that his conclusions on this aspect of development in the open countryside were contrary to the views of another Inspector who had previously dismissed an appeal (APP/P2935/W/19/3235782) on this site. Although it is a very finely balanced judgement, it is considered that the current application which would involve the construction of 17 houses, which is not considered to be small-scale in a rural location, on an unallocated greenfield site. This would represent a significant extension into the open countryside contrary to Tynedale Core Strategy Policies GD1, H1 and H3 and contrary to Tynedale Local Plan Policies H15 and H23.

### Siting, design and layout

7.21 A Design and Access Statement has been submitted which outlines that the proposal seeks to reflect the character and context of the village with the use of both traditional architecture and contemporary detailing. This includes the use of natural stone, slate roofs, porches, chimneys and traditional style windows for the housing. Stone boundary walls and hedgerows would be included in the development.

7.22 The scheme has been designed with a landscape buffer covering some 0.138ha outside the northern edge of the site to be planted with 200 native trees (which would be secured through a relevant s106 agreement) which would give both a definition to the site and the edge of the village in this location, separating it from the countryside to the north, as well as providing environmental benefits. The site, which is L-shaped would have housing located along the northern and eastern edges of the site, with one house in the south-west corner facing the road and providing an entrance into the site, with a second dwelling south of the access road in the northern part of the site. The development would be set back from the tree buffer zone on the western side of the site and two SuDS ponds would be created with green spaces around them. The housing would consist of four different types and would mostly be detached with single or semi-detached garages and would include two bungalows at the southern end of the site. Two sets of semi-detached dwellings would be created at the northern part of the site with car parking to the front. House type 2 would have dormer windows to front and rear.

7.23 Adequate amenity space would be provided for all the properties, although houses 4-7 would at some 9.35 metres be just below the recommended 10 metre rear garden depth as set out in Tynedale Local Plan Policy H32. The design of the housing would ensure that adequate privacy is maintained with no overlooking from windows and with the appropriate spacing of dwellings. This includes the distance between houses 3 and 4, and the fact that the housing proposed closest to existing housing are bungalows: properties 16 and 17 which lie to the north-east of St Michael's Mount. The development would, in many ways, because of the development at The Glebe on the western side of the B6309, be a 'logical rounding off of the village', a concept as described by the Inspector in the appeal decision (APP/P2935/W/20/3255406) at Westacres.

7.24 The Building Conservation Officer has commented that the 'design of the houses does reflect aspects of the vernacular architectural characteristics and traditional building form of Wark to some extent' and has stated that the use of natural stone and slate roofs is appropriate and the use of slim line upvc sliding sash windows is acceptable. Comments made by the Conservation Officer have resulted in amendments to the design of the housing. The Conservation Officer also made

comments on boundary treatments including the retention of walls and hedges, the use of dry stone walls and that hedging rather than fencing should be used, and that hard surfaces should be broken up using a variety of materials. The Police have also commented that 1800mm close boarded fencing between houses 4-7 could be oppressive and should be reduced in height. Apart from some amendments to boundary treatments in order to create a more rural character, it is considered that the design of the development is appropriate for this location in accordance with Tynedale Core Strategy Policy BE1, Tynedale Local Plan Policies GD2 and H32, Emerging Local Plan Policy QOP3 and QOP 6 and the NPPF.

#### Impact on character of the area and the open countryside

7.25 The site as identified would be in the open countryside, outside the village of Wark. Although it is acknowledged that the application would be adjacent to existing development within the village, it would change the existing rural landscape and therefore the character of the landscape in this location. An objector has stated that the site would be visible from across the Tyne on the other side of the river. The site, as a development with 17 houses would not be regarded as small-scale in this location and the encroachment of development into the open countryside would alter the edge of this part of the village contrary to Tynedale Core Strategy Policy NE1 and Tynedale Local Plan Policy GD2 in this respect.

#### Impact on adjoining residential amenity

7.26 The proposal provides a L-shaped development which wraps around existing housing with no issues of overlooking or overbearing on existing dwellings. The proposed housing that is nearest to existing housing in Wark are the two bungalows in the south-eastern corner of the site which adjoin St Michael's Mount. Although objectors have commented that there would be an increase in light and noise to adjoining properties, and it must be acknowledged that the nature of the site would obviously change if it was no longer agricultural land, it is considered that based on the layout of the site this would not be to the extent where planning permission should be refused, and the development would not have an adverse effect on adjacent land or buildings. In terms of any construction work on site, Public Protection has recommended conditions in relation to noisy working, construction and dust management. Subject to these conditions the application would accord with Tynedale Local Plan Policies GD2 and H32 and Emerging Local Plan Policy QOP2.

#### Highway issues including access and parking

7.27 The development would be accessed adjacent to an existing field gate in the north-west corner of the site. A number of objectors have raised concerns about a new access being created in this location, the speed that vehicles enter the village and the blind summit just outside the village. In fact the site had previously been discounted under the SHLAA because of the perceived difficulties of accessing the site. Lengthy discussions have taken place with the Highway Authority, including extending the red line boundary to within the verge area both north and south of the site in order to create appropriate splays, and the creation of a safe access and egress into the site. As a result a Section 278 agreement would be required for works within the highway. Details of an external 1.5 metre footway which would run from the site access south to the existing footpath outside Braeside have been provided with the application, although an objector considers that the footpath would be too narrow.

7.28 The site would provide fifty one car parking spaces throughout the development and would include visitor parking, plus garaging. Objectors have mentioned the increased car use that the development would create. The Highway Authority has assessed the application and considers that the parking provided is acceptable. Cycle parking would be within garages or in a garden or shed which would be conditioned, and refuse would be stored within each plot. The vehicle swept path analysis which has been submitted is considered acceptable, as is the Construction Method Statement. No details of any street lighting or external lighting have been provided. The Highway Authority has, subject to relevant conditions, no objection to the application. Subject to these conditions the application would accord with Tynedale Local Plan Policies GD4 and GD6.

#### Impact on adjoining trees

7.29 An Arboricultural Impact Assessment (All About Trees), An Arboricultural Method Statement and a Tree Protection Plan has been submitted with the application. All of the significant trees discussed in the report are located outside the site, with the majority on the western and south-western edge of the site within the grounds of Braeside. These trees are subject to a Tree Preservation Order (TPO). The reports discuss that protective barriers would be constructed around all the trees and ground protection would be required around tree 26 and hedge 2.

7.30 The Council's Tree and Woodlands Officer has assessed the proposal and has commented that the position of the proposed access road is outside the Root Protection Area (RPA) of the trees on the boundary of Ashlynd House. These trees are recommended for protection by appropriate protective fencing as per BS5837. The trees on the northern boundary of Ashlynd House back on to one proposed dwelling with a detached garage (property 2), however, the footprint of this dwelling is outside of the RPA of the trees with a recommendation for appropriate protective fencing on the edge of the RPA. The Tree and Woodlands Officer has commented that based on the proposed scheme and the recommendations put forward by All About Trees, there is no objection to the proposals. The application would be in accordance with Tynedale Local Plan Policies NE33, NE34 and NE35.

#### Ecology

7.31 A Preliminary Ecological Appraisal (Sterna Ecology), December 2018 was submitted with the application. This stated that there are no statutory designated nature conservation sites within the site or within 2km of the site. An extended Phase I survey was undertaken which found that the dominant habitat was semi-improved grassland of low botanical and habitat value. Mitigation measures have been proposed and enhancement measures are to be included. The County Ecologist has assessed the application and has no objection subject to the avoidance, mitigation and enhancement measures being carried out in full, and so conditions to this effect are recommended. Subject to these conditions the application would accord with Tynedale Local Plan Policy NE27 and the NPPF.

#### Impact on archaeology

7.32 Wark is within a wider archaeological landscape with known sites from the prehistoric period onwards. The site was subject to an archaeological evaluation in 2019 which did not reveal archaeological remains of significance. The assessment also looked at a well to the west of Chapel House and concluded that the superstructure of the well is of modern construction, although internally it could be of earlier date. The County Archaeologist has assessed the application based on the

findings of the evaluation and the research on the well, and has no objection to the proposed development and no further archaeological work is required. The application would accord with Core Strategy Policy BE1, Local Plan Policy BE27, Emerging Local Plan Policy ENV 7 and the NPPF.

#### Impact on listed buildings

7.33 A Heritage Statement has been submitted with the application which discusses that the site lies 180 metres south of the grade II listed St Michael's Church and c. 210 metres south of Hearse House, which is also grade II listed. Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local authority to have special regard to the desirability of preserving the listed building, its setting and any features or special architectural or historic interest that it possesses. The NPPF in paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

7.34 The Building Conservation Officer has assessed the application and considers that the proposal would cause less than substantial harm to the setting of the two listed buildings as the current setting is of a 'rural pastoral landscape and the character and appearance of this site will change significantly'. Paragraph 196 of the NPPF states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

7.35 The application site is some distance from the listed buildings which are over the brow of the hill to the north-west of the site and are not immediately apparent at the site entrance. Although the proposal would be constructed on agricultural land, this is not adjacent to the church or Hearse House, although it is acknowledged that the housing development, if constructed, is likely to be visible from these locations. The proposal would provide, additional housing in the village, including the provision of four affordable housing units above the required 17% provision which would provide some public benefits to offset the limited identified harm to heritage assets that the application would be considered to create. However, the provision of additional housing is not normally sufficient to justify harm, It is therefore considered that the application would not accord with Tynedale Core Strategy Policy BE1, Tynedale Local Plan Policy BE22, Emerging Local Plan Policy ENV 7 and the NPPF.

#### Flooding, foul and surface water drainage

7.36 The site is not within a flood zone but neighbouring properties have provided photographic evidence and commented that the site floods in winter. A Flood Risk and Drainage Assessment, plus an addendum have been submitted with the application. Two SuDs ponds would be created on the site. The LLFA has assessed the application and has no objection subject to relevant conditions. The application would accord with Tynedale Core Strategy Policy GD5.

7.37 Northumbrian Water has been consulted and has commented that the planning application does not provide sufficient detail in relation to the management of foul and surface water for Northumbrian Water to assess the capacity to treat flows from the development and so have recommended a condition for a detailed scheme for the disposal of foul and surface water to be submitted and approved. Subject to this condition the application would accord with Tynedale Local Plan Policy CS23.

## Education provision

7.38 Tynedale Core Strategy Policy CS1 which discusses the principles for community services and facilities seeks to address deficiencies in services and facilities and facilitate improvements in their level of provision. The NPPF (paragraph 94) states that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. In this respect the Education Department has been consulted and commented that the number of pupils arising from the proposed development would not impact on the relevant local schools as they currently have surplus places in excess of the minimum 5%; and that the number of pupils arising from the proposal does not meet the threshold for requesting a contribution towards SEND infrastructure in the county. Consequently no legal agreement is required to cover a financial contribution to schools and so the application would accord with Tynedale Core Strategy Policy CS1 and the NPPF.

## Contamination

7.39 A contamination report 'Preliminary Investigation of Land-Dunelm Geotechnical and Environmental- Report' was submitted with the application which has been assessed by Public Protection. Public Protection has no objection subject to a condition in case any contamination is identified during construction. Subject to this the application would accord with Tynedale Local Plan Policy CS23.

## Sports and play

7.40 At present there is a deficiency in the amount of children's play provision and outdoor sports facilities in Tynedale. The former Tynedale Council adopted its policies on 7 March 2006 which seeks financial contributions for sport and play facilities, and provision of outdoor sport from all new housing development in line with Tynedale Local Plan Policies LR11 and LR15. The provision of sports and play provision arising from residential development is a fundamental aspect of such developments, and as such, failure to make adequate provision on this basis can provide a justification for the refusal of an application. The developer has agreed to a contribution and legal details have been provided but as a result of the issues that have been identified in respect of development on the site, this agreement has not been progressed with the applicant. However, this would need to be provided and secured by way of a Section 106 agreement for any development to progress on the site and to accord with Tynedale Local Plan Policies LR11 and LR15 in this respect.

## *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 site has been assessed in accordance with the development plan, the Emerging Local Plan and the NPPF. The site abuts, but is not within the built up area of Wark. Core Strategy Policies GD1, H1 and H3 do not permit new housing in the open countryside, and the site is outside the settlement boundary of the Emerging Draft Local Plan. The development is not considered to be small-scale in this rural location and it would represent a significant extension into the open countryside contrary to Tynedale Core Strategy Policies GD1, NE1, H1 and H3 and contrary to Tynedale Local Plan Policies H15 and H23.

8.2 The provision of four affordable houses would exceed the affordable housing requirement and the siting, design and layout of the development would be considered acceptable with suitable amenity space and would not have a detrimental impact on neighbouring residential amenity.

8.3 Issues relating to archaeology, the adjoining trees, access and parking, ecology, contamination, flooding, and foul and surface water drainage are considered acceptable. In terms of the nearby listed buildings, the Conservation Officer considers that less than substantial harm would result from the development, but there would be public benefits which outweigh the limited harm in the form of the provision of family housing and four affordable housing units. In terms of the sports and play requirement, although the developer has agreed to enter into a legal agreement in this regard, this has not been progressed at this stage because of the issues identified within the report.

## **9. Recommendation**

That this application be REFUSED permission subject to the following:

Reason

1 The application would result in the construction of 17 houses which is not considered to be small-scale in this rural location, on an unallocated greenfield site. This would represent a significant extension and encroachment into the open countryside where development of new housing would be contrary to Tynedale Core Strategy Policies GD1, NE1, H1 and H3 and contrary to Tynedale Local Plan Policies GD2, H15 and H23.

2 The development of the site would change the existing rural landscape and therefore the character of the landscape in this location and would be considered to be an encroachment of development into the open countryside which would alter the edge of this part of the village contrary to Tynedale Core Strategy Policy NE1 and Tynedale Local Plan Policy GD2.

3 The development of the site would give rise to less than substantial harm to nearby heritage assets. Whilst it is acknowledged that there is some public benefit of the scheme, the provision of additional housing is not normally sufficient to justify harm, It is therefore considered that the application would not accord with Tynedale Core Strategy Policy BE1, Tynedale Local Plan Policy BE22, Emerging Local Plan Policy ENV 7 and the NPPF.

**Background Papers:** Planning application file(s) 20/01708/FUL