

ethical partnership

Rebuttal to consultee responses and objectors

West Boldon

Ethical Planning (North East) Ltd.

May 2021

Contents

1. INTRODUCTION 4

1.1. REBUTTAL REPORT 4

2. BACKGROUND TO THE REPORT 5

2.1. INTRODUCTION 5

3. COMMENTS ON PLANNING OFFICER'S RESPONSE – PLANNING POLICY 6

3.1. INTRODUCTION 6
3.2. PLANNING OFFICERS RESPONSE 6
3.3. NATIONAL PLANNING POLICY 6
3.4. ADOPTED DEVELOPMENT PLAN 7

4. APPLICANT'S RESPONSE TO CONSULTEE CONSULTATIONS 9

4.1. INTRODUCTION 9
4.2. NOISE 9
4.3. ARBORICULTURIST 9
4.4. ENVIRONMENT AGENCY 10
4.5. LLFA 11
4.6. COUNTRYSIDE OFFICER 12
4.7. ARCHAEOLOGY 17
4.8. STRATEGIC HOUSING 17
4.9. ENVIRONMENTAL SERVICES – CONTAMINATED LAND 17

Responsibility Notice

We accept no responsibility of whatsoever nature to third parties to whom this report, or any part thereof, is made known. This Statement has been prepared by Ethical Planning (North East) Ltd with all reasonable skill, care and diligence within the terms of the contract with the client, incorporation of our General Terms and Condition of Business and taking account of the resources devoted to us by agreement with the client.

Any such party relies on the report at its own risk.

Copyright Notice

This document is the property of Ethical Planning (North East) Ltd and may not be reproduced or used without permission.

Client: Mr Alan Le Blond

Author: MRR

Approved by: MAC

VERSION	FILENAME	DATE	AUTHOR	APPROVED BY
V1.1	426 West Boldon	5 May 2021	MRR	MAC

Ethical Planning (North East) Ltd is a Private Limited Company registered in England and Wales, trading as ethical partnership. Company No: 11952937.

Registered Office: 72 B. Box Studios, Stoddart Street, Newcastle upon Tyne, NE2 1AN

www.ethicalpartnership.co.uk

VAT No: 325 2290 26

Commission Notice

We have been appointed by name of company of individual as per the letter of engagement.

Contact

T: 0191 209 2564

E: planning@ethicalpartnership.co.uk

1. Introduction

1.1. Rebuttal Report

1.1.1. This Report seeks to offer a rebuttal to the various consultee responses and objections that the Council have received through the process of planning application, reference number ST/0272/20/OUT.

1.1.2. This Report should be read alongside those documents as set out section 1.2.1 of this Report that were submitted in support of planning application as above.

1.1.3. The Report is structured to provide a summary of key planning policy and other material considerations associated with the planning application and sets out our clients planning case having regard to the consultee responses and the objectors. The report is sets out as follows:

- Section 2 sets out the background to this Report.
- Section 3 sets out the applicant's response to the consultee responses and the letter of objection.
- Section 4 applicant's response to consultee responses

2. Background to the Report

2.1. Introduction

2.1.1. The planning application was submitted to the Council in October 2020 and validated on the 7 January 2021 after discussion between the Council and the applicant with regard to the description of the proposal. Since its validation, the application Within this time a number of consultees and objectors have responded to the planning application. The purpose of this report is to offer a rebuttal to the comments made by the consultees and objectors.

3. Comments on Planning Officer's response – Planning Policy

3.1. Introduction

3.1.1. In this section we offer comments on the Planning Officers comments which have had regard the decision-making framework and the planning policy relevant to the determination of this planning application.

3.1.2. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 (PCPA) states that applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Subsection 5 of Section 38 also states that: - "…if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published (as the case may be)."

3.1.3. It has also been confirmed in case law that a proposal does not need to accord with each and every policy in the statutory Development Plan. The key issue is that it accords with the overall thrust of the policies taken as a whole (R vs. Rochdale Metropolitan Borough Council – [2001] ENV.LR22).

3.2. Planning Officers Response

3.3. National Planning Policy

3.3.1. At the heart of the NPPF is a presumption in favour of sustainable development (NPPF paragraph 10). NPPF paragraph 171 states that 'Planning policies and decisions should contribute to and enhance the natural and local environment' and includes under this policy 'by minimising impacts on and providing net gains for biodiversity, including by establishing coherent networks that are more resilient to future pressures' (point (d) of paragraph 171).

3.3.2. NPPF paragraph 174 states that 'To protect and enhance biodiversity and geodiversity, plans should:

3.3.3. a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and

3.3.4. b) Promote the conservation, restoration and enhancement of priority habitats. Ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

3.3.5. **Applicant's response** – The proposed development will be able to protect and indeed enhance local- rich habitats and wider ecological networks and corridors which primarily are located along the River Don. We have plotted a 10 metre buffer zone as requested by the Environment Agency and this clearly demonstrates that at the time of setting the boundary limits, we took this into account and was a key consideration for the application.

3.3.6. NPPF paragraph 175 states 'When determining planning applications, local planning authorities should apply the following principles:

3.3.7.a) If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

3.3.8. **Applicant's response** – With the planning application the applicant submitted a full Ecological Impact Assessment (October 2020) with the planning application. In that report (Section 7.0) a mitigation strategy was set out which the applicant would implement. There is sufficient scope within the site to be able to protect and indeed enhance biodiversity along the River Don given the size of the site. The indicative site plan is just that indicative and the overall design can be changed I consultation with the consultation with the Council to achieve the best possible outcomes.

3.4.Adopted Development Plan

3.4.1. Core Strategy

3.4.2.Policy SC4 Housing Needs, Mix and Affordability; requires a minimum of 25% of all new dwellings to be genuinely affordable.

3.4.3. Development Management Policies DPD

3.4.4.Policy DM1 Management of Development; states (criteria A) 'the development , including new buildings , is designed to convey sensitive consideration of its surroundings, and where possible enhance its local setting and reinforce local identity, having particular to scale and proportions, alignment, form, use of materials and architectural detailing'.

3.4.5.Policy DM6 Heritage Assets and Archaeology; states that 'we will support development proposals that protect, preserve and where possible enhance the historic, cultural and architectural character, visual appearance and contextual importance of our heritage assets and their settings'. The heritage assets referenced in the policy include West Boldon Conservation Area.

3.4.6.Policy DM7 Biodiversity and Geodiversity Sites states that 'all proposals for development must ensure that any individual or cumulative detrimental impacts on sites are avoided (A); and will only be permitted where they would not adversely affect the integrity, natural character or biodiversity and geodiversity value of (B) wildlife corridors (vi).'

3.4.7.**Applicant's response** - In regard to policy DM1 Management of Development; states (criteria A) it is considered notwithstanding that the application is at outline planning stage be able to be designed in such a manner as to protect the attributes of the conservation area, reinforce the local vernacular style and architectural detailing of the surrounding area whilst being able to provide much needed affordable housing within the local housing market area.

3.4.8. Emerging Development Plan

3.4.9.The Council published the Pre-Publication Draft Local Plan for publication consultation on 19th August 2019. The consultation period ran until 11th October 2019. The weight that can be attributed to the emerging Local Plan is currently limited as it is at a relatively early stage of the Local Plan process. The site is not allocated in the emerging Local Plan.

3.4.10. Landscape and Townscape

3.4.11. The site formed part of BC12: Land at North Road Farm, North Road, West Boldon in the Strategic Land Review (SLR). The Landscape and Townscape appraisal stated: 'A key characteristic of the landscape is the River Don which divides the area and provides open space along its corridor. The site is within this corridor and provides views of the local landscape and contributes to far reaching views. It also provides views and setting to the local townscape by being within the principal separation between Boldon Colliery and West Boldon which adds to the character of the West Boldon Conservation Area. It is considered that due to the site's scale, topography and relationship with the conservation area, that developing it would have a significant adverse impact on landscape/townscape. Significant mitigation would be required.'

3.4.12. Biodiversity

3.4.13. The Biodiversity Appraisal in the SLR stated: 'The site forms a part of a Wildlife Corridor that follows the River Don; it is also in close proximity to a Local Wildlife Site and a known area for water voles. Development of this site could narrow the wildlife corridor and impact upon biodiversity. It is therefore considered to have a high impact but would require mitigation.'

3.4.14. I refer to the Council's Countryside Officer comments detailed in the attached document and concerns relating to the potential major impact on the River Don strategic wildlife corridor and mitigation.

3.4.15. Conservation Area Status

3.4.16. The Historic Environment Officer (HEO) (comments previously provided) conclude that the proposal would cause harm and that there are not enough benefits that would outweigh this harm.

3.4.17. The site was discounted from the site selection process for the South Tyneside Pre-Publication Draft Local Plan (August 2019) on the following grounds: 'The site falls within the West Boldon Conservation Area' (Site Allocations Topic Paper - Appendix 2: Potential sites discounted for housing allocation) https://www.southtyneside.gov.uk/article/36012/Emerging-Local-Plan.

3.4.18. **Applicant's response** – It is difficult to quantify what level of harm that the HEO is concerned with. The application is at outline planning stage and therefore seeking the principle of development. An indicative site plan has been submitted which gives an indication as to how the site could be developed. This is not to say or indeed suggest that this design cannot be changed in consultation with the Council. The applicant is committed to ensure that new buildings within the conservation area will be of a high quality design and will seek to be compatible with the special characteristics of the conservation area, its buildings, spaces and settings, land uses, scale, form and materials.

3.4.19. Affordable housing

3.4.20. The proposal does not quantify the amount of affordable housing to be provided. Although Policy SC4 requires a minimum of 25% of all new homes to be genuinely affordable, the draft Strategic Housing Market Assessment suggest a 20% affordable / 80% market homes split for development in the Borough. Therefore, If the proportion is below 20%, then credible and robust viability evidence must be produced to justify this. Please also refer to the Strategic Housing comments provided.

3.4.21. **Applicant's response** – The applicants would be willing to provide a minimum of 25% affordable housing on the site.

4. Applicant's response to consultee Consultations

4.1. Introduction

4.1.1.In this section of the report, we set out our rebuttals to the various comments from consultee responses.

4.2.Noise

4.2.1. Environmental Health – Noise have commented.

3.11	**Noise**
3.11.1	To the north of the site, the nearest residential properties are located 150m from the site and to the east 30m. To the south, there is currently a vacant site separating the site from residential properties on Don Gardens, approximately 100 metres away. To the west, Boldon Business Park is located just over 100 metres away. The south east of the site is directly adjacent the curtilage of residential properties on Don Gardens.
3.11.2	Detailed noise mitigation measures will be the subject of a subsequent application for approval of reserved matters.

4.2.2. The applicant is quite happy to provide a noise assessment for approval of reserved matters.

4.3.Arboriculturist

4.3.1. The Council's Tree Officer (TO) has commented that applicant has provided an Arboricultural impact assessment (AIA) and Tree Protection Plan (TPP) document as part of the submission, however, there does not appear to be a detailed survey to accompany the application. The categorisation of the trees on the AIA plan indicates a condition survey has been carried out and it would be beneficial if that document could be provided.

4.3.2.**Applicant's response** - This has been prepared and will be sent to the Tree Officer.

4.3.3. The TO comments in regard to Effects of proposed development on the existing trees –

4.3.4.Group 1 – The proposed layout implies that the trees within this grouping will be retainable. Their position is however very close to the dwellings and there will be an increased risk of damage to the trees at construction stage, particularly during the installation of boundary treatments and the landscaping of the garden areas. In addition, the position of the trees - south of the properties and in an elevated position - means that future complaints from residents and pressure to allow pruning/removal of these trees will be inevitable.

4.3.5.**Applicant's response** - The design was amended to respect all Root Protection Areas. We have included a landscaping methodology in our AMS to help prevent damage to these trees. The AMS also gives a brief methodology for fencing installation. Given their position south of the development there will be shading, though as deciduous trees this is not a year round problem.

4.3.6. Group 3 – The proposal indicates that these will be retained, however there will be a potential sight line conflict and it is unclear how much of the hedge will need to be removed to resolve this.

4.3.7. **Applicant's response** - The TPP shows the extent of removal. the hedge removal is related both to sight lines and the proposed path. There is potential to replant sections of the hedge which are outside of the sightline requirements.

4.3.8. The TO comments in his summary that the proposed development will result in the loss of G1, G11 and G12, the potential loss of sections of the hedgerow that runs adjacent to North Road and potential damage and future pressure to prune T8-T32.

4.3.9. **Applicant's response** – It is acknowledged that groups 1, 11 and 12 are in the centre of the site - to retain them would require a redesign of the scheme which is the applicant would be able willing to do. This could be part of a wider landscaping scheme/open areas intrinsic as part of the overall development. Again, the applicant will seek to retain where possible the hedgerows.

4.3.10. The Tree Officer has stated that with regard to T8-T32, based on the outline plans submitted and providing an adequate AMS and TPP is conditioned, it may be feasible to develop the site as per the proposed layout without causing significant damage to these trees, however the close proximity means there is a risk of damage during construction without adequate precaution, and future conflict with residents is highly likely due to their position.

4.3.11. **Applicant's response** - The RPAs have been preserved following the design amendment. Protective barriers have also been specified to protect the trees during development as per standard practice. The trees are inside the conservation area so any application from future residents would go through the Council Planners.

4.3.12. The vegetation in the centre of the site, G1, G11 and G12 (thorn and elder) is marked for removal. Based on the species and condition, I don't consider that these trees would be suitable for TPO's and I also believe it would be a stretch to include them as an important or historic hedgerow due to the sporadic nature of the groupings, although I don't believe a hedgerow assessment has been carried out. They do however make a positive contribution and the harm caused by their removal should be considered by the planning officer in the balance of their recommendations.

4.3.13. **Applicant's response** - There will be a detailed landscaping scheme to go with the development so tree removal can be mitigated for. There is a flood area towards the west of the site – which is large and could be used for the planting of a significant number of trees to help mitigate any removal of trees.

4.3.14. In his recommendations the Consideration given to a larger buffer between the southern group (T8-T32) and the dwellings and/or shade projection to fully inform the potential future impact on residents. A detailed arboricultural method statement and tree protection plan with any reserved matters, that incudes boundary treatment. Details of sight lines and the impact this will have on the hedge.

4.3.15. **Applicant's response** – In terms of the site lines this is on the submitted TPP. The applicant is quite happy in regard to the method statement to submit this with the reserved matters application.

4.4. Environment Agency

4.4.1. The EA have commented that the proposed development will therefore be acceptable if a scheme could be agreed to protect a 10 metre wide buffer zone around the watercourse starting at top of bank.

4.4.2. Applicant's response – We have plotted on the submitted site plan accompanying this report a 10 metre buffer zone and as can be seen this already follows the boundaries of the planning application site plan. At only point

does the 10 metre buffer encroach onto the actual site with minimal impact./ The applicant would be more than happy to work with the Council and the EA to ensure that a sustainable buffer zone is set in place.

4.5. LLFA

4.5.1. It is not clear from the LLFA's response whether or not it objects or not to the proposal. Having regard to these through there are three points that LLFA have raised that we would offer comment upon. These are set out below.

4.5.2. The LLFA has commented that given topography on both sides of bank, there is potential to extend flooding on North Side of bank (NPPF paragraph 163). Exceedance flows should River Don be surcharged expected to be directed towards low lying land on opposite bank (NPPF paragraph 163)

4.5.3. **Applicants' response** - In response to this the applicant would comment that we see these points as being linked and relate to ensuring that flood risk does not increase elsewhere. With regard to the point on topography we are not sure what they are getting at as it is proposed to develop outside of the FZ2 and 3 areas therefore we will not be changing the flood dynamics. With regard to the second point, we believe the LLFA have misinterpreted a paragraph within the FRA (para 3.11). During the assessment of the existing situation, it has been outlined that the existing levels would mean that the left bank (land to the north of the site) is more prone to flooding due to it being low lying. We have not stated anything within the mitigation that would exacerbate flooding. We have also commented in the sewer section (of the FRA) that if an existing outfall was to surcharge a similar situation on the left bank is likely to occur. The main point being that this is the existing situation, and that we are not developing on this land. What is being proposed would not increase flood risk due to where the development is set within the site.

4.5.4. The LLFA have commented that the finished floor levels identified as 30.5mAOD or approximately 2.5m above the flood level as inferred from the 1 in 1000-year flood level. Local Standards require 40% CC on design flood to establish finished floor levels (local standard 9).

4.5.5. **Applicant's response** - It would appear that the 40% the LLFA reference is from their drainage guidance and relates to rainfall intensity rather than the usual River Basin allowances which are based on an increase in river flows. Local Standard 10 follows on from 9 by stating FFLs should be set "300mm above the top level of water during the 1 in 100year+40% climate change storm event". Our max modelled level in the attenuation for 'Catchment 1' is 30 .49m AOD, so we do not meet the criteria.

4.5.6. Therefore, we would suggest in order to meet the criteria that we propose a minimum FFL of 31m AOD in order to meet the criteria and could be conditioned as such. We acknowledge that this would impact on overall layout as set out in the submitted indicative layout but given the size of the site this could be accommodated.

4.5.7. The LLFA have commented that (the) attenuated storage (underground cellular storage) detailed on preliminary drawing NRB-BWB-ZZ-XX-DR-CD-0001 S2 Rev P01 would not be classed as SuDS, please refer to local standards in link below for requirements.

4.5.8. **Applicant's response** - Having regard to this, we note within the Council's guidance it states: "other drainage solutions such as tanked storage will be considered only on a site by site basis". Therefore, given what we have submitted a planning application in principle with an indicative site plan we are of the opinion that the overall design of this could change to be able to provide a solution that would satisfy the LLFA.

4.5.9. The LLFA have referred to that we did not taken into account their guidance, which was issued in July 2020. When our drainage engineers first looked at the site the guidance was not available at this point.

4.6.Countryside Officer

4.6.1. The Council's Countryside Officer (CO) has made a number of comments which we refer to below.

4.6.2.The Council's Countryside Officer comments that (the)proposed development site is within the River Don Wildlife Corridor which supports a range of protected and priority species including bats, otter and water vole. The proposal would substantially narrow the wildlife corridor in this already constrained location, rendering it less resilient to existing and future pressures. This is in direct conflict with the principles of nature recovery which advocate that we should be trying to make wildlife areas bigger, better and more joined up. It is considered highly unlikely that the adverse ecological impacts of a development at this location in the Wildlife Corridor can be avoided, adequately mitigated or compensated for.

4.6.3.The proposed development site is within very close proximity (approx. 5m) to the River Don North Road Local Wildlife Site.

4.6.4.**Applicant's response** - The proximity of the site to the River Don varies along the western boundary, however the majority of the development footprint within the site is over 5m distance.

4.6.5. Additionally, the CO has commented that residential development will introduce additional pressures that have a detrimental impact on biodiversity, often referred to as urban edge impacts. These include (but are not limited to) light pollution, direct and indirect disturbance from people and pets (noise, access etc), predation on local wildlife from pet cats, litter and garden waste (establishment of inappropriate garden plants, over-nutrification) etc. It is considered unlikely that such impacts can be avoided or adequately mitigated. Rivers and streams are also a Durham BAP (Biodiversity Action Plan) priority habitat.

4.6.6.**Applicant's response** - An appropriate lighting strategy will be implemented in order to ensure there are no issues resulting from light spill along the River Don and riparian corridor will be a requirement as stated within the EcIA report.

4.6.7.The increase of risk of predation from cats was included within the impact assessment of the EcIA within section 6.4 "Increased risk of predation of local wildlife, including protected species such as water vole, due to the potential presence of increased numbers of domestic cats following on from the occupation of the new residential properties".

4.6.8.Enhancement designs as part of reaching 10% Biodiversity Net Gain could be included which would retain any nutrient run off and filter any potential pollutants as well as act as a buffer to the river.

4.6.9.The submitted ecological survey and reporting work is not in accordance with best practise guidance and with BS 42020:2013 Biodiversity - Code of practice for planning and development.

4.6.10. The CO under 'general comments' comments that (the) ecological survey, impact assessment and mitigation work should cover all impacts of the proposed development on biodiversity, direct and indirect. The assessment of impacts must equally apply to the zone of influence of the proposal, i.e., any additional land to be affected during construction works, access routes, staging areas, welfare cabins etc. The ecological survey and assessment work should include an ecological assessment of the impacts of any new or altered drainage infrastructure, street lighting, and any temporary lighting required to facilitate the works.

4.6.11. The ecological survey work should influence the design of any scheme in accordance with the mitigation hierarchy to avoid impacts where possible, minimise unavoidable impacts through mitigation measures and compensate for any residual impacts.

4.6.12. **Applicant's response** - The retention of the key habitat features was included within the report with the following input into the design process included within the EcIA:

• The hawthorn trees on site are retained where possible due to the nesting and foraging value for birds. If these trees were to be removed, they should be replaced like for like in an appropriate location on site in order to reduce the impact on local populations of bird species.

• The hedgerows along the boundaries of the site should be retained due to their value to foraging, commuting and nesting bird species

• An appropriate lighting strategy will be implemented in order to ensure there are no issues resulting from light spill along the River Don and riparian corridor

• The trees along the boundary bordering the River Don will be retained due to the value of their root systems in bank stability and reducing erosion. The trees were also assessed as providing some (low) potential for roosting bats.

• Permeable material should be considered within the design of the road network in order to allow drainage of rainwater to slowly permeate into the soil reducing the risk of runoff into the River Don and flooding caused by standard impermeable materials

• As shown in Figure 2 (of the report), by restricting the building footprint and retaining the flood plain adjacent to the River Don this will reduce the impact on the local wildlife including protected species such as otter and water vole present here.

• The development should not encroach within 10m of the riverbank in order to ensure that water vole is not disturbed during the construction process.

4.6.13. Mitigation and Compensation Strategy is included in section 7. A 5 year management plan and CEMP were advised in section 7 to address construction stage in more detail. This includes input on lighting which can have an impact on wildlife:

• Artificial lighting is proven to negatively impact nocturnal species such as bats. The proposed lighting scheme will avoid any light spill onto key habitat areas which could be utilised by wildlife. A maximum of 2 lux will be allowed within these areas as stated in Guidance Note 8 Bats and Lighting (BCT, 2018).

Key areas include:

- Within 10m of the riverbank
- Along the hedgerow on the northern and eastern border
- Along the tree line of the north-eastern border.
- Wildlife sensitive designs are available which direct the light where needed and avoid any unnecessary light spill. The lights will use LEDs which do not emit blue light. Where possible, security lighting should use motion-sensors to reduce the light pollution when not required. For further information refer to Guidance Note 8 Bats and Lighting (BCT, 2018).

4.6.14. The Ecological Reports does not include detailed information on the competence of the personnel to undertake the specific work they have been involved with. The Eco North website is referenced for staff information, but Paul McGinn doesn't feature at all and the team biographies don't cover all the elements / species. This information is required, as set out in the British Standard 42020:2013 Biodiversity – Code of

Practice for Planning and Development which states:"6.3.10 Reports should demonstrate clearly how all staff involved in associated work (e.g., surveys, analysis of results and formulation of recommendations) are competent to undertake the specific work they have been involved with.

4.6.15. **Applicant's response** - Paul McGinn was assisting and was not the lead surveyor during the survey as is made clear in table 3. Paul is a subcontractor who has previously worked at EcoNorth, it is also shown in the table that he holds a bat licence, further details can be included within the report update.

4.6.16. The CO comments that the survey area appears to be largely limited to the site itself, although reference is made to adjacent or surrounding areas in various parts of the submitted reports. No plan or description setting out exactly which areas were assessed for each species has been included. Clarification is required on how the zone of influence was determined (and any variation for each species), the reasoning for this and a map or plan showing which areas were assessed / surveyed.

4.6.17. **Applicant's response** - This can be clarified however, the maps in the appendix do make it clear the length of water course surveyed.

4.6.18. The CO comments that the survey area appears to be largely limited to the site itself, although reference is made to adjacent or surrounding areas in various parts of the submitted reports. No plan or description setting out exactly which areas were assessed for each species has been included. Clarification is required on how the zone of influence was determined (and any variation for each species), the reasoning for this and a map or plan showing which areas were assessed / surveyed.

4.6.19. **Applicant's response** - This can be clarified however, the maps in the appendix do make it clear the length of water course surveyed.

4.6.20. The CO comments that the sections of the reports detailing the habitats on site are very brief, with very few species named and the areas of each type of habitat have not been quantified. A quantification of the areas of the mapped habitats both before and after the proposed development should be included so that it is clear and transparent what the losses will be.

4.6.21. **Applicant's response** - This can and will be provided alongside the Biodiversity net gain element of the report. The species list is limited due to the time of year the survey was undertaken however, a further visit in optimum survey time would address this.

4.6.22. Section 4.2.5 of the Ecological Appraisal report states that an assessment of trees was undertaken but does not specify or map which trees or areas of trees were surveyed. Clarification is required on how the zone of influence for the potential bat roost surveys was arrived at and exactly what area it covers.

4.6.23. **Applicant's response** - An assessment was made of the suitability of the trees within the site to support roosting bats on 19th December 2019. Where possible each tree was inspected and notes made of the any features which could provide potential bat roost sites e.g., holes, splits in the trunk or limbs, flaking bark, areas covered by ivy Hedra helix. Each tree was inspected from the ground using binoculars and a high-powered torch (Clulite CB2) with higher areas accessed by ladder if necessary/safe to do so.

4.6.24. Where any field signs indicating the presence of bats, or bats themselves were recorded, a note was made of the location of the roost. Where roosts were not confirmed, the trees were classed as negligible, low, moderate or high suitability, based on the potential for such features to be present.

4.6.25. The CO points to paragraph 5.2.3 of the Ecological Impact Assessment report, which states:

4.6.26. ‘The habitat on site is considered suitable for bats, the scattered trees and hedgerow providing good foraging and commuting opportunities and providing connectivity to the wider landscape. The pasture also provides foraging habitat for bats.‘

4.6.27. When discussing the results of the dusk emergence survey, the report goes on to say:

4.6.28. ‘The majority of the calls recorded during the survey were from commuting and foraging common pipistrelles, with the first recording at 21:46 (18 minutes after sunset), indicating the presence of a roost in the local area. Moderate levels of common pipistrelle foraging activity were recorded’.

4.6.29. The BCT Bat Surveys for Professional Ecologists Good Practice Guidelines state that where development proposals are likely to impact on habitats suitable for bat foraging and commuting, bat activity surveys are required to understand how bats use the site and inform an impact assessment. No bat activity surveys for foraging / commuting bats have been carried out despite the proposed loss of apparently good foraging and commuting habitats and potential indirect impacts on the river corridor - clarification as to why such surveys were considered unnecessary is required. Unless clear justification is provided, bat activity surveys will be required.

4.6.30. **Applicant’s response:** The bat activity surveys already carried out on the stable building provided a good indication of the bat species present and use of the site . I agree more survey effort would be required if the works were going to impact the river corridor through lighting or tree removal etc. However , it has been stated that there will be no light spill or impact on the trees along the river or direct impact to the river itself The report has required that trees (not along the river) are retained on site where ever possible or replaced if not As well as the retention of the hedgerow / trees along the eastern boundary which would also provide com muting opportunities and should not be subject to light spill As grassland is being retained it has the potential to be managed to a greater condition providing better quality foraging habitat du e to the reduced grazing pressure although this would be a reduced area.

4.6.31. The CO also comments that the report also mentions that artificial lighting may impact bats and suggests lighting is designed to avoid light spill onto foraging routes – again the location of foraging routes has not been established, so the potential impact cannot be adequately assessed and avoided or mitigated. When considering the potential impacts of lighting from the development, it is important to include light spill from within the proposed properties and their gardens. Information on this source of lighting is covered in Guidance Note 08/18 Bats and artificial lighting in the UK Bats and the Built Environment series which also states, “When considering how bats move through the landscape, artificial lighting has been shown to be particularly harmful if used along river corridors, near woodland edges and near hedgerows”.

4.6.32. **Applicant’s response** – We agree there should be no light spill o light spill on features which are typically used by bats which on features which are typically used by bats which utilise linear feature utilise linear features such as tree lines as tree lines, woodland edges and hedgerow, woodland edges and hedgerows.

4.6.33. The CO comments that birds have not been adequately addressed in the submitted ecological reports. The PEA states: “A range of bird species was recorded on site. The hawthorn, hedgerow and trees along the river provide foraging and nesting opportunities for a small range of locally common bird species. The pasture also provides further foraging opportunities for the local bird population.” The records search showed 18 species of protected and/or notable bird species recorded within 2km of the site, but this information does not appear to have been analysed. There is no section in the report that discusses whether further surveys were considered or justification as to why they were not required. Further information is needed.

4.6.34. **Applicant’s response** – This information can be expanded on within the report and we will work with the Council in this regard.

4.6.35. The CO comments that the PEA assessed the site as being suitable for this species, one potential badger sett was noted during the preliminary survey and one badger was observed on the proposed development site approximately 37mins after sunset during the bat dusk emergence survey. Despite clear evidence of badger being present, no specific survey work has been conducted to ascertain how badgers use this site and to inform an adequate assessment of the impacts of this proposed development on badgers. Further work is required.

4.6.36. **Applicant's response** - From the evidence provided from the survey it suggests that badgers are using the site for foraging. No setts or latrines were recorded on site during the survey; however, it is noted the location of a potential sett across the river to the south. If this was to be directly or indirectly impacted further surveys would be recommended to determine if the set is active. A check for any badger sets has also been recommended one month prior to works.

4.6.37. The CO comments that the assessment of impacts on water vole has not noted that the flood zone extends right up to the back fences which will not leave a safe refuge for this species during times of flood. Neither has it commented on the impacts from increased predation from pet cats or the risk of increased competition from brown rat. Further work is required.

4.6.38. Applicants' response - The flood zone does extend up to the fences. The increase of risk of predation from cats was included within the impact assessment of the EcIA within section 6.4 "Increased risk of predation of local wildlife, including protected species such as water vole, due to the potential presence of increased numbers of domestic cats following on from the occupation of the new residential properties".

4.6.39. The CO also states that the report references other priority species recorded within 2km of the site which may be present and impacted by this proposal but has not assessed this in any detail. These include but are not limited to hedgehog, hare and a variety of invertebrates and birds. Further work is required.

4.6.40. Applicant's response: Hedgehogs and birds have been considered. The following should also be noted:

•Any brash/timber piles created will be situated in the retained areas of habitat for use as shelter by hedgehogs or other mammals. If brash/timber piles are left or are present on site, these will be checked by hand in order to determine that no hedgehogs or other protected or notable species are sheltering within before mechanical movement.

•Gaps measuring at least 13 x 13cm will be maintained/created in the existing and any new boundary features, to ensure the habitats remain permeable to a range of wildlife, such as hedgehogs.

•Bird boxes to be incorporated into 25% of the buildings on site. To include a selection of box types designed for House Sparrow Passer domesticus, Starling Sturna vulgaris, Swallows Hirundo rustica and Swifts Apus apus. If external boxes are used the box must be made of either WoodStone or WoodCrete as these are more durable and last longer than wooden bird boxes. The boxes must be positioned according to product guidance regarding height and aspect.

4.6.41. The CP comments that the submitted report does not adequately address the national policy requirement for measurable net gain for biodiversity. The Council is starting to require the use of the DEFRA Biodiversity Metric Calculation Tool (currently the 2.0 beta test, though the new 3.0 version is due to be published in 2021) to assist both the applicant and the LPA in ensuring that developments meet the national policy requirement of a measurable net gain for biodiversity. As a guide applicants should aim for 10% net gain in line with emerging national policy.

4.6.42. **Applicant's response** - This can be carried out and included within the report.

4.7.Archaeology

4.7.1. The 2020 Vindomora Solutions desk-based assessment concluded that the archaeological potential of the site is high and therefore further investigation of the site is recommended prior to development. In the report it is recommended that an archaeological evaluation and earthwork survey should be undertaken.

4.7.2.The County Archaeologist has advised that given the high archaeological potential of this site, this application should not be determined until further archaeological evaluation has been undertaken in the form of an earthwork survey and evaluation trial trenching.

4.7.3. The applicants would be willing to do carry this out but at this stage given there are a number of other issues relating to the determination of the application that need to be resolved will not be doing so.

4.8.Strategic Housing

4.8.1.The Council's Strategic Housing Unit as commented that we would be requesting 20% affordable on the site as in line with current planning policy, 0% affordable unit isn't acceptable.

4.8.2.The SHMA identifies that the housing need in for the area highlights the need for 1 and 2 bed affordable units, whereas there is a larger focus on 3 and 4 bed properties for open market sales. Boldon Colliery has a higher proportion of larger families living housing need suggesting a need for larger, family homes. Any affordable units would need to be integrated with market sale units.

4.8.3. **Applicant's response** - In respect of the comments from Strategic Housing the applicant would be willing to provide 25% of affordable housing on site. This size and type of house would be agreed with the council.

4.9.Environmental Services – Contaminated land

4.9.1. Environmental Services have commented that should the application proceed, it would therefore suggest that you consider a number of conditions including a phase 2 survey.

4.9.2.**Applicant's response** - The applicant agrees with the imposition of a condition relating to a phase 2 survey and others as set out by Environmental Services – Contaminated Land.