



Area Planning Committee (North)

Date **Thursday 25 April 2013**
Time **2.00 pm**
Venue **Council Chamber, Council Offices, Chester-le-Street**

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 28 February 2013 (Pages 1 - 4)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) 2/12/00078 - Lumley Sixth Pit Industrial Estate, Lumley Sixth Pit, Fencehouses, Durham (Pages 5 - 24)
Extension to vehicle storage depot
6. Appeal Update (Pages 25 - 30)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham
17 April 2013

To: The Members of the Area Planning Committee (North)

Councillor O Johnson (Chair)
Councillor Allen Turner (Vice-Chairman)

Councillors B Alderson, J Armstrong, B Bainbridge, A Bell, J Blakey,
P Brookes, J Cordon, P Gittins, A Laing, N Martin, A Naylor,
J Robinson, M Simmons and O Temple

Contact: David Walker

Tel: 03000 269715

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**DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, Council Offices, Chester-le-Street on **Thursday 28 February 2013 at 2.00 pm**

Present:

Councillor O Johnson (Chair)

Members of the Committee:

Councillors B Alderson, J Armstrong, B Bainbridge, P Brookes, J Cordon, P Gittins, M Simmons and O Temple

Also Present:

F Clarke (Principal Planning Officer), S France (Senior Planning Officer) and P Holding (Principal Solicitor - Planning & Development)

1 Apologies for Absence

Apologies for absence were received from Councillors Allen Turner, A Bell, J Blakey, A Laing, N Martin, A Naylor and J Robinson

2 Substitute Members

There were no substitute members.

3 Minutes

The minutes of the meeting held on 31 January 2013 were confirmed as a correct record and signed by the Chair.

4 Declarations of Interest

There were no declarations of interest.

5 Applications to be determined by the Area Planning Committee (North Durham)

**5a 2/12/00266/FUL - Land at The Green, Nettlesworth
Erection of 24 dwellings comprising 8 bungalows and 16 houses for
affordable rent**

The Principal Planning Officer presented her report on this application (for copy see file of minutes) which was recommended for approval subject to conditions.

In response to a question from Councillor Armstrong, the Principal Planning Officer explained the parking arrangements and highlighted the parking areas on the plan.

Councillor Temple queried whether the proposed s106 agreement requiring the properties to be retained as affordable homes in perpetuity would be affected by future tenants' right to buy or right to acquire the properties. In responding, the Principal Planning Officer advised that the purpose of the agreement was to ensure the properties remained as affordable housing, but future tenants could have rights under other legislation. The Chair suggested that a written response to this point should be circulated to Members outside the meeting as it would be helpful for future reference.

Resolved: That the application be **APPROVED** subject to:

- (i) The applicant entering into a Section 106 planning obligation securing the provision of 24 affordable homes to be retained in perpetuity, and
- (ii) The conditions as set out in the report.

6 Appeal Update

The Principal Planning Officer reported on the following appeal decisions which had been received since the last meeting (for copy see file of minutes).

- (i) An appeal had been lodged against the Council's refusal of planning permission for the change of use from agricultural land to domestic garden and erection of 1.2m high fence to boundary (retrospective) at 2 Fairways Consett.

The Inspector felt that the main issue was the effect on the countryside, concluding that there was no material harm to the character of the adjacent field, nor was there an unacceptable degree of encroachment into the countryside.

The appeal was therefore allowed.

- (ii) An appeal had been lodged against a condition on planning permission 1/2012/0227/DMFT for the change of use of a former registrars office to a 2 bedroom bungalow and restaurant and hot food takeaway.

The condition restricted opening hours of the premises to preserve the amenity of local residents.

The Inspector considered the main issue to be the effect of extended opening hours on the living conditions of nearby neighbours, concluding that the nearest residential properties were separated from the appeal site and that the type of use proposed was typical of a town centre location.

The appeal was therefore allowed, with the condition being varied.

In response to a question from Councillor Temple, the Principal Planning Officer advised that the only method of challenge to an Inspector's decision was by way of judicial review.

Resolved: That the report be noted.

7 Homes & Community Agency - Section 106 Renegotiation Report & Outcomes

The Principal Planning Officer reported on the outcome of a Homes and Communities Agency (HCA) survey which had identified sites across the country where s106 agreements were preventing development progressing.

Twenty-two sites had been identified within County Durham, only eight of which had an extant permission and a signed s106 agreement in place. The HCA had established that the s106 agreements were not the reasons for delay, and that the Council was not responsible for development on the sites stalling.

The HCA had recognised Durham's proactive and pragmatic approach on the level of contributions requested from developers, and had recommended that the approach be adopted by the development industry.

The planning process and planning departments were often seen as a barrier to delivery of development schemes, however the outcome of the survey showed that in County Durham this was not the case.

Resolved: That the report be noted.

8 Committee Reports

Councillor Armstrong commented on the high quality of the Officers' reports that were being brought before the Committee. He felt that the presentation and style, together with inclusion of all relevant information was very helpful and greatly assisted Members in preparing for meetings and determining applications.

The Chair echoed this view on behalf of the Committee.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: 2/12/00078

FULL APPLICATION DESCRIPTION: Extension to vehicle storage depot

NAME OF APPLICANT: Mr S Roy Toole, PAR Petroleum
Lumley Sixth Pit Industrial Estate
Lumley Sixth Pit

ADDRESS: Fencehouses
Durham
DH4 6DU

ELECTORAL DIVISION: Lumley
Steve France
Senior Planning Officer

CASE OFFICER: Telephone: 0191 3872263
steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site Description

1. PAR Petroleum is an established fuel storage and distribution depot sited on the Lumley Sixth Pit Industrial Estate at the edge of Fencehouses, 2 miles to the east of Chester-le-Street. The Industrial Estate is, as the name suggests on the site of a former colliery, some of the remaining structures of which remain in other parts of the estate. The existing site and proposed extension are immediately north of the B1284 on the western periphery of the Village of Fencehouses, with a modern housing development, built on the site of the colliery brickworks, located as part of Woodstone Village directly opposite to the south of the classified road. That housing estate is accessed by a roundabout which is 170m from the entrance to the industrial estate. The site as existing has a large caravan storage business to the north, a coachworks to the east and reclaimed open countryside designated as Green Belt to the west.
2. Accessed from the internal Industrial Estate road, the site has a variety of built structures and storage plant as existing. A two storey office / reception block is adjacent the access, with a number of smaller structures alongside. The centre of the site has a number of brightly coloured fuel storage tanks, with a large metal sheet storage building on the north boundary adjacent a set of open coal bunkers. At this point in time 19 tankers currently operate from the site.
3. The use of the site has until recently operated behind an established tree belt, which despite the operator's strident corporate colour-scheme has successfully screened the site and the operation to a high degree. This was unfortunately significantly reduced as the application was submitted exposing the existing site and operation.

Proposed Development

4. The application proposes an extension to the vehicular hardstanding area to allow for the more flexible and safer storage of the some of the existing and additional tankers across a larger site area, with the existing coal bunkers relocated a short distance to allow access into the site extension. There is no proposal to increase the amount of fuel stored on the site, and with the exception of the coal bunkers the existing storage will remain in its existing location. There is no proposal to change the types of fuel stored on the site. The extended hardstanding area is proposed floodlit. The proposals have been amended during the course of the application to significantly reduce the area of hardstanding and increase the proposed screening areas, following discussions with the County Landscape Officers. The extended land includes for tanker and staff parking arrangements, and a revised SUDS drainage system which will both filter site water run-off and release it slowly into the existing drainage network.
5. The majority of the development site is within land designated as Green Belt.
6. The application is reported to Committee at the request of Ward Members.

PLANNING HISTORY

7. In 1991 PAR Petroleum sought the installation of 6no. fuel tanks and interceptors. There have subsequently been nine applications for various minor works and building extensions.
8. Previous to PAR's occupation application in 1981 related to an LPG plant on the site.

PLANNING POLICY

NATIONAL POLICY

9. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve 'core principles' that should underpin both plan-making and decision taking, these being; empowering local people to shape their surroundings, proactively drive and support economic development, ensure a high standard of design, respect existing roles and character, support a low carbon future, conserve the natural environment, encourage re-use of previously developed land, promote mixed use developments, conserve heritage assets, manage future patterns of growth and take account of and support local strategies relating to health, social and cultural well-being.

10. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – 'significant weight' is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
11. *NPPF Part 4 – Promoting Sustainable Transport* - Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
12. *NPPF Part 9 – Green Belts*. The five purposes of Green Belt land are set out thus; to check unrestricted urban sprawl, to prevent towns coalescing, to safeguard the countryside from encroachment, to preserve the setting and character of historic towns and to assist urban regeneration. Planning Authorities are required to ensure substantial weight is given to any harm to the Green Belt, with 'very special circumstances' required to over-ride Green belt policies.
13. *NPPF Part 11 – Conserving and enhancing the natural environment*. The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
14. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

LOCAL PLAN POLICY:

15. *Policy NE2 – Development Beyond Settlement Boundaries* – seeks to strictly control such development, with restrictions on new dwellings, and development protecting or enhancing the quality of the countryside, maintaining the economic sustainability of agriculture and complying with other policies.
16. *Policy NE3 – Implementation of the North Durham Green Belt* – required the implementation of a Green Belt, and its subsequent maintenance.
17. *Policy NE4 – Appropriate development in the Green Belt* - seeks to control appropriate development in the Green Belt, restricting the construction of new buildings to; agricultural and forestry uses, sport, recreation and other uses that preserve Green Belt openness, proposals for the limited extension of dwellings, alteration or replacement of existing dwellings, the reuse or conversion of existing buildings and mineral extraction.
18. *Policy NE6 – Development affecting the Visual Amenity of the Green Belt* – Development within or conspicuous from the Green Belt will not be granted where the proposal by virtue of its scale, siting, materials or design is detrimental to the visual amenity of such.

19. Policy IN5 – Local Industrial Estates – Proposals which involve the conversion or extension of existing units will be permitted providing the site is well screened, prominent plots are avoided, the proposal does not result in a serious shortage of available land, substantial landscaping is incorporated and the use does not adversely affect the amenities of neighbouring occupiers and highway users or the character and appearance of the area by virtue of dust. Noise, smell, vibration, mud or other emissions.
20. *Policy IN10* – Extensions to existing industrial and employment uses in the open countryside – Beyond the boundaries of settlements and industrial estates defined on the proposals map, proposals for the extension of existing employment and industrial uses will only be permitted where; the proposals would be small in scale taking into account the existing enterprise, the need to travel to the site by car would not be unreasonably increase, it can be demonstrated the use cannot be viably located on a site allocated under other industrial policy provision – and provided the development does not materially harm the character, appearance or amenity of the countryside or a neighbouring settlement, there are no unacceptable impacts through noise, dust, smell, fumes or traffic generation, it can be served by existing highways and complies with other policies in the plan.

policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

21. *County Highways Engineers* have no objection to the scheme. The effect of the additional vehicles proposed will have a negligible effect on the Highways network and there are no changes to the access to the site required.
22. *The Fire Authority's Fire Safety Section* advise the Authority have no objections to the proposal to extend the vehicle storage facilities at the depot.
23. *The Environment Agency* confirm they have no comment on the application, asking the developer take due regard of standing advice and Model Procedures relating to the Management of Land Contamination and Surface Water Disposal, noting the controlled waters at this site are of low environmental sensitivity.
24. *The Coal Authority* is satisfied with the broad conclusions of the submitted Coal Mining Risk Assessment Report that coal mining legacy issues are not significant within the site and do not pose a risk to the proposed development. The Coal Authority does not object to the proposed development and does not require specific mitigation measures.
25. *The Health and Safety Executive* have confirmed they would have no role to play in the processing of this planning application. The HSE are responsible for enforcing Health and Safety at work and will continue to inspect the site as and when required with a view to ensuring that the site manages operational risks. There are no special licenses required for the site to operate an overnight storage of road tankers, unless the amount stored requires Hazardous Substances Consent.
26. There are thresholds in volume and types of fuel where the Environment Agency and HSE do have a formal consultation role in the planning process. The site at Fencehouses is well below these thresholds.

INTERNAL CONSULTEE RESPONSES:

27. *The County Landscape Officer* considers the revised scheme and associated supporting statement acceptable, requiring a schedule of the proposed ground-works, topsoil depths, fencing and detailed planting be conditioned.
28. *Environmental Protection Officers in Pollution Control* note that no extra fuel will be stored within the extended area which is intended solely for the provision of HGV and trailer units together with the relocation of the existing coal storage facility. Conditions are suggested in respect of vehicle movements and starting idling. Additional information requested on the proposed lighting arrangement has been provided. The regulations covering the coal storage area are noted for the information of the applicants, as is the Environmental Permitting Information for fuel storage and transfer albeit noted again that against the specific proposals this is relevant to the existing, and not the extended site.
29. *The County Ecologist* is satisfied with the submitted Protected Species Report and its conclusions.
30. *The Council's Senior Drainage Engineer* is happy with the approach of the developer to the sustainable drainage requirements of the site, and subject to a standard drainage condition raises no objection to the proposals.
31. *The Council's Civil Contingencies Unit* are aware of the installation and would treat any incident at the facility on the same basis as for one where petroleum is stored in terms of emergency and disaster planning, noting that the implications of disaster planning for the types of fuels stored on the site are less than would be appropriate for a comparable situation at a petrol station. Because of the security sensitive nature of their responsibilities, advice from this consultee has been given verbally.
32. *Spatial Policy Officers* quote from the NPPF, RSS and the Chester-le-Street Local Plan , with reference to the emerging County Local Plan, identifying the Policy implications, the first of which relates to Green Belt. Noting the purpose of Green Belt to prevent urban sprawl and retain the countryside as permanently open, the principle of the proposal is not considered acceptable, with the proposals therefore representing a departure from the plan. National guidance is clear that departures from the Green Belt boundary must be exceptional, ideally carried out through the Local Plan process. Having visited the site Policy Officers can see merit in amending the boundary of the Green Belt as a logical extension of the industrial estate, and it is urged that this be pursued through the current local plan review system in time for the Submission Draft Deadline (Sept. 2013). It is acknowledged that this is unlikely to allow PAR to meet its VOSA and contract obligations, and this is regrettable with regard to the employment opportunities. Whilst it is agreed that a pragmatic approach is appropriate given the relationship of the industrial estate to the site, this should only be undertaken through the progression of the County Plan.
33. As regards the County Durham Employment Land Review, Policy Officers note the presence of 0.32ha of available land elsewhere within the Estate and urge the applicants to hold discussions to ascertain land availability within the County which might meet their needs elsewhere. In respect of the proximity of the site to residential properties, the concerns from which are noted, the views of Environmental Health are considered paramount. It was recommended that the County Arborist and Landscape Officers be consulted regarding any potential effect on the Great North Forest designation.

34. Policy Officers offer deep regret they cannot support the application, with the long term potential for the site's removal from the Green Belt designation in their opinion only processed appropriately through the County Local Plan process.

PUBLIC RESPONSES:

35. There has been a significant objection from the local community, with in excess of 130 objections including around 40 re-objections to the application in its amended form. It is noted that this includes multiple objections from individual addresses. There have been a number of standard objection letters that have been sent from residents in addition to the individual correspondence received. A petition of 50 names has been submitted - unfortunately untitled. Reconsultation has taken place which sought to clarify the working hours of the facility which has elicited around 15 further objections, although again a number of these were from existing correspondents.
36. There are two principle themes of objection, with many other additional concerns. The main concerns relate to the loss of the Green Belt and safety concerns from the proposed use.

Effect on the countryside and loss of the Greenbelt

37. In terms of the effect on the countryside and the loss of Green Belt land, objectors indicate their displeasure that the issue should have been discussed pre-submission between the Council and the developer. These issues were brought into additional focus for many correspondents by the 'disgraceful' extensive clearance works undertaken by the developer as the application was submitted with demands for prosecution under tree protection and hedgerow legislation, the works exposing how the site will be detrimental to visual amenity. That the site is or can be well screened is noted as a Policy requirement of the Council - the lack of details of new planting in the application being further held against it. These advance works were perceived as a statement of intent by the applicants and a disregard for legislation and local residents. The replacement planting both in its original and amended forms is considered inadequate to screen the site, including the hard-standing, fencing, vehicles lights and site operations. The land is presented as a local facility used by walkers and dog walkers to access the surrounding countryside, providing a picturesque setting to the village. Residents object that the land having been reclaimed from industrial use, with trees and countryside establishing, that it is proposed to revert back to such uses and unacceptable appearance. The Council's longstanding policies on the Green Belt derived from national advice are examined, with one resident citing his own planning refusals as precedent for refusal of PAR's scheme. A repeated misconception is that as Green Belt land, the Council has sold the land to the applicants. Residents do not feel the proposed screen planting and security fence are appropriate, as out of character and obtrusive in a countryside location. One writer considers that conditions on lighting and screening could probably appease many local residents

Safety Issues

38. Safety issues are of equally prime concern to the residents who have responded. There are varying degrees of acceptance of PAR's existing presence and operation. Many correspondents refer to the Buncefield fire of 2005, and the Health and Safety regimes and procedures that have followed the findings of the inquiries into that event. A majority of residents object to additional fuel that will be stored on the extended land, some to the vague capacity increase in storage of fuel proposed,

whilst some in acknowledging the lack of additional formal storage facilities proposed note concerns over the parking of additional fuel tankers, whether full or empty on the site, in closer proximity to residential properties. Objectors opine that PAR has existing capacity on site to store additional vehicles and meet contracts. The site is seen as an obvious terrorism target, with the development having implications to the present disaster plan and COMAH regulations, and that the site will contravene safety regulations. The relationship of the site to local schools, the community centre and old peoples homes are of concern. It is suggested by one objector that it would be good practice for a health impact assessment particularly from air pollution from the site to be undertaken.

39. Safety concerns extend to the effect on the public highway and the extra traffic that will be generated by the development. Additional tankers have highway safety implications, in addition to the effects of noise, vibration and emissions that will impact on residential amenity. The Head-teacher of the local school notes the relationship of the facility to the nearby road crossing that will both affect child safety and parent parking. One resident considers there is ample additional parking on surrounding roads for the site's staff.

Financial Concerns

40. There is extensive dismay at the effect of the proposed works on devaluation of property, and that the scheme represents not protection and creation of jobs, but is proposed wholly for the applicant's profit, lining the pockets of the applicants at the expense of the safety of the local community and the impact on existing livelihoods of businesses.

Landfill and Drainage

41. Concern at the relationship to landfill site and pressure on the local drainage network are raised as concerns. The relocation of coal storage bays within the site, bringing them closer to dwellings is contended likely to give rise to increased dust and noise.

Probity

42. Having sold the land, and in giving pre-submission advice it is stated that the Council cannot independently assess the application, having acted as a quasi-consultant to applicant, with a formal request under the Freedom of Information legislation for details of all gifts and hospitality to the Authority in relation to this case and this site.

Planning Policy Concerns

43. One resident has sought the advice of a planning consultant who has provided an assessment against the formal Policy context. They note Policy NE2 restricts development in the countryside to uses that require a countryside location and consider PAR would be more properly served within an industrial estate. The definitions and justifications of the Green Belt are set out in relation to NE2, with the Green Belt proposed permanent and unchanged within the plan period. The standard appropriate forms of development in the Green Belt are set out, with by definition anything else 'inappropriate', with permission to be granted only in very special circumstances, with this approach supported in the NPPF. The protection and creation of jobs proposed is contended not to constitute the required special circumstances. The proposals are considered to have already significantly harmed the Green Belt through the planting belt removal, the dramatic change in appearance increasing with the proposed hard-standing, fencing and lighting, contrary to Policy NE6. Policy IN5 is not considered directly relevant, but sets out a list of directly

relevant criteria for industrial development. Additional concerns from his client include noise from HGVs outside working hours, light spillage, fuel spillage, fear of the operation and impact on the character of the area.

Working Hours

44. The response to the most recent consultation exercise, aimed at clarifying working hours has been interpreted as some as an attempt to extend the existing hours of operation, with further impact to noise and disturbance. Alternative siting for the whole business is again called for.

Response from Ward Councillor

45. One of the local ward Members calls the proposals ill-conceived and irresponsible. There is criticism of the tree removal and reference to potential effects on the disaster plan.

Response from Parish Council

46. The Parish council find the application misleading, considering a further increase in fuel stored possible without the grant of further planning permission as a result. It is considered the proposal concretes the Green Belt. An absence of binding restrictions on nature of activities on that may be carried out on the extended land is a concern, in close proximity to businesses and the primary school. The roads accessing the site some of least appropriate in County – with particular difficulties in winter. The advance tree works are regretted, with the scheme considered to undermine efforts of parish to improve village such as placing planters at the village entrances. Additional issues of noise and smells, the potential for terrorism are raised along with the unacceptable form of lighting proposed.

Lumley and Bournmoor Labour Party

47. The Lumley and Bournmoor Branch of the Labour Party object given the relationship to the adjacent landfill site, the incursion into the Green Belt, light pollution, the increase in commercial traffic the risk of flammable liquid, spillage and flushing of tankers leaking from the site. The site is totally inappropriate for the use in close proximity to a school, community centre, old peoples home and residential area. The proposal creates an unacceptable hazard by increasing the capacity of the storage facility.

Letters of Support

48. In support, three correspondents note Par Petroleum have always been good, considerate neighbours. This extension will bring new employment, improve the local area around their site and bring much needed expenditure and taxes in the long term. The first correspondent fully supports the application and urges the planning department to do the same. The second, a small business in premises leased from PAR, notes the local leaflet campaign against the proposals, and the threat to their own business and staff should the application be refused. A resident facing the industrial estate states PAR have been considerate and approachable neighbours, with no disturbance emanating from the site in terms of noise or light.

APPLICANTS STATEMENT:

49. The applicants provided a statement with their amended plans. They note that PAR Petroleum Ltd is an established family business that has operated locally for over 100 years, and from the current site since 1991. The site was chosen for its good links to the A1(M) and A19, and in being away from urban areas, with the site allowing opportunity for expansion. Since then the industrial estate has grown, with the colliery site and land-fill sites around it having been reclaimed, and a residential area has been developed in relatively close proximity to the south. There have been no complaints about PAR's operations prior to submission of the current application and the tree works. The applicants acknowledge any potential impacts on their neighbours from the increased operation must be considered, but note the majority of the objections emanate from the new residential development.
50. The firm as an established local employer has made a positive contribution to the local economy, currently employing 27 staff, 26 of whom live within 10 miles of the site, half within 3 miles. In a competitive market, the firm has recently won a major airline contract to provide aviation fuel to regional airports across England and Scotland, enabling additional employment of 7 full time staff and requiring four additional HGVs and trailers. These jobs reinforce PAR's position as a significant employer in this part of the County and have led to invitations to apply for additional large contracts. The current site is at capacity in terms of PAR's VOSA licence, as a supplier of dangerous goods by road, the proposed extension into land in their ownership to provide secure parking for the additional vehicles required by the new contracts. Without this additional capacity the firm will be forced to relocate to larger premises most likely outside the region.
51. The design and layout of the site has been revised during the course of the application informed by discussions with Council Officers, with a lighting assessment submitted, reducing the number and wattage of the cowled units, minimising light spill and any affect on residential properties. Whilst they will however be visible in their own right, it is worth noting that the floodlit area will not protrude into the countryside, as the area proposed developed is as existing a protrusion of the countryside into the urban area. Likewise further discussions with Northumbrian Water and the Council's Drainage Engineer have informed a SUDs drainage system in accordance with best practice. The screening of the site has been improved following advice from the Council's Landscape Architect, with the width of the belt increased, planting to match that on the other frontage boundary of the estate, and a long term management plan for the area to the west of the extension.
52. In terms of Health and Safety it is re-emphasised the application does not propose permanent fuel storage within the extension, but will provide an extended parking area. There are no Health and Safety implications as regards fuel storage - there is none proposed. PAR's vehicles are regulated by the 'United Kingdom of Great Britain and Northern Ireland Carriage of Dangerous Goods by Rail and Road - RID and ADR', ensuring the vehicles used are manufactured fit for purpose, vehicles are internally and externally tested against vapour tightness and leaks, and this is reviewed and certificated every two years. PAR are safety audited every three years by the Federation of Petroleum Suppliers (FPS), with the facility awarded FPS 'Depot of the Year' on its last four audits.
53. A summary of planning policy notes the NPPF's presumption in favour of sustainable development, and the need for Planning Authorities to consider the economic benefits of development. Inclusion within the Green Belt is acknowledged, along with the purposes of the designation, with reference to positive feedback from Officers pre-submission on this issue. The positive response to criticism of the initial scheme as set out above is noted in concluding this local employer wishes to retain existing employment and provide additional opportunities in the local area.

54. Having had the claimed operating hours queried, the applicants agents noted that the hours stated on the forms did not reflect the operation of the yard, rather the office hours. Stating that the current hours of use have operated from 1991, vehicles are able to enter the site 24 hrs a day, 7 days a week, an arrangement they say has operated without complaint. The majority of PAR's vehicles operate to and from the site between 05:00 and 19:00 Monday to Saturday with flexible hours to allow for coordinate with tides, ship dockings and train timetables. No vehicle is ever left standing running, with refuelling from an electric pump to reduce noise.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at http://planning-cl.s.durham.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=ME3T0CEQ2L000

PLANNING CONSIDERATIONS AND ASSESSMENT

55. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development in terms of the Green Belt location, and the potential effect on Residential Amenity including the perception of safety. Other issues include highway safety, drainage and ecology.

The Green Belt

56. The application site is covered by a Green Belt designation, protected through local planning policies, with guidance on the requirements of the designation previously set out in the Planning Policy Guidance note 2 (PPG2) updated in the new Planning Framework (NPPF). The five aims of the Green Belt designation are;
- to check the unrestricted sprawl of large built-up areas;
 - to prevent neighbouring towns merging into one another;
 - to assist in safeguarding the countryside from encroachment;
 - to preserve the setting and special character of historic towns;
 - and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
57. The application fails to satisfy the third of these criteria. Variations of these criteria are contained within the Policies in the Chester-le-Street District Local Plan, albeit these were framed in the context of the original Green Belt advice set out in PPG2. Within the Green Belt, planning permission will usually only be granted for development relating to appropriate land uses, including agriculture and forestry, outdoor sport and recreation, limited extension or replacement of existing dwellings, the reuse of existing buildings, and mineral extraction, where the site will be appropriately restored. By definition any other use, including that proposed here is inappropriate, and should only be allowed in special circumstances. An approval for the current scheme would result in a departure from the development plan – indeed the application was advertised as such.
58. This point is made by objectors, and in the response from the Spatial Planning Policy team who hint that they see a potential justification for the removal of the land from the designation. However, the Spatial Policy Team recommend that the applicants process their request long term through the replacement Local Plan process.

59. The pre-submission advice given to the applicants predated the full introduction of the NPPF and was based on the previous guidance in PPG2 on Green Belts that stated material changes of use were not inappropriate provided they maintained the openness of the area, with discussion over the designation of Green Belts as a strategic land use tool, and the potential relative importance of areas of land within them. The 'openness' caveat does not appear within the NPPF and so material changes in the use of land are now by definition inappropriate and very special circumstances have to be demonstrated to justify a grant of permission.
60. Whilst the site as originally proposed protruded out into the countryside the proposals have been revised in an attempt to provide a more logical boundary - at present this small area of Green Belt is surrounded on three sides by urban development - two formed by the industrial estate, and one by the new housing estate opposite. The land is reclaimed from the former colliery that operated from the site - hence the name of the industrial estate, allied to the brickworks on the site of the housing estate. The land has been successfully reclaimed and replanted and is of a countryside appearance.
61. It is noted in offering their advice the Spatial Policy team are very specific in the elements of the NPPF, the RSS (now abolished) and the current Local Plan they use to make their assessment and recommendation, and that these exclude the introduction to the new Framework with its discussion on the nature of sustainable development, and also the first topic section - Building a Strong, Competitive Economy – which reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports and places 'significant weight' this aim with planning policies seeking to address potential barriers to investment. The first of the three dimensions of economic development set out in the Framework that the planning system is required to take account of is the economic role – 'contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure'. This is a task most appropriately undertaken through the plan review system, but this is a slow system that can frustrate developers where commercial decisions and implications are pressing. As the objector's planning consultant points out, this argument is not unusual in proposed incursions into the Green Belt, and arguments for special or exceptional circumstances are rarely accepted. This is effectively the crux of this principle element of the application; whether Members consider that the creation of the additional jobs the application promises, and the potential continued use of the existing site by PAR Petroleum represent these very special circumstances that would allow a decision that would be a departure from the existing Local Plan.
62. Members will be aware that the wider policies of the County Council can be of material weight in planning decisions and the Council's drive to bring regeneration through encouraging investment and employment generation is represented in the 'altogether wealthier' strand of the Council's corporate aims. In addition the Council's Regeneration Statement 2013 – 2022 contains five key ambitions and objectives. The fifth of these is to ensure that County Durham is a 'top location for business' PAR is an established employer and the potential loss of jobs within the County at this point in time should be avoided if at all possible, with the promise of new jobs a significant material factor. Whilst the development management process should not prejudice or replace the longer plan-making process, the setting of the site, the history of the employer - taking a workforce directly from the immediate community, and the significant alterations to layout, planting and design (as set out below) are

such that officers suggest that a case could be made for special circumstances in this instance, without prejudice to other sites, each application being determined on its own merits.

63. The potential visual effect of the proposed intrusion into the Green Belt has been exacerbated by the clearance works in the existing planting belt that until recently provided a good screen for the applicant's operations, despite the strident nature of their corporate colours. These works were not within the control of the Council, the trees not being subject to a preservation order or sited within a Conservation Area. The nature of the planting was such that the Hedgerow Regulations were not relevant as suggested by some correspondents. The applicant acknowledges that these works, aimed at clearing out the under croft of planting have caused unnecessary distress at an inappropriate point in the application process, but note that the main trees within the area were retained, with the majority of the removals hedge and bush plants.
64. The scheme as originally submitted proposed the hardstanding of the entire red-lined development site save for a narrow planting belt along the roadside boundary. The revised scheme offers both an increased roadside planting belt between 3.5m and 4.0m in depth, and the retention of a large area of existing planting at the western end of the site – 60m in length. In terms of the public aspect of the site, it is considered there are two dimensions – the vehicular approaches and the views from dwellings opposite. The vehicular approach to the site – and the village from the west, in the direction of the A1(M) has the oblique views of the site now extensively screened, both by existing and new planting, and by virtue of the proposed hardstanding area being 'cut' into the site. The roadside planting strip will be enhanced to screen the site from the roadway. The existing screen belt on the alternate eastern approach to the industrial estate entrance and the site, screening the coachworks business remains unaffected. The much reduced hardstanding area and resultant retention of existing and enhanced screened area improves the proposed visual relationship to the new housing estate opposite, which benefits from its own established screen planting. Those dwellings to the west of the estate entrance are 55m – 60m from the hardstanding, not facing directly towards it, those to the east separated by 45m facing the site through their own screening belt. In terms of the scheme as revised, the County Landscape Officer is happy with the proposals. In terms of visual amenity of the relationship of the site to the road and the dwellings opposite the proposals are considered acceptable.
65. To conclude on this issue, whilst the Green Belt section of the new Framework is one of the longer pieces of advice within it, there is far less detail than was available in the former PPG, where the issue of 'openness' was discussed. The site works proposed do not include the introduction of built structures into the existing open area, and propose to mitigate the intrusion of the fencing, lights and parked vehicles by use of landscaping and site levelling which particularly in the main approach to the site and the village from the west will prevent any appearance of built development protruding into the countryside - a landscaping condition requiring a high specification of planting and works will be required to ensure this mitigation. In the opinion of officers the economic benefits of the development outweigh the harm caused by this relatively small incursion into the greenbelt. The economic benefits of the development are considered special circumstances that justify the proposed development in the greenbelt.
66. If Members are minded to approve the application, the decision will have to be referred to the Secretary of State as a departure from the Green Belt Policies for a determination on whether the application should be 'called in'. This process involves the application report and all representations being sent to the Secretary of State for

assessment – being required when development, 'by reason of it's scale or nature or location, would have a significant impact on the openness of the Green Belt'.

Safety Issues

67. The second principle concern for objectors is the safety implications of the proposal. It is worth stressing that the proposals do not involve additional, new or relocated fuel storage facilities in the site. The application proposes an extension of the vehicle hardstanding area to improve the operational flexibility of the site through extending the area available for the parking of empty tankers, and allow for the parking of additional vehicles over and above those currently operated from the site. Some correspondents state that the facility is either new, that additional storage capacity is proposed on the extended site, that new fuel types are proposed stored as a result of the new contract referred to in the submitted documents and that as a result of which the proposed works, additional hazards will be introduced into a residential environment. Exception is taken to the inference in the revised scheme that with PAR's presence predating the housing estate residents have already taken some regard for the relationship.
68. PAR's operation is not a major installation as far as the regulatory safety framework is concerned, falling below the Control of major accident hazards Regulations 1999 (COMAH) where the Health and Safety Executive (HSE) would offer formal comment and advice. Sites which hold certain quantities of hazardous substances must obtain consent from the Hazardous Substances Authority (HSA) in accordance with the Hazardous Substances Regulations 1992. The HSA is usually the Local Authority, in consultation with the HSE. The existing operation – which will not be changed - has less than a fifth of the capacity allowed before consent is required. In discussions they note they have provided safety advice and information on site in the past, and have no record of complaints or safety issues at the site. The proposed alterations, with no additional storage of fuels proposed, would not bring the site within their direct control, although they note that together with the Environment Agency they work as a 'competent authority' to assess such matters. The Council's own Civil Contingencies Unit who, are one of the many agencies involved in disaster planning, would use a procedure comparable to the Petroleum Incident Emergency Plan should an incident occur. They noted in discussions that the types of fuel stored on the site are less flammable than Petroleum (the applicant's name appearing misleading as regards the site operation) but that their procedures would be used as a relevant comparable guideline – the plan involving agencies such as Durham Constabulary, The Fire Service, The Environment Agency, Northumbrian Water and Durham County Council's Highways, Environmental Health and Civic Contingencies Officers. The regulatory framework within which the site and its vehicles currently operate, outlined in the applicant's statement within the 'United Kingdom of Great Britain and Northern Ireland Carriage of Dangerous Goods by Rail and Road - RID and ADR', are noted in the context of the planning assessment. Officers have liaised with colleagues in the Minerals and Waste Management Section and the Environment Agency regarding the relationship of the site with the proposed parking of usually empty – but still potentially dangerous tankers – to the adjacent capped landfill site, which displays a number of vent stacks. There are no existent flare stacks working on site and the area is considered as inert, with the proposed extension considered to at worst represent a 'status quo' in terms of the safety relationship. There are safety advantages to the site allowing greater flexibility of use of the overall site, as at present the tankers appear to be 'stacked' to a degree within the existing parking arrangements. To give a balance between the wider site flexibility and the need to control the extent of its use and the potential for effect on residential amenity, a condition restricting the number of vehicles that can be stored overnight on the extended area to 8no. is proposed.

69. The relation of the site to the school, community centre and old peoples home is of concern to residents. In terms of the fuel storage facility approved in 1991, this relationship remains unaltered, the application site being further from those uses than the extended hardstanding area proposed.
70. Objectors have referred to concerns at the coal storage bays being sited closer to residential property than at present. These are at present 45m from the nearest dwelling, and are proposed at 70m – an increase in distance.
71. The various agencies responsible for the safety regulatory framework that the site operates within have raised no concerns at the proposals – indeed some see potential advantages. It is acknowledged that in terms of residential amenity the perception of safety is also an important and material issue that must be taken into consideration. Again, the exposure of the existing site through the removal of the screening belt has raised concerns through increased visibility of the current plant and operations. For the degree of difference between the existing and proposed operations, it is considered the safety implications of the site are adequately accommodated through formal regulation elsewhere, and that a viable refusal could not be sustained on this issue.

Other Residential Amenity Issues

72. There are two other prime objections to the proposals as regards residential amenity, with wider implications to the countryside and to other interested parties which are relevant tested against the criteria of Policies IN5 and IN10. The floodlighting of the site is of significant concern to residents, with Environmental Health noting the lack of detail in the scheme as first submitted. Security lighting is a requirement of the site's vehicle operating licence. A revised scheme of reduced number and wattage is accompanied by a lighting assessment, noting that all the lighting is situated on the southern part of the hard-standing, pointing away from the residential estate, with full local authority street lighting along the main road. The lighting is required to meet the safety and security regulations on the site. Furthermore there are assurances that the lights will be fully cowled to minimise the effect outside the site. The scheme is considered to mitigate the effect on residential amenity, and will be seen in the context of the existing urban area and industrial estate, but will have an effect on how the site is seen in relation to the countryside and the Green Belt. On balance however the scheme is considered appropriate in terms of visual amenity and is proposed conditioned in the event of an approval.
73. In terms of noise and disturbance, the site is separated from the facing residential estate by a busy road, with the background noise of the proposed eight vehicles that are proposed parked on the site also set against an existing site operation and wider industrial estate. The applicant acknowledges the existing arrangements both in the types of pumps operated on the site – electric devices being generally quieter – and in operating the site to avoid unnecessary engine idling,

Highways and hours of operation

74. Highways issues are of concern to the local community and additionally in particular the local school. These concerns relate both to volume of traffic and its operation within the site in relation to noise, particularly at start-up. The capacities of the site entrance, industrial estate entrance and local highways network have been examined by the County Highways Engineers who raise no objection to the scheme.

75. The applicant had set out hours of use for operations on the site with residents complaining these are not always adhered to - officers are not aware of formal complaints, and in explaining the site operating hours, the applicants likewise note they are unaware of complaint regarding their current operation and vehicle movements. Environmental Protection Officers had recommended a condition restricting operations to these times as originally specified; 0800 - 1800hrs Monday to Friday, and 0900 - 1200hrs Saturday, but on investigation it had been found that the specified opening hours relate to the hours of the office at the site. The applicant's vehicles at present work within core hours, but ultimately without formal restriction, their sometime irregular operations governed by the tides, ship dockings and goods trains. The physical operations on the site – ie. the loading and unloading of tankers takes place between 0500hrs and 1900hrs.
76. Relevant to this issue, and the other residential amenity issues is the capacity and level of use of the site and extended area. The proposals are partially to enable the existing operation in terms of vehicular movements and parking across a wider area, giving greater flexibility, and avoiding the need to 'stack' vehicles in the order they will be required used. The proposed site is to a degree self-regulating in terms of its capacity providing only the specified bays are used, and there is no parking on the wider vehicle apron. That the apron to a large extent is required for manoeuvring should self-regulate its use, negotiations with the applicant aimed at setting a potential balance between flexibility and controlling use suggesting a maximum of 8no. units (a unit consisting a single rigid truck, a tractor unit or a tractor and trailer) as a reasonable level. This allows for both the original vehicles specified as driving the application for the extended area, along with displaced vehicles that use the site already, giving the required flexibility of operation. Such specific regulation through the planning process must be carefully applied, as it must meet a number of 'tests' to be conditioned. Officers consider this level of use to be acceptable and that the condition is therefore both relevant and necessary to ensure the effect on residential amenity remains within the parameters specified.
77. The existing arrangement for hours of use is proposed maintained. Given the degree of additional traffic proposed in the context of the applicants existing, established operation, and the other heavy traffic that emanates from the industrial estate, a refusal on highway grounds, is considered unacceptable.

Drainage

78. Drainage has been raised as a concern, with one resident showing photographs of the main road past the site flooded. Again the applicant responded to criticism of the initial scheme with a detailed response and redesign of the drainage arrangements for the reduced area of hard-standing on the site. A surface water drainage strategy to gradually discharge surface water into the public surface water sewer at a restricted rate via a SUDs basin has been designed against calculations for a 1 in 100 year storm event, with a 20% climate change allowance in accordance with best practice. The system will include petrol interceptors. The Council's Senior Drainage Engineer has indicated the scheme as acceptable, and recommends the imposition of a standard condition to ensure detailed design and implementation.

Ecology

79. The County Ecologist concurs with the conclusions of the submitted Protected Species Risk Assessment, having considered the implications for Great Crested Newts, Otters, Bats and nesting birds, that there is little likelihood of affecting species protected by law, with only the timing of the development required to take account of the latter.

Other Issues

80. Members will be aware that arguments relating to devaluation of property and loss of view are not given any weight in the development management process.
81. There has been criticism of the handling of the application and the pre-consultation exercise, with some lack of understanding particularly over the latter. The extent of the consultation exercise is criticised. It is noted that the consultation exercise is always a balance between making those properties directly affected aware of an application, and not being seen to court objection. The re-consultation exercise was delayed to avoid the Christmas period, to avoid additional distress to correspondents, a small number of whom have sought to engage positively with the Council to discuss the matter.

CONCLUSION

82. As a start point, the development must be considered in principle as inappropriate in Green Belt terms. Against this departure from NPPF and Local Plan Policy are offered the argument of potential special circumstances relating to the economic and employment issues, the proposed extended site having a claimed direct benefit to employment in the immediate locale. The physical setting of the countryside proposed for development, urban on three sides, the green belt protruding into the urban area - having been considered and given due weight in making the recommendation. Given the present economic climate, and the messages from the Council's corporate core, officers recommend that these specific proposals are on balance an acceptable departure from the Green Belt policies – noting that this issue would have to be ratified by the Secretary of State in the event of any intention to approve.
83. There are two dimensions to the concerns relating to safety issues - the regulatory framework and the public perception of safety. The regulatory framework sees the operation as a small site. Consultees from the Environment Agency, HSE, Fire Authority and Council Sections such as the Civil Contingencies Unit are aware of the applicants and the details of their operation, and their responsibilities to it. The Buncefield fire is referred to extensively by objectors. Despite their name, PAR Petroleum do not store Petroleum on the site (as at Buncefield) - the fuels stored on site such as kerosene and diesel having a higher flash point being considered safer. The emergency plans for the site are however derived from the approach that would be used for a petroleum emergency by the agencies involved. The facility is seen as having less potential for safety issues than those of a petrol filling station operation.
84. The perception of safety is harder to quantify, and the visual exposure of the existing facility resulting from the landscape removal works have polarised objectors concerns. The proposals are however for a degree of change to an existing facility, which could remain should the application be refused. There is no additional fuel proposed stored on the site, and no new forms of fuel proposed stored. The formal fuel storage will not move any closer to residential property – and is not proposed moved at all. The spreading of vehicles across a wider site area does have safety benefits which are argued to mitigate the additional number of vehicles proposed operated from the site. An amount of the public perception of the proposals has been as a result of concerned residents and groups spreading their own information regarding the proposals. Whilst there is no problem with this in principle, planning consultation exercises often being spread wider by word of mouth and community discussion, confusion can arise where inaccurate information is spread – the

reference in the 'standard' letter of objection to the increase in fuel being stored on site, and example. That the removal of the planting belt has fundamentally changed the perception of the site, the storage facility and the vehicle use of the site, which appears to have operated to a degree out of sight of the residential estate opposite. That the screen can be re-established with a landscaping condition to an appropriate degree is relevant, as are the specifics of the proposal – an area of extended tanker parking is proposed, extending parallel with the existing residential area opposite, without increase or change of location of the existing fuel storage equipment that has operated for two decades in this location.

85. Issues on Highway safety, the effect of lighting on residential amenity, drainage and ecology have been found acceptable by the relevant technical consultees, which along with conditions to ensure a strong landscaping scheme, and the detailed operation of vehicles within the application site to minimise the potential amenity effect on nearby dwellings have been considered and mitigated to an appropriate degree.

RECOMMENDATION

86. **Approve subject to the application being referred to the Secretary of State as a departure**

87. The following conditions are proposed attached to any subsequent approval:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans NT11066/011d, NT11066/012

Reason: In the interests of the amenity of the area in accordance with policies NE4, NE6 and IN10 of the Chester le Street Local Plan 2003 (saved 2009)

3. The development shall only be carried out and operated in accordance in accordance with the submitted lighting scheme shown on plan NT11066/013 and the lighting assessment by Tam-lite, dated 31.10.12 and plan NT11066/13 (Proposed Lighting Isolines)

Reason: In the interests of the amenity of the area in accordance with policies NE4, NE6 and IN10 of the Chester le Street Local Plan 2003 (saved 2009)

4. Before development commences, full details of a scheme of SUDS Drainage shall be submitted in to, and approved in writing by the Local Planning Authority in accordance with the details set out in plan NT11066/011 and the Surface Water Management Statement, being fully implemented before the extended hardstanding area is brought into use.

Reason: In the interests of the amenity of the area in accordance with policy IN10 of the Chester le Street Local Plan 2003 (saved 2009)

5. Notwithstanding the information shown on plan NT11066/011 and contained in the Wardell Armstrong letter of 05/11/2012, no development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan based details of the following:

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works. Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the amenity of the area in accordance with policies NE4, NE6 and IN10 of the Chester le Street Local Plan 2003 (saved 2009)

6. No more than 8no. vehicles may be parked between the hours of 1900 and 0500hrs inclusive on the site, a vehicle being defined as an individual lorry, an individual tractor unit, an individual trailer unit or a combined articulated vehicle.

Reason: In the interests of the amenity of the area in accordance with policies NE4, NE6 and IN10 of the Chester le Street Local Plan 2003 (saved 2009)

7. The development must be carried out wholly in accordance with the recommendations and mitigation measures set out in the submitted PAR Petroleum Ltd. Protected Species Risk Assessment, by J. L. Durkin BSc. MSc. MIEEM, dated 02/03/2012

Reason: To protect the interests of species protected by law, in line with Part 11 of the NPPF

REASONS FOR THE RECOMMENDATION

- i. The development is considered acceptable having regard Policies NE2, NE3, NE4, NE6, IN5 and IN10 of the Chester-le-Street District Local Plan Oct 2003 (saved April 2009), with particular regard to consideration of issues of in terms of the principle of development in a Green Belt location, and the relative impacts on nearby residential property.
- ii. Objections received were fully considered but were not considered on balance sufficient to lead to reasons to refuse the application.

STATEMENT OF POSITIVE ENGAGEMENT

88. The Local Planning Authority in arriving at the recommendation to approve the application has sought to actively engage as appropriate with the applicant to secure a positive outcome in accordance with the NPPF.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

The National Planning Policy Framework

North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008

Chester-le-Street District Local Plan Oct 2003 (saved April 2009),

Response from County Highway Authority

Response from County Ecologist

Response from Sustainability Officer

Response from Parish Council

Responses from Public Consultees

Habitats and Species Regulations 2010, Habitats Directive (92/43/EEC), Circular 06/05

“Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System”, Circular 2/2002 New Guidance for Local Planning Authorities on

European Protected Species and Changes in Licensing Procedures, the EU Guidance

Document on the protection of animal species: February 2007, Managing Natural 2000, EU

Guidance Document on Hunting under Council Directive 79/409/EEC on the conservation

of wild birds (Chapter 3) and The Report of the Article 12 Working Group under the Habitats

Committee “Contribution to the interpretation of the strict protection of species (Habitats Directive article 12)”.



Planning Services

Extension to vehicle storage depot at Lumley Sixth Pit Industrial Estate, Lumley Sixth Pit
Application Number 2/12/00078/FUL

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Comments

Date April 2013

Scale 1:2500



Planning Services

COMMITTEE REPORT

APPEAL UPDATE REPORT

APPEALS RECEIVED

No appeals have been received in the Northern Area since the last update.

APPEAL DECISIONS

Appeal against an enforcement notice relating to the material change in use of land to the rear of 3 Front Street, Burnhope from additional domestic garden to the siting of one static caravan for residential accommodation, one static caravan for use as a personal storage facility and one container for the kennelling of dogs with associated hard standing along with a 2 metre high three side metal enclosure which has been subdivided to create six individual dog runs and appeal against the refusal to grant a Certificate of Lawful Development for the siting of one static caravan on land to the rear of 3 Front Street, Burnhope.

The Enforcement Notice required the following –

- The residential use of the caravan to cease, the caravan to be removed from the land together with the removal of the wooden decked area, balustrade and steps.
- The removal of the second caravan which is being used for storage.
- The use of the container for the kennelling of dogs to cease. The removal of all dogs from the container and enclosed dog runs and permanently remove all dogs from the land.
- The removal the container, dog enclosure, base and hardstanding from the land.

The period for compliance was three months for the cessation of the residential use and removal of the caravans and one month for the other matters.

The Certificate of Lawful Use was refused for the following reasons –

1. *Insufficient evidence has been submitted by the applicant to substantiate on the balance of probabilities that the lawful use of the*

caravan as an annexe to the main residence of 3 Front Street claimed by the applicant is the current lawful use of the building.

2. *The evidence submitted fails to demonstrate the consecutive use for a period of 10 years or more not making it immune from enforcement action, as required under Section 191 of the Town and Country Planning Act 1990.*

The Planning Inspectorate combined both appeals and these were dealt with by means of a Public Inquiry commencing on 5th February 2013.

In considering the appeals the Inspector was not satisfied that it had been demonstrated that there has been a caravan on the land used as an annex to 3 Front Street or as a separate unit of living accommodation for more than 10 years. He concluded that the Council's decision to refuse to issue a Lawful Development Certificate was well founded and that the Enforcement Notice appeal should fail.

The notice required the removal of all dogs from the land and during the preparation of the Council's Statement of Case it became apparent that this requirement was unduly onerous as it would have prevented the keeping of any dogs within the red line of the plan attached to the notice which included the domestic property of 3 Front Street. The Council therefore requested that the Inspector vary the notice to allow no more than 4 dogs to be kept on the land.

In considering this issue the Inspector noted that the appellant had not appealed on ground f (that the terms of the notice were unreasonable) and that if this matter had not been raised by the Council the requirement to remove all dogs would have stood. He therefore concluded that because the terms of the notice would be less onerous the notice could be varied however he adjusted the time for removal of the additional dogs and container to three months in line with the other requirements of the notice.

The Inspector dismissed the appeal and amended the notice to allow up to 4 dogs to be kept on the land and extended the time limit for all elements of the notice to 3 months.

Appeal against the refusal of planning permission for one dwelling at Fell View House, 40 West View, Medomsley.

Planning permission was refused for the erection of one dwelling on 21 September 2012 under delegated powers. The application was refused for the following reason:

'In the opinion of the Local Planning Authority the principle of the proposed development would be unacceptable as the site is not within any defined settlement limits as set out in local plan policy HO5. In addition the

development would represent ribbon development and an encroachment into the surrounding open countryside. For these reasons the application is considered to be contrary to policies EN1, EN2 and HO5 of the Derwentside District Local Plan, RSS policies 2, 4 and 8 and the National Planning Policy Framework.'

The subsequent appeal was dealt with by written representations. Following consideration of the scheme the Planning Inspector allowed the appeal.

The Inspector considers the main issue in this case was whether the proposal would amount to a sustainable form of development.

The Inspector considered that the proposal would not conflict with the aim of the Framework to restrict new isolated homes in the countryside given the curtilage of the property in which the dwelling was proposed was regarded to be within a small settlement and that none of the proposal encroached into the Countryside and therefore, felt that Policies EN1 and EN2 were of little relevance.

The Inspector went on to consider that the proposal would not materially alter the character or appearance of Medomsley Edge as the proposal would be in keeping with the character and appearance of the appeal site and surrounding area.

The Inspector then went on to consider the other issues of sustainability which are considered to be social and economic. The Inspector felt that whilst there were no facilities in Medomsley Edge the appellant has indicated that bus services connect it to Consett as well as the surrounding villages of Medomsley, Ebchester, and Leadgate all of which provide a range of facilities and that there is a 600m footpath which leads to Medomsley which are all considered to allow the proposal to be considered sustainable as it is considered that jobs, shops and services are likely to be reasonably accessible from the site by other modes of transport other than a private car. He also considered that the proposal would create jobs during construction although on a temporary basis.

To finish, the Inspector also considered that although the site was not considered previously developed land, there were no policies which dealt specifically with inappropriate development of residential gardens therefore, the Greenfield status of the land would not be sufficient to withhold permission.

Taking all the above into consideration the Inspector felt that the scheme would amount to a sustainable form of development which was considered to be in keeping with the NPPF and Local Plan Policy GDP1.

Appeal against the refusal of planning permission for one dwelling at Land to east of Mill House, Iveston Lane, Iveston

Planning permission was refused for the erection of one dwelling on 24 July 2012 under delegated powers. The application was refused for the following reasons:

- 1. The proposed development is considered to be contrary to policies EN1, EN2 and HO5 as development on the site is considered to extend beyond the settlement of Iveston and encroach into the surrounding countryside.*
- 2. The site is considered to be greenfield within an unsustainable, isolated location unsuitable for new housing development contrary to Paragraph 55 and 111 of the National Planning Policy Framework.*

The subsequent appeal was dealt with by written representations. Following consideration of the scheme the Planning Inspector dismissed the appeal.

The Inspector considered there were two issues consider these being

1. The sustainable patterns of development in the area, having regard to local and national planning policies designed to limit the need to travel by private transport and
2. The impact of the proposal on the character and appearance of the Countryside and the Iveston Conservation Area.

The Inspector considered that the saved policies quoted from the local plan should be given full weight as they were in line with advice from the NPPF (Policies EN1, EN2 and HO5 are relevant). The Inspector agreed that the site is not within an isolated area as there were regular bus journeys and Iveston is located only some 2km from Leadgate. The Inspector however felt that the site is not sustainable and that the majority of journeys would be made by car. Although public consultation has not been carried out, the Inspector added that as part of the preparation of the emerging county Durham plan the settlement study which has been prepared shows Iveston as a sixth tier settlement where development would not be directed. Therefore although weight can not be given to this, it does confirm the Inspectors observations about the sustainability of the location.

The Inspector also went on to consider that there is no evidence of a shortage of housing land therefore, the does not justify a departure from the Local Plan as the site is not considered to be sustainable and there is no suggestion that the land constitutes previously developed land.

The Inspector went on to consider the impact the proposal on the character and appearance of the countryside and Iveston Conservation Area. He considered that although the proposed dwelling would be of a high quality contemporary design and that its form had been well thought out to allow it to sit comfortably within the surrounding landscape, it would have a very visible footprint and would be visible when viewed from the east, detracting from the

setting of the Conservation Area and weakening its existing distinct visual edge. Therefore, would represent a considerable reduction in the unique character of the village and the visual amenity value of the location.

The Inspector therefore, considered that the proposal would cause significant harm to the setting of the conservation area and therefore, it character concluding that the proposal would have a detrimental impact on the character and appearance of the countryside at this point and also the Iveston Conservation Area.

The Inspector confirmed that he had considered comments from local objectors but did not feel that highway safety issues were a concern and that there was no evidence that the development would lead to structural instability of the slope, undue pressure on local services or adverse effect on wildlife that could not have been resolved through the imposition of appropriate conditions. Property value is not a material consideration and the effect on a public right of way could be overcome.

The Inspector noted that the design of the dwelling had been based on sustainable principles and whilst welcomed, could not consider that the benefits should outweigh the policy objections identified above.

The Inspector therefore, dismissed the appeal.

RECOMMENDATION

That these reports be noted.

Reports prepared by Fiona Clarke, Principal Planning Officer and Lisa Morina, Planning Assistant

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